

DEPARTMENT OF TAXATION

2013 Fiscal Impact Statement

1. **Patron** Rosalyn R. Dance

3. **Committee** House Finance

4. **Title** Local Taxes; Local Authority to Withhold
Interest Payments on Refunds

2. **Bill Number** HB 1534

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would authorize localities to withhold interest on refunds of local taxes owed to local taxpayers, provided: 1) the refunds are due as a result of errors made by the taxpayer; and 2) the locality does not collect interest on taxes that are delinquent due to errors made by the locality. In order to qualify to withhold such interest payments, the locality would need to provide a refund of overpayments to the taxpayer within 60 days of the confirmed correction, and balances due to the locality would need to be paid within 60 days of the notice of correction.

The effective date of this bill is not specified.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Not available. (See Line 8.)

8. Fiscal implications:

Administrative Costs

This bill would have no administrative impact on the Department.

Revenue Impact

This bill would have no impact on state revenue.

To the extent a locality elects to withhold interest payments on qualifying refunds, the locality would experience an increase in local revenues, the magnitude of which is unknown.

9. Specific agency or political subdivisions affected:

All localities

10. Technical amendment necessary: No.

11. Other comments:

Interest on Delinquent Taxes

Among their many powers, local governing bodies are authorized to require payment of interest on delinquent taxes. Localities that elect to impose such interest must pay interest at the same rate on overpayments due to erroneously assessed taxes. Localities are not required to pay interest on overpayments if 1) the amount of the refund is ten dollars or less or (2) the refund is for personal property taxes paid to a prorating locality on tangible personal property that subsequently acquired situs in another locality after tax day. Interest can accrue beginning no earlier than the first day following the day such taxes are due, and may not exceed ten percent per year. Local governing bodies may impose interest at a rate not to exceed the rate of interest established in the Internal Revenue Code, or ten percent annually, whichever is greater, for the second and subsequent years of delinquency.

The Internal Revenue Code sets forth the rates on interest for underpayments and overpayments of federal income tax. The Code defines the underpayment rate as the sum of the federal short-term rate plus three percentage points. The Secretary determines the federal short-term rate for the first month in each calendar quarter. For the first quarter of 2013, the federal underpayment rate is 3%.

Proposal

This bill would authorize localities to withhold interest on refunds of local taxes owed to local taxpayers, provided: 1) the refunds are due as a result of errors made by the taxpayer; and 2) the locality does not collect interest on taxes that are delinquent due to errors made by the locality. In order to qualify to withhold such interest payments, the locality would need to provide a refund of overpayments to the taxpayer within 60 days of the confirmed correction, and balances due to the locality would need to be paid within 60 days of the notice of correction.

To ensure proper compliance with the bill, localities may need to establish a procedure to provide guidance as to the documentation or other evidence needed to demonstrate whether the refund is due as a result of errors made by the taxpayer.

The effective date of this bill is not known.

Similar Legislation

House Bill 1578 is identical to this bill.

Senate Bill 710 would authorize localities to elect to withhold interest on refunds to local taxpayers where such refunds are due as a result of willful errors made by the taxpayer. The bill would also require the Chairmen of the House and Senate Finance Committees to convene a working group to study the feasibility and fiscal impact associated with

unifying assessment interest for overpayment and underpayment of taxes and unifying the criteria for evaluating and applying timely repayment of taxes.

House Bill 1329 and **Senate Bill 937** (identical) would authorize localities not to pay interest on the refund of local taxes when the erroneous assessment is based on erroneous information submitted by the taxpayer to the assessing official.

cc : Secretary of Finance
Date: 1/12/2013 KP
DLAS File Name: HB1534F161