

59-1-611 Requirement to post security -- Waiver -- Payment of tax, interest, or penalties after judicial decision -- Interest.

- (1) As used in this section, "post security" means:
 - (a) posting with the commission, for the full or a partial amount of the deficiency as determined by the commission:
 - (i) a letter of credit;
 - (ii) a bond; or
 - (iii) other similar financial instrument acceptable to the commission; or
 - (b) as determined by the commission, depositing with the commission:
 - (i) the full amount of the deficiency; or
 - (ii) a partial amount of the deficiency.
- (2) Except as provided in Subsection (3), a taxpayer that seeks judicial review of a final commission redetermination of a deficiency shall post security with the commission.
- (3) The commission shall waive the requirements of Subsection (2) if a taxpayer establishes:
 - (a) that the taxpayer has sufficient financial resources to pay the deficiency if the deficiency is upheld in a final unappealable judgment or order by a court of competent jurisdiction; or
 - (b) as determined by the commission, that collection of the deficiency that is the subject of the appeal is not jeopardized by waiving the requirements of Subsection (2).
- (4)
 - (a) The commission may not unreasonably deny a waiver described in Subsection (3).
 - (b) A taxpayer may seek judicial review of the commission's decision to deny a waiver under Subsection (3) by the court reviewing the redetermination of the deficiency.
- (5) If a taxpayer fails to comply with the requirements of Subsection (2), the reviewing court may, in its discretion, dismiss the taxpayer's appeal of the redetermination of the deficiency.
- (6) If the commission grants a waiver under Subsection (3), the taxpayer shall pay any tax, interest, or penalties:
 - (a) ordered by a court of competent jurisdiction; and
 - (b) within a 30-day period beginning on the day on which the order described in Subsection (6)(a) becomes final.
- (7) If a taxpayer posts security with the commission, or the commission grants a waiver in accordance with this section, interest shall accrue on the unpaid taxes that are the subject of the deficiency at the rate and in the manner provided in Section 59-1-402.

Amended by Chapter 224, 2013 General Session