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AN ACT

To amend and reenact R.S. 47:115(A)(3) and (C) and 1624(A), relative to individual income tax; to provide for the payment of interest on credited overpayments; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:115 (A) (3) and (C) and 1624(A) are hereby reenacted to read as follows:

§115. Refunds and credits

A. Employee refunds and credits.

* * *

(3) To the extent that the aforesaid credit, together with other credits allowed by law, is in excess of the employee's income tax liability for said taxable year, as shown on an income tax return filed by such employee for that year such overpayment shall be considered as taxes erroneously paid to be refunded or credited or ~~refunded~~ as herein provided. Such overpayment shall be refunded unless the taxpayer requests that the overpayment be credited to such person's estimated or income tax liability for the succeeding taxable year ~~unless such person shall claim a refund therefor~~ except that overpayments of one dollar or less shall be refunded or credited only upon the receipt by the secretary of a written demand for such refund from the taxpayer; however, the ~~collector~~ secretary is authorized to consider any final return showing an overpayment as a claim for refund. The secretary may refuse the taxpayer's request for a credit and refund the overpayment instead. ~~An overpayment shall bear no interest if credit is given therefor: a~~ Amounts credited or refunded as overpayments shall bear interest at

1 twenty-five percent of the rate established pursuant to R.S. 13:4202 computed from
 2 ninety days after the filing date of the final return showing the overpayment, or from
 3 the due date of such final return, whichever is later, until the date the refund is
 4 issued or, in the case of a credit, the earlier of the date the credit is claimed on
 5 an income tax return or the date the next return is due to be filed.

6 * * *

7 C. Other refunds and credits. To the extent a taxpayer's payments, together
 8 with other credits allowed by law, is in excess of his income tax liability ~~shown on~~
 9 ~~a return filed for the taxable year~~ as shown on an income tax return filed by such
 10 taxpayer for that taxable year, such overpayment shall be considered as taxes
 11 erroneously paid to be refunded or credited ~~or refunded~~ as herein provided. Such
 12 overpayment shall be refunded unless the taxpayer requests that the
 13 overpayment be credited to the taxpayer's estimated or income tax liability for the
 14 succeeding taxable year ~~unless a claim for refund is made~~. Notwithstanding any
 15 provision of this Subsection to the contrary, an overpayment of one dollar or less
 16 shall be refunded or credited only upon the receipt by the secretary of a written
 17 demand for such refund from the taxpayer. The secretary is authorized to consider
 18 any final return showing an overpayment as a claim for refund. The secretary may
 19 refuse the taxpayer's request for a credit and refund the overpayment instead.
 20 ~~An overpayment shall bear no interest if credit is given.~~ Amounts credited or
 21 refunded as overpayments shall bear interest at twenty-five percent of the rate
 22 established pursuant to R.S. 13:4202 computed from ninety days after the filing date
 23 of the final return showing the overpayment or from the due date of the final return,
 24 whichever is later, until the date the refund is issued or, in the case of a credit,
 25 the earlier of the date the credit is claimed on an income tax return or the date
 26 the next return is due to be filed. No interest on refunds shall be allowed, if the
 27 secretary proves by clear and convincing evidence that a person has deliberately
 28 overpaid a tax in order to derive the benefit of the interest allowed by this Section.
 29 Payments of interest authorized by this Section shall be made from funds derived
 30 from current collections of the tax to be refunded.

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§1624. Interest on refunds or credits

A. ~~Notwithstanding any other provision of law to the contrary, o~~ On all refunds or credits the secretary shall compute and allow as part of the refund or credit, interest at the annual rate established in R.S. 13:4202 from the date the return was due, the date the first return for that tax period was filed, **computed from ninety days after the filing date of the final return or from the due date of the final return** or the date the tax was paid, whichever is later. An overpayment shall bear no interest if it is credited to the taxpayer's account, **unless it is an overpayment credited pursuant to R.S. 47:115(A)(3) or R.S. 47:115(C)**. No interest on refunds or credits shall be allowed if, the secretary proves by clear and convincing evidence that a person has deliberately overpaid a tax in order to derive the benefit of the interest allowed by this Section. Payments of interest authorized by this Section shall be made from funds derived from current collections of the tax to be refunded or credited.

* * *

Section 2. The provisions of this Act shall be applicable to claims for refund arising on and after August 15, 2005.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

VETO MESSAGE

"Senate Bill No. 193 by Senator Fields would provide for the crediting of interest when a taxpayer chooses to apply an overpayment of tax to a liability for a succeeding year instead of requesting a refund.

In its current form, the legislation provides several administrative challenges as well as questions for implementation. For example, implementation of the bill would mean four different interest rates would be applicable to tax administration and five different interest computation dates would apply. In addition, it does not address or contemplate the filing of an amended return that shows an overpayment, which results in uncertainty in the effective date for computation of interest due.

After consultation with appropriate administrators, I am vetoing Senate Bill No. 193 so that the concept may be more fully developed and contemplated and am returning it to the Senate."