

2019 Regular Session

HOUSE BILL NO. 265

BY REPRESENTATIVE DEVILLIER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

REVENUE/TAXATION DEPT: Authorizes the payment of refunds for the overpayment of taxes as a result of an unconstitutional law, invalid rule, or misinterpretation of a law, rule, or regulation

1 AN ACT

2 To enact R.S. 47:337.77(B)(7) and 1621(B)(10) and to repeal R.S. 47:337.77(F) and
3 1621(F), relative to tax refunds; to authorize tax refunds under certain circumstances;
4 to provide for certain requirements; to repeal the prohibition of the payment of
5 refunds under certain circumstances; to provide for an effective date; and to provide
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:337.77(B)(7) and 1621(B)(10) are hereby enacted to read as
9 follows:

10 §337.77. Refunds of overpayments authorized

11 * * *

12 B. The collector shall make a refund of each overpayment where it is
13 determined that:

14 * * *

15 (7) The tax was overpaid due to payment pursuant to an unconstitutional law,
16 invalid or unenforceable rule or regulation, or because of a mistake of law arising
17 from the misinterpretation by the collector of the provisions of any law or of any
18 rules and regulations.

19 * * *

1 §1621. Refunds of overpayments authorized

2 * * *

3 B. The secretary shall make a refund of each overpayment where it is
4 determined that:

5 * * *

6 (10) The tax was overpaid due to payment pursuant to an unconstitutional
7 law, invalid or unenforceable rule or regulation, or because of a mistake of law
8 arising from the misinterpretation by the collector of the provisions of any law or of
9 any rules and regulations.

10 * * *

11 Section 2. R.S. 47:337.77(F) and 1621(F) are hereby repealed in their entirety.

12 Section 3. This Act shall become effective on July 1, 2019.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 265 Original

2019 Regular Session

DeVillier

Abstract: Authorizes state and local collectors to refund taxes that were overpaid due to the tax being paid pursuant to an unconstitutional law, invalid or unenforceable rule or regulation, or a mistake of law arising from the misinterpretation by the collector of a law, rule, or regulation.

Present law defines an "overpayment", for purposes of state and local collectors, as a payment of tax, penalty, or interest when none is due, the excess of the amount of tax, penalty, or interest paid over the amount due, or the payment of a penalty that is later waived or remitted by the collector.

Present law provides for specific instances where the collector is required to refund overpayments out of any current collections of the particular tax which was overpaid.

Present law prohibits refunds for the overpayment of taxes as a result of a mistake of law arising from the misinterpretation by the collector of a law, rule, or regulation. Further requires, in cases of misinterpretation of law, rule, or regulation, that a taxpayer pay the disputed taxes under protest or by appeal to the Board of Tax Appeals.

Proposed law repeals present law as it relates to the taxpayer's remedy to recover overpaid taxes in cases of misinterpretation of law, rule, or regulation, by requiring taxpayers to pay the taxes in dispute under protest or by appeal to the Board of Tax Appeals.

Proposed law adds as a specific instance where the collector is required to pay a refund, cases where taxes are overpaid as a result of an unconstitutional law, invalid or

unenforceable rule or regulation, or because of a mistake of law arising from the misinterpretation by the collector of the provisions of any law, rule, or regulation.

Effective July 1, 2019.

(Adds R.S. 47:337.77(B)(7) and 1621(B)(10); Repeals R.S. 47:337.77(F) and 1621(F))