

2016 Second Extraordinary Session

HOUSE BILL NO. 29

BY REPRESENTATIVE PRICE

1 AN ACT

2 To amend and reenact R.S. 47:115(A)(3) and (C) and 1624 and to repeal R.S. 47:287.657,
3 617, and 1624.1, relative to the payment of interest on certain overpayments; to
4 provide for the calculation of interest on certain overpayments; to provide for the
5 authority of the secretary of the Department of Revenue to pay interest on
6 overpayments; to provide for certain limitations and requirements; to provide for
7 effectiveness; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:115(A)(3) and (C) and 1624 are hereby amended and reenacted
10 to read as follows:

11 §115. Refunds and credits

12 A. Employee refunds and credits.

13 * * *

14 (3) To the extent that the ~~aforesaid credit~~ credit provided for in Paragraph (1)
15 of this Subsection, together with other credits allowed by law, is in excess of the
16 employee's income tax liability for ~~said~~ the taxable year, as shown on an income tax
17 return filed by such employee for that year, such overpayment shall be considered
18 as taxes erroneously paid to be credited or refunded as herein provided. Such
19 overpayment shall be credited to such person's estimated or income tax liability for
20 the succeeding taxable year unless such person shall claim a refund therefor except
21 that overpayment of one dollar or less shall be refunded or credited only upon the
22 receipt by the secretary of a written demand for such refund from the taxpayer;
23 however, the collector is authorized to consider any final return showing an
24 overpayment as a claim for refund. ~~An overpayment shall bear no interest if credit~~

1 ~~is given therefor; amounts refunded as overpayments shall bear interest at the rate~~
 2 ~~established pursuant to R.S. 13:4202 per year computed from ninety days after the~~
 3 ~~filing date of the final return showing the overpayment, or from the due date of such~~
 4 ~~final return, whichever is later.~~

5 * * *

6 C. Other refunds and credits. To the extent a taxpayer's payments, together
 7 with other credits allowed by law, is in excess of his income tax liability shown on
 8 a return filed for the taxable year, such overpayment shall be considered as taxes
 9 erroneously paid to be credited or refunded as herein provided. Such overpayment
 10 shall be credited to the taxpayer's estimated or income tax liability for the succeeding
 11 taxable year unless a claim for refund is made. Notwithstanding any provision of
 12 this Subsection to the contrary, an overpayment of one dollar or less shall be
 13 refunded or credited only upon the receipt by the secretary of a written demand for
 14 such refund from the taxpayer. The secretary is authorized to consider any final
 15 return showing an overpayment as a claim for refund. ~~An overpayment shall bear~~
 16 ~~no interest if credit is given. Amounts refunded as overpayments shall bear interest~~
 17 ~~at the rate established pursuant to R.S. 13:4202 computed from ninety days after the~~
 18 ~~filing date of the final return showing the overpayment or from the due date of the~~
 19 ~~final return, whichever is later. No interest on refunds shall be allowed if, the~~
 20 ~~secretary proves by clear and convincing evidence that a person has deliberately~~
 21 ~~overpaid a tax in order to derive the benefit of the interest allowed by this Section.~~
 22 ~~Payments of interest authorized by this Section shall be made from funds derived~~
 23 ~~from current collections of the tax to be refunded.~~

24 * * *

25 §1624. Interest on refunds ~~or credits~~

26 A.(1) Notwithstanding any other provision of law to the contrary, on all
 27 refunds or credits the secretary shall compute and allow as part of the refund or
 28 credit, interest at the annual rate established in R.S. 13:4202 ~~from the date the return~~
 29 ~~was due, the date the first return for that tax period was filed, or the date the tax was~~
 30 ~~paid, whichever is later~~ ninety days after the later of the due date of the return, the

1 filing date of the return or claim for refund on which the overpayment is claimed, or
 2 the date the tax was paid. An overpayment shall bear no interest if it is credited to
 3 the taxpayer's account. No interest on refunds or credits shall be allowed if; the
 4 secretary proves by clear and convincing evidence that a person has deliberately
 5 overpaid a tax in order to derive the benefit of the interest allowed by this Section.
 6 Payments of interest authorized by this Section shall be made from funds derived
 7 from current collections of the tax to be refunded or credited.

8 (2) Notwithstanding any provision of this Section, or any other provision of
 9 law to the contrary, interest on a refund of an overpayment of severance tax to an
 10 operator whose well qualifies for the severance tax suspension pursuant to R.S.
 11 47:633(7)(c)(iii) or (9)(d)(v) for new horizontal or deep wells shall be paid as
 12 follows:

13 (a) For refunds issued on or before the one hundred eightieth day after a
 14 properly filed claim for refund or an amended return for the new horizontal or deep
 15 well has been submitted to the department with all supporting documentation,
 16 interest shall be the rate for the year ascertained by the department, which shall be
 17 the U.S. Treasury Yield Curve Constant Maturity 6-Month Treasury rate on the first
 18 business day of October of the preceding year and published on or before the
 19 following January first.

20 (b) Interest on refunds made pursuant to this Subsection that are made after
 21 the one hundred eightieth day after a properly filed claim for refund or an amended
 22 return has been submitted to the department shall be the interest rate provided for in
 23 Subparagraph (a) of this Paragraph for the first one hundred eighty days and at the
 24 rate established in R.S. 13:4202 for any period of time in excess of one hundred
 25 eighty days in accordance with the provisions of Subsection A of this Section.

26 B. As of the date a person files a petition for relief under the uniform
 27 bankruptcy laws of the United States as provided in ~~Title 11 USC 101~~ 11 U.S.C. 101
 28 et seq., no interest shall be allowed to accrue as a part of any ~~refund or credit which~~
 29 overpayment that relates to a pre-petition tax period. ~~A person filing a petition for~~

1 relief prior to June 17, 1988, shall be entitled to the accrual of interest prior to the
2 effective date of this Subsection.

3 C. The provisions of this Section shall govern the calculation of interest on
4 all refunds or credits resulting from the collection of any tax or administration of any
5 provision by or on behalf of the secretary of the Department of Revenue pursuant to
6 any provision contained in Title 26, Title 47, Title 51, or any other provision
7 contained in the Louisiana Revised Statutes of 1950. However, the provisions of this
8 Section shall not govern for the purposes of calculating any interest on refunds
9 granted pursuant to the International Fuel Tax Agreement.

10 D. The secretary may offset any overpayments of estimated corporate
11 income tax against the corporation's income tax or franchise tax for the purpose of
12 determining the interest due under the provisions of R.S. 47:1601 and any interest
13 payable pursuant to the provisions of this Section.

14 E. No refund of franchise tax shall be paid by the secretary until any claim
15 of offset filed by the office of unemployment insurance administration of the
16 Louisiana Workforce Commission against the taxpayer under R.S. 23:1733 has been
17 satisfied.

18 Section 2. R.S. 47:287.657, 617, and 1624.1 are hereby repealed in their entirety.

19 Section 3. The provisions of this Act shall apply to any refunds issued on or after
20 September 1, 2016, notwithstanding the tax period to which the claim relates.

21 Section 4. This Act shall become effective on July 1, 2016.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.