

2022 Regular Session

SENATE BILL NO. 242

BY SENATOR ALLAIN

TAX/LOCAL. Provides relative to interest and penalties applicable to local sales and use tax. (8/1/22)

1 AN ACT

2 To amend and reenact R.S. 47:337.63(A)(3), (D), and (E), 337.69(B), 337.70(A)(1) and (2),

3 and 337.80(A)(4)(b) and (B) and to enact R.S. 47:337.69(C) and 337.70(A)(4),

4 relative to interest and penalties applicable to local sales and use tax; to provide for

5 remittance of tax under protest; to provide for a limitation on the maximum interest

6 rate on unpaid taxes; to equalize interest rates for taxes due, taxes paid under protest,

7 and refunds of overpayments; to provide for the calculation of late filing and

8 payment penalties; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:337.63(A)(3), (D), and (E), 337.69(B), 337.70(A)(1) and (2), and

11 337.80(A)(4)(b) and (B) are hereby amended and reenacted and R.S. 47:337.69(C) and

12 337.70(A)(4) are hereby enacted to read as follows:

13 §337.63. Remittance of tax under protest; suits to recover

14 A. \* \* \*

15 (3) To the extent the taxpayer prevails, the collector shall refund the amount

16 to the claimant, with interest at the rate established pursuant to ~~R.S. 47:337.80~~ R.S.

17 47:337.69(C), except as provided in Subsection E of this Section. To the extent the

1 collector prevails, the taxpayer shall pay the collector additional interest  
2 calculated on the disputed amount at the same rate established for tax  
3 obligations pursuant to R.S. 47:337.69(C), except as provided in Subsection E.

4 \* \* \*

5 D.(1) Upon request of a taxpayer and upon proper showing by such taxpayer  
6 that the principle of law involved in an additional assessment is already pending  
7 before the courts for judicial determination or before the Board of Tax Appeals, the  
8 taxpayer, upon agreement to abide by the decision of the courts, the Board of Tax  
9 Appeals, or by a final judgment of a court upon a timely appeal of a decision of the  
10 Board of Tax Appeals, may remit the additional assessment under protest, but need  
11 not file an additional suit or petition. In such cases, the tax so paid under protest shall  
12 be placed in an escrow account and held by the collector until the question of law  
13 involved has been determined by the courts, the Board of Tax Appeals, or by a final  
14 judgment of a court upon a timely appeal of a decision of the Board of Tax Appeals,  
15 and shall then be disposed of as therein provided.

16 (2) Upon request of a collector and if a principle of law involved in a  
17 refund claim filed by a taxpayer is already pending before the collector at the  
18 administrative stage, before the courts for judicial determination, or before the  
19 Board of Tax Appeals, the taxpayer may, upon agreement to abide by the  
20 decision of the courts, the Board of Tax Appeals, or by a final judgment of a  
21 court upon a timely appeal of a decision from the collector, the courts, or the  
22 Board of Tax Appeals, remit the taxes involving the same principle of law for  
23 all current and future tax periods under protest, but need not file an additional  
24 suit or petition. The tax paid under protest pursuant to this Paragraph shall be  
25 placed in an escrow account and held by the collector until the principle of law  
26 involved has been determined by the courts, the Board of Tax Appeals, or by a  
27 final judgment of a court upon a timely appeal of a decision of the Board of Tax  
28 Appeals.

29 E.(1) When the collector has pursued collection of taxes pursuant to any

1 remedy provided for in R.S. 47:337.45(A)(2) or (3) and the taxpayer has made a  
2 timely payment under protest concerning the same tax obligation, and if the collector  
3 has deposited the monies into an interest-bearing account in accordance with this  
4 Section, the interest to be paid on the tax obligation to the party or parties adjudged  
5 to be entitled to the interest shall be that interest actually earned and received by the  
6 collector on the payment.

7 **(2) When the taxpayer has pursued an appeal remedy provided for in**  
8 **R.S. 47:337.81 and the collector and the taxpayer have entered into an**  
9 **agreement to abide for current and future tax periods, the interest to be paid**  
10 **on the tax obligation to the party or parties adjudged to be entitled to the**  
11 **interest shall be only that interest actually earned and received by the collector**  
12 **on the payments.**

13 \* \* \*

14 §337.69. Interest on unpaid taxes

15 \* \* \*

16 **B. Notwithstanding any provision of law to the contrary, for all taxes**  
17 **that become due on or after January 1, 2023, the rate of interest on any amount**  
18 **of outstanding tax shall not exceed one percent per month.**

19 ~~B.(C)~~ Notwithstanding any provision of this Section or of this Chapter, the  
20 interest on any amount of tax outstanding on a specific date shall be computed at the  
21 rate applicable on such date.

22 §337.70. Penalty for failure to make timely return

23 A.(1) When any taxpayer fails to make and file any return required to be  
24 made under the provisions of this Chapter before the time that the return becomes  
25 delinquent or when any taxpayer fails to timely remit to the collector the total  
26 amount of tax that is due on a return which he has filed, there shall be imposed, in  
27 addition to any other penalties provided, a specific penalty to be added to the tax **in**  
28 **the amount of five percent of the tax owed for each and every thirty-day period**  
29 **after the return was required to be filed or the tax was required to be remitted,**

1 subject to the limitations of this Paragraph.

2 (2) In the case of the filing of a return without remittance of the full amount  
3 due, the specific penalty imposed by this Paragraph in the amount of five percent  
4 of the tax owed for each thirty-day period shall be calculated only on the additional  
5 amount due from the taxpayer after the deduction of payments timely submitted, or  
6 submitted during any preceding thirty-day period, subject to the limitations of this  
7 Paragraph. The penalty provided by this Paragraph shall not be imposed for any  
8 thirty-day period for which a penalty for failure to file a tax return or for filing after  
9 the return becomes delinquent is assessed.

10 \* \* \*

11 (4) The penalties for delinquent returns and failure to remit the total  
12 amount of tax due shall accrue beginning the day after the due date subject to  
13 the limitations of this Subsection.

14 \* \* \*

15 §337.80. Interest on refunds or credits

16 A. \* \* \*

17 (4) \* \* \*

18 (b)(i) Interest shall be at the average prime or reference rate as computed by  
19 the commissioner of financial institutions pursuant to R.S. 13:4202(B), per year, but  
20 without the addition of one percentage point to the average prime or reference rate  
21 and without regard to the limitations contained in R.S. 13:4202(B).

22 (ii) Notwithstanding any provision of law to the contrary, all taxes that  
23 become due on or after January 1, 2023, interest shall be computed at the same  
24 rate established for tax obligations pursuant to R.S. 47:337.69(C).

25 \* \* \*

26 B. No interest on refunds ~~or credits~~ shall be allowed if it is determined that  
27 a ~~person~~ taxpayer has deliberately overpaid a tax in order to derive the benefit of the  
28 interest allowed by this Section or if a taxpayer has not entered into an agreement  
29 to abide authorized by R.S. 47:337.63(D)(2) and the same principle of law is



tax obligations set forth in proposed law.

Present law prohibits interest on refunds if it is determined that a taxpayer has deliberately overpaid a tax in order to derive the benefit of the interest.

Proposed law retains present law and further prohibits interest on refunds if it is determined that a taxpayer has not entered into an agreement to abide and the same principle of law in involved.

Effective August 1, 2022.

(Amends R.S. 47:337.63(A)(3), (D), and (E), 337.69(B), 337.70(A)(1) and (2), and 337.80(A)(4)(b) and (B); adds R.S. 47:337.69(C) and 337.70(A)(4))

Summary of Amendments Adopted by Senate

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

1. Adds provisions relative to the remittance of taxes paid under protest and authorizing interest on refunds in suits to recover.
2. Limits the interest paid on the tax obligation to the interest that is actually earned and received by the collector on the payment when the taxpayer has pursued an appeal and the collector and the taxpayer have entered into an agreement to abide.
3. Authorizes a specific penalty of 5% of the tax owed for each 30 day period after the return was required to be filed or the tax was required to be remitted.
4. Prohibits interest on refunds if it is determined that a taxpayer has not entered into an agreement to abide and the same principle of law in involved.
5. Provides for technical changes.