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**HOUSE BILL NO. 2832**

Offered January 19, 2001

*A BILL to amend and reenact § 58.1-1833 of the Code of Virginia, relating to the payment of penalty and interest on refunds of state income taxes.*

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Patron—Woodrum

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Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-1833 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-1833. Interest and penalty on overpayments or improper collection.

A. Interest shall be allowed and paid upon the overpayment of any tax administered by the Department, the refund of which is permitted or required under the provisions of this article, or on moneys improperly collected from the taxpayer and refunded pursuant to § 58.1-1822, at a rate equal to the rate of interest established pursuant to § 58.1-15. Such interest shall accrue from a date sixty days after payment of the tax, or sixty days after the last day prescribed by law for such payment, whichever is later, and shall end on a date determined by the Department preceding the date of the refund check by not more than thirty days. Notwithstanding the above, any tax refunded pursuant to a court order or otherwise as a result of an erroneous assessment shall bear interest from the date the assessment was paid. No interest will be paid on sales taxes refunded to a dealer unless the dealer agrees to pass such interest on to the purchaser.

B. Notwithstanding the provisions of subsection A, if (i) an individual overpays his individual income tax and such tax was paid prior to May 1, (ii) the overpayment was for individual income taxes for the immediately preceding taxable year, and (iii) the overpayment has not been refunded, interest shall accrue on the amount of the overpayment and any penalty, beginning sixty days after payment of such tax or June 1, whichever is earlier. If (i) an individual overpays his individual income tax and such tax was paid on or after May 1, (ii) the overpayment was for individual income taxes for the immediately preceding taxable year, and (iii) the overpayment has not been refunded, interest shall accrue on the amount of the overpayment and any penalty beginning thirty days after payment of such tax. In all other cases, interest shall accrue on the amount of the overpayment of any individual income tax and any penalty beginning sixty days after payment of such tax. Interest shall accrue at a rate equal to the rate of interest established pursuant to § 58.1-15. Such interest shall end on a date determined by the Department preceding the date of the refund check by not more than seven days.

2. A penalty shall be added to the amount of the overpayment of any individual income tax to be refunded if interest accrues on such amount pursuant to subdivision B. 1. The penalty shall be in an amount of six percent of such overpayment if interest accrues for not more than one month, with an additional six percent for each additional month, or fraction thereof, that interest accrues pursuant to subdivision B. 1., not to exceed thirty percent in the aggregate. Interest on such penalty shall accrue as provided in subdivision B. 1.

**BC. For purposes of this section:**

(1) Any income tax deducted and withheld at the source and paid to the Department, and any amount paid as estimated tax, shall be deemed to have been paid on the day on which the return for such year's income was filed, ~~or the last day prescribed by law for filing such return, whichever is later;~~ and

(2) Any overpayment of tax resulting from the carry-back of a net operating loss or net capital loss shall be deemed to have been made on the day on which the return for the year in which the loss occurred was filed, or the last day prescribed by law for such filing, whichever is later.

INTRODUCED

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