

---

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore Heavey.

---

DIGEST

SB 334 Original

2020 Regular Session

Allain

Present law establishes separate penalties for the failure to make timely return and for the failure to pay full amount of tax due shown on the return.

Proposed law retains present law failure to file and failure to pay penalties and provides for a reduced penalty when the taxpayer fails to pay the full amount due that was required to be shown on the return at the rate of ½ of 1% instead of 5% per month.

Proposed law retains present law maximum of 25% of the tax for the combined failure to file and failure to pay penalties.

Present law provides for penalties for fraud, negligence, and large tax deficiencies of 25% or more.

Proposed law changes the penalty rates for fraud, negligence, and large tax deficiencies as follows:

- (1) Fraud (R.S. 47:1604), from 50% to 75% of deficiency.
- (2) Negligence (R.S. 47:1604.1(A)), from 10% to 20% of deficiency.
- (3) Large individual tax deficiency (R.S. 47:1601.1(B)), from a maximum of 20% to 10% of deficiency.
- (4) Other large tax deficiency (R.S. 47:1601.1(C)), from a maximum of 20% to 10% of deficiency.

Proposed law defines negligent failure as any failure to make a reasonable attempt to comply with the tax laws of this state or a careless or reckless disregard for the tax laws of the state.

Proposed law creates a presumption of negligent failure where there is an understatement of tax liability of 10% or more and there is no indication of willful disregard of the state's tax laws.

Proposed law authorizes an additional penalty for willful disregard of the state's tax laws of 40% of the deficiency and retains present law definition of willful as "voluntarily and intentionally acting in violation of the tax laws of this state."

Proposed law provides that beginning July 1, 2020, an amount equal to 1% of the state taxes and interest collected by or on behalf of the Dept. of Revenue (DOR) shall be designated as self-generated revenue of the department.

Proposed law requires, with respect to penalties collected by DOR, that from July 1, 2020, and thereafter, 100% of penalties be deposited into the state general fund.

Proposed law requires the self-generated revenues to be used by DOR for the administration and collection of taxes and for operation of the department, subject to appropriation by the legislature.

Proposed law requires that beginning July 1, 2020, any collection action taken by the secretary shall apply the penalties provided for in this Act for all tax periods.

Proposed law prohibits refunds of penalties paid before the effective date of this Act if the claim for refund is that no penalties would be due under the provisions of this Act.

Present law provides for interest on unpaid taxes at three percentage points above the judicial interest rate and interest on refunds of overpaid taxes at the judicial interest rate.

Proposed law equalizes the interest rates on refunds and unpaid taxes by increasing the interest rate on refunds to three points above the judicial interest rate beginning Jan. 1, 2021.

Effective July 1, 2020.

(Amends R.S. 47:1602(A)(4), 1603(A)(1), 1604, 1604.1, and 1624(A)(1); adds R.S. 47:1602(A)(5) and 1608)