

WAIVER OF PENALTIES AND INTEREST
PURSUANT TO 33.011 TEXAS PROPERTY TAX CODE

I. GENERAL CONSIDERATIONS:

1. Does not apply to supplemental tax bills.
2. Tax Assessor/Collectors can not waive penalty and interest, only governing bodies have that authority (33.011 a,b, & h)
3. Requests must be made **BEFORE** 181 days after the delinquency date **AND** at least 21 days of date taxpayer knew or should have known (33.011 (a)(1), 33.011(a)(3)(D) 33.011 (h)(2)(c) (**Note:** religious organization exception)
4. Due to 21 day payment requirement, taxes with penalty and interest will need to be paid first and then refund issues if waiver approved.

II. TYPES OF WAIVERS

1. 33.011 (a)(1) Waivers due to error

- ELEMENTS:**
- A. Request in writing timely made
 - B. Determination of error that caused delinquency
 - C. Mandatory penalty waiver/optional interest

2. 33.011 (a)(2)(D) Religious Organization Waivers

- A. Optional waiver
- B. Religious Organization must qualify for exemption
- C. Request made within one year of date religious organization acquires property.

3. 33.011 (a)(3) Taxpayer mails payment to wrong address

- ELEMENTS:**
- A. Taxpayer attempts to mail payment before delinquency date.
 - B. Address used by taxpayer was a correct address in the prior tax year.
 - C. Said incorrect address changed to current address within the past year.
 - D. Optional Waiver

4. 33.011 (b) Tax Bill Returns

- ELEMENTS:**
- A. Tax bill returned to tax office undelivered by USPS
 - B. Bill not re-sent to correct address at least 21 days prior to delinquency – **IF:**
 1. A current mailing address was furnished to Appraisal District by Sept. 1 of the tax year in question [this includes addresses contained on Deeds pursuant to 33.011(c)]
OR
 2. Original incorrect address due to error by Appraisal District or tax office.
 - C. Incorrect address was not provided by taxpayer - 31.011(f)

D. Mandatory waiver of penalty and interest

5. 33.011(h) Electronic Funds Transfer (EFT)

ELEMENTS:

- A. Tax payable by EFT pursuant to agreement under 31.06(a)
- B. Taxpayer attempted payment by EFT before delinquency
- C. Taxpayer's failure to pay due to error in transmission

III. **WAIVER OF PENALTIES AND INTEREST IN COMMON CASES**

- 1. Taxpayer comes in on February 1st or 2nd with a valid, substantiated, excuse for not getting payment in by delinquency date – waiver not permitted.
- 2. Taxpayer comes in after delinquency and claims they did not get a bill.

ANALYSIS

- Questions:
- 1. Did current roll have correct address? – If so and you can show bill was mailed, it is presumed delivered (1.07(c)) [Dallas County Appraisal District vs. LAL, 701 SW 2nd 44th] – if not next question...
 - 2. Has taxpayer made a written request for a waiver prior to the 181st day the tax went delinquent and paid the tax within 21 days of discovery? -
 - If not, 33.011 (d) says “If a written request for a waiver is not timely made, the governing body of a taxing unit may not waive any penalties and interest under their section.”
 - If so, next question.
 - 3. Was bill returned to tax office undelivered by USPS?
 - If not, only possibility for waiver lies in provisions under 33.011(a)(1).
 - If the bill was returned, next question.
 - 4. Did taxpayer communicate a new address to the Appraisal District before September 1st of the year the tax was assessed?
 - If so, mandatory waiver of both Penalty & Interest
 - If not, next question
 - 5. Did an act or omission of either the tax office or A.D. cause the failure to send a bill to the correct address at least 21 days prior to delinquency?
 - If so, mandatory waiver
 - If not, no waiver and no more questions