

SENATE BILL NO. 242

BY SENATOR ALLAIN

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AN ACT

To amend and reenact R.S. 47:337.63(A)(3), (D), and (E), 337.69(B), 337.70(A)(1) and (2), and 337.80(A)(4)(b) and (B) and to enact R.S. 47:337.69(C) and 337.70(A)(4), relative to interest and penalties applicable to local sales and use tax; to provide for remittance of tax under protest; to provide for a limitation on the maximum interest rate on unpaid taxes; to equalize interest rates for taxes due, taxes paid under protest, and refunds of overpayments; to provide for the calculation of late filing and payment penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:337.63(A)(3), (D), and (E), 337.69(B), 337.70(A)(1) and (2), and 337.80(A)(4)(b) and (B) are hereby amended and reenacted and R.S. 47:337.69(C) and 337.70(A)(4) are hereby enacted to read as follows:

§337.63. Remittance of tax under protest; suits to recover

A. * * *

(3) To the extent the taxpayer prevails, the collector shall refund the amount to the claimant, with interest at the rate established pursuant to ~~R.S. 47:337.80~~ R.S. 47:337.69(C), except as provided in Subsection E of this Section. To the extent the collector prevails, the taxpayer shall pay the collector additional interest calculated on the disputed amount at the same rate established for tax obligations pursuant to R.S. 47:337.69(C), except as provided in Subsection E of this Section.

* * *

D.(1) Upon request of a taxpayer and upon proper showing by such taxpayer that the principle of law involved in an additional assessment is already pending before the courts for judicial determination or before the Board of Tax Appeals, the taxpayer, upon agreement to abide by the decision of the courts, the Board of Tax

1 Appeals, or by a final judgment of a court upon a timely appeal of a decision of the
2 Board of Tax Appeals, may remit the additional assessment under protest, but need
3 not file an additional suit or petition. In such cases, the tax so paid under protest shall
4 be placed in an escrow account and held by the collector until the question of law
5 involved has been determined by the courts, the Board of Tax Appeals, or by a final
6 judgment of a court upon a timely appeal of a decision of the Board of Tax Appeals,
7 and shall then be disposed of as therein provided.

8 **(2) Upon request of a collector and if a principle of law involved in a**
9 **refund claim filed by a taxpayer is already pending before the collector at the**
10 **administrative stage, before the courts for judicial determination, or before the**
11 **Board of Tax Appeals, the taxpayer may, upon agreement to abide by the**
12 **decision of the courts, the Board of Tax Appeals, or by a final judgment of a**
13 **court upon a timely appeal of a decision from the collector, the courts, or the**
14 **Board of Tax Appeals, remit the taxes involving the same principle of law for**
15 **all current and future tax periods under protest, but need not file an additional**
16 **suit or petition. The tax paid under protest pursuant to this Paragraph shall be**
17 **placed in an escrow account and held by the collector until the principle of law**
18 **involved has been determined by the courts, the Board of Tax Appeals, or by a**
19 **final judgment of a court upon a timely appeal of a decision of the Board of Tax**
20 **Appeals.**

21 E.(1) When the collector has pursued collection of taxes pursuant to any
22 remedy provided for in R.S. 47:337.45(A)(2) or (3) and the taxpayer has made a
23 timely payment under protest concerning the same tax obligation, and if the collector
24 has deposited the monies into an interest-bearing account in accordance with this
25 Section, the interest to be paid on the tax obligation to the party or parties adjudged
26 to be entitled to the interest shall be that interest actually earned and received by the
27 collector on the payment.

28 **(2) When the taxpayer has pursued an appeal remedy provided for in**
29 **R.S. 47:337.81 and the collector and the taxpayer have entered into an**
30 **agreement to abide for current and future tax periods, the interest to be paid**

1 on the tax obligation to the party or parties adjudged to be entitled to the
2 interest shall be only that interest actually earned and received by the collector
3 on the payments.

4 * * *

5 §337.69. Interest on unpaid taxes

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7 B. Notwithstanding any provision of law to the contrary, for all taxes
8 that become due on or after January 1, 2023, the rate of interest on any amount
9 of outstanding tax shall not exceed one percent per month.

10 ~~B.(C)~~ Notwithstanding any provision of this Section or of this Chapter, the
11 interest on any amount of tax outstanding on a specific date shall be computed at the
12 rate applicable on such date.

13 §337.70. Penalty for failure to make timely return

14 A.(1) When any taxpayer fails to make and file any return required to be
15 made under the provisions of this Chapter before the time that the return becomes
16 delinquent or when any taxpayer fails to timely remit to the collector the total
17 amount of tax that is due on a return which he has filed, there shall be imposed, in
18 addition to any other penalties provided, a specific penalty to be added to the tax in
19 the amount of five percent of the tax owed for each and every thirty-day period
20 after the return was required to be filed or the tax was required to be remitted,
21 subject to the limitations of this Paragraph.

22 (2) In the case of the filing of a return without remittance of the full amount
23 due, the specific penalty imposed by this Paragraph in the amount of five percent
24 of the tax owed for each thirty-day period shall be calculated only on the additional
25 amount due from the taxpayer after the deduction of payments timely submitted, or
26 submitted during any preceding thirty-day period, subject to the limitations of this
27 Paragraph. The penalty provided by this Paragraph shall not be imposed for any
28 thirty-day period for which a penalty for failure to file a ~~tax~~ return or for filing after
29 the return becomes delinquent is assessed.

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