

2020 Regular Session

HOUSE BILL NO. 736

BY REPRESENTATIVE GARY CARTER

TAX: Authorizes the Louisiana Tax Commission to order the refund of statutory impositions declared invalid

1 AN ACT

2 To amend and reenact R.S. 47:2132(A), relative to statutory impositions; to authorize  
3 refunds of statutory impositions under certain circumstances; to provide for certain  
4 requirements and limitations; to provide for applicability; to provide for an effective  
5 date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:2132(A) is hereby amended and reenacted to read as follows:

8 §2132. Refund of taxes erroneously paid

9 A.(1) Any ~~Except as provided for in Paragraph (2) of this Subsection, any~~  
10 person who has a claim against a political subdivision for ad valorem taxes  
11 erroneously paid into the funds of that political subdivision may present the claim  
12 to the Louisiana Tax Commission within three years of the date of the payment, in  
13 such form and together with such proof as the tax commission may require by its  
14 rules and regulations; however, if a person is claiming a previously unclaimed  
15 homestead exemption, it may be presented to the tax commission within five years  
16 of the date of payment. The tax commission shall consult with the assessor of the  
17 parish in which the property which is the subject of the claim is located, and after  
18 that assessor advises the tax commission that a refund is due the claimant, the tax  
19 commission shall duly examine the merits and correctness of each claim presented  
20 to it and shall make a determination thereon within thirty days after receipt of the  
21 claim.

1           (2)(a) Any person who has a claim against a political subdivision for any  
 2           statutory imposition that is declared invalid pursuant to a legal challenge for the  
 3           payment of the statutory imposition may present the claim to the Louisiana Tax  
 4           Commission within three years of the date of the final judgment declaring the  
 5           statutory imposition invalid and awarding a monetary judgment, in a form prescribed  
 6           by the Louisiana Tax Commission in accordance with its rules and regulations, along  
 7           with a copy of the judgment rendered by the court. The records of the Louisiana Tax  
 8           Commission shall note the date of submission of the judgment by the taxpayer and  
 9           shall order repayment of the statutory impositions by the tax collector of the sums  
 10           declared legally invalid, together with interest and court costs, as directed by the  
 11           court.

12           (b) The tax collector shall refund the sum of statutory impositions held to be  
 13           invalid, together with interest and court costs to the taxpayer within thirty days of the  
 14           order by the Louisiana Tax Commission authorizing and directing the tax collector  
 15           to refund these sums. However, in lieu of a refund as required in this Subparagraph,  
 16           the tax collector may grant the taxpayer a credit up to the amount ordered by the  
 17           Louisiana Tax Commission to offset ad valorem tax liability or statutory impositions  
 18           owed by the taxpayer. Any amount of unused credit shall carryover to the benefit  
 19           of the taxpayer until the total amount ordered by the Louisiana Tax Commission has  
 20           been extinguished.

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22           Section 2. The provisions of this Act shall be applicable to all claims of statutory  
 23           impositions declared invalid by a court on or after January 1, 2020.

24           Section 3. This Act shall become effective upon signature by the governor or, if not  
 25           signed by the governor, upon expiration of the time for bills to become law without signature  
 26           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 27           vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 28           effective on the day following such approval.

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**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)]

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HB 736 Engrossed

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Gary Carter

**Abstract:** Authorizes the La. Tax Commission to receive taxpayer claims for the refund of statutory impositions that are declared invalid pursuant to a legal challenge within three years of the date of the final judgment declaring the statutory imposition invalid.

Present law authorizes any person who has a claim against a political subdivision for *ad valorem taxes erroneously paid* to present the claim to the La. Tax Commission (hereinafter "commission") within three years of the date of the payment; however, if a person is claiming a previously unclaimed homestead exemption, it may be presented to the tax commission within five years of the date of payment. Requires the commission to consult with the assessor of the parish where the property is located, and after that assessor advises that a refund is due, the tax commission shall examine the merits and correctness of each claim presented to it and make a determination within 30 days after receipt of the claim.

Proposed law retains present law but adds authority for any person who has a claim against a political subdivision for any statutory imposition that is declared invalid pursuant to a legal challenge for the payment of the statutory imposition to present the claim to the commission within three years of the date of the final judgment awarding a monetary judgment and declaring the statutory imposition invalid. Requires the commission to note the date of submission of the judgment by the taxpayer and to order repayment of the statutory impositions by the tax collector of the sums declared legally invalid, together with interest and court costs, as directed by the court.

Proposed law requires the tax collector to refund the sum of statutory impositions held to be invalid, together with interest and court costs, to the taxpayer within 30 days of the order by the commission authorizing and directing the tax collector to refund these sums. However, in lieu of a refund, the tax collector may grant the taxpayer a credit up to the amount ordered by the commission to offset ad valorem tax liability or statutory impositions owed by the taxpayer. Amounts of unused credit shall carryover to the benefit of the taxpayer until the total amount ordered by the commission is extinguished.

Proposed law is applicable to all claims of statutory impositions declared invalid by a court on or after Jan. 1, 2020.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:2132(A))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Specify that the claim presented to the La. Tax Commission for payment of a statutory imposition declared invalid pursuant to a legal challenge must also include the awarding of a monetary judgment.