

DEPARTMENT OF TAXATION

2013 Fiscal Impact Statement

1. **Patron** Ralph K. Smith

2. **Bill Number** SB 937

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

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

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would authorize localities to withhold interest on refunds of local taxes provided to local taxpayers as a result of an erroneously assessed tax if the erroneous assessment is based on incorrect information submitted by the taxpayer to the assessing official. The bill would also prohibit a locality from imposing interest for a taxpayer's failure to file a return or pay a tax if such failure was the fault of the commissioner of the revenue, the treasurer, or was not the fault of the taxpayer.

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 refunds, the locality would experience an increase in local revenues, the magnitude of which is unknown. Localities may experience an unknown decrease in revenues to the extent that the locality, and not the taxpayer, is to blame for the taxpayer's failure to file a return or pay a local tax.

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 of the Treasury 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 provided to local taxpayers if the erroneous assessment is based on erroneous information submitted by the taxpayer to the assessing official. The bill would also prohibit a locality from imposing interest for a taxpayer's failure to file a return or pay a tax if such failure was the fault of the commissioner of the revenue, the treasurer, or was not the fault of the taxpayer.

To ensure proper compliance with the bill, a determination would need to be made as to whether the taxpayer or locality is at fault for the erroneous assessment. Localities may need to establish a procedure to provide guidance as to the documentation or other evidence needed to demonstrate which party is at fault.

The effective date of this bill is not specified.

Similar Legislation

House Bill 1329 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 1534 and **House Bill 1578 (identical)** 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; 2) the locality does not collect interest on taxes that are delinquent due to errors made by the locality; and 3) the locality refunds the overpayments within 60 days of the confirmed correction, and balances due to the locality are paid within 60 days of the notice of correction.

cc : Secretary of Finance
Date: 1/12/2013 KP
DLAS File Name: SB937F161