

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 29

2016 Second Extraordinary Session

Price

REVENUE DEPARTMENT: Provides relative to the calculation of interest on certain overpayments (Item #45)

Synopsis of Senate Amendments

1. Change the calculation of interest on a refund of an overpayment of severance tax for new horizontal or deep wells from 90 days after a properly filed claim for refund has been submitted to the Dept. of Revenue to the calculation of interest on these overpayments as provided for in present law.
2. Prohibit the payment of interest on an overpayment of taxes as it relates to the pre-petition tax period of a bankruptcy petition filed pursuant to present federal law.

Digest of Bill as Finally Passed by Senate

Present law provides for the refunds of overpayments of specific taxes. Refunds bear interest at the rate of judicial interest from 90 days after the filing date of the return showing the overpayment or the due date of such return, whichever is later.

Present law, for all refunds or credits issued by the secretary of the Dept. of Revenue (the secretary), requires the secretary to compute and allow as part of a refund or credit, interest at the rate of judicial interest beginning to accrue at the date the return was due, the first return for that tax period was filed, or the tax was paid, whichever is later.

Proposed law changes present law to provide that interest begins to accrue 90 days after the date the return was due, the return claiming overpayment was filed, or the tax was paid, whichever is later. Proposed law governs the calculation of interest on all refunds or credits by or on behalf of the secretary pursuant to Title 26 (Liquors - Alcoholic Beverages), Title 47 (Revenue and Taxation), Title 51 (Trade and Commerce), or any other revised statute, except interest on refunds granted pursuant to the International Fuel Tax Agreement.

Present law prohibits the accrual of interest as part of any refund or credit which relates to the pre-petition tax period of a petition for bankruptcy relief filed in accordance with present federal law.

Proposed law retains present law but specifies that the prohibition of the accrual of interest applies to any overpayment as it relates to the pre-petition tax period of a petition for bankruptcy relief in accordance with present federal law.

Present law (R.S. 47:1624.1) provides for the payment of interest on the overpayment of severance tax to an operator whose new horizontal or deep well qualifies for a severance tax suspension. For the first 180 days after a properly filed claim for refund or an amended return is submitted, the rate of interest is the U.S. Treasury Yield Curve Constant Maturity 6-Month Treasury Rate on Oct. 1 of the preceding year. Any interest after the first 180 days is calculated at the judicial interest rate.

Proposed law retains the provisions of present law.

Present law authorizes the secretary to net any overpayments of franchise tax against corporate income taxes due in determining the amount of interest the corporation owes on the unpaid taxes. Further authorizes the secretary to net any overpayments of corporate income tax against franchise taxes due.

Proposed law repeals present law and instead authorizes the secretary to offset any overpayments of estimated corporate income tax or franchise tax against the estimated corporate income tax in determining the amount of interest the corporation owes.

Present law prohibits the payment of a franchise tax refund until any claims of offset by the office of unemployment insurance administration has been satisfied.

Proposed law retains present law.

Applicable to any refunds issued on or after Sept. 1, 2016, notwithstanding the tax period to which the claim relates.

Effective July 1, 2016.

(Amends R.S. 47:115(A)(3) and (C) and 1624; Repeals R.S. 47:287.657, 617, and 1624.1)