

GREEN SHEET REDIGEST

HB 736

2020 Regular Session

Gary Carter

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

DIGEST

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 pays under protest and prevails in a suit challenging the validity of a 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 as directed by the court, 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 of the tax paid 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.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the reengrossed bill

1. Clarifies that the taxpayer has to use the current payment under protest process.
2. Clarifies that the collector will only be required to pay interest and court costs if the court so orders.