

FINAL BILL REPORT

SHB 1342

PARTIAL VETO

C 157 L 97

Synopsis as Enacted

Brief Description: Revising interest and penalty administration of the department of revenue.

Sponsors: By House Committee on Finance (originally sponsored by Representatives B. Thomas, Dunshee and Wensman; by request of Department of Revenue).

House Committee on Finance
Senate Committee on Ways & Means

Background: The Department of Revenue (DOR) administers a variety of tax programs. Each program provides for the application of interest and penalties when a taxpayer does not satisfy his or her reporting or tax obligations in a timely manner, or when a taxpayer overpays the amount of tax due. The interest rates and penalties applied are not uniform across all tax programs. There are general administrative rules that apply in the absence of specific provisions for a particular tax.

Interest Computation - Tax Liabilities - Generally.

Interest is computed on a tax liability from the last day of the year in which a deficiency is incurred until the date of payment.

Interest Rate - Tax Liabilities - Generally.

A taxpayer who does not pay the entire amount of a tax obligation on the due date must pay interest on the amount of the remaining tax liability. If the liability arose prior to January 1, 1992, interest is charged at an annual rate of 9 percent. If the tax liability is incurred on or after January 1, 1992, the interest rate equals an annualized average of the federal short-term rate plus two percentage points. This rate is calculated by taking an arithmetical average of the federal short-term rate, compounded annually, for the months of January, April, July, and October of the preceding calendar year. While most outstanding tax balances are for tax obligations incurred since 1992, there are still some taxpayers who owe back taxes for periods prior to 1992. Therefore, some tax accounts are assessed at the older 9 percent tax rate.

Interest Rate - Tax Refunds - Generally.

A taxpayer who pays taxes, penalties, or interest in excess of the amount due is entitled to a refund of the overpayment and interest on the amount of the overpayment. The annual interest rate applicable to refunds on amounts overpaid before January 1, 1992, is 3 percent. The interest rate applicable to refunds on amounts overpaid on or after January 1, 1992, equals an annualized average of the federal short-term rate plus one percentage point.

Normally, refunds may only be claimed for amounts overpaid in the preceding four years. In some cases, however, such as a court judgment in a taxpayer's favor, refunds may be owed for periods prior to 1992. For these older cases, the Department of Revenue is obligated to use the lower 3 percent interest rate in computing tax refunds.

Interest Computation and Rate - Tax Warrants.

The DOR issues tax warrants that include taxes owed plus penalties and interest already assessed. Interest is computed on the total amount of a warrant. The DOR computes interest on warrants every 30 days at a rate of 1 percent on the outstanding balance of the warrant amount.

Interest Rate - Real Estate Excise Taxes.

Real estate excise tax must be paid within one month of the sale of property. If payment is not made within one month, then interest is assessed. The interest is charged at a rate of 1 percent per month.

Estate Taxes - Penalties and Interest.

The person responsible for filing a federal estate tax return must also file a Washington estate tax return. The deadline for filing the Washington return is the same as the federal deadline. If a person fails to file a Washington estate tax return on time, the DOR assesses a penalty. The penalty equals 5 percent of the tax due for each month intervening between the date that the tax was first due and the date that the return is actually filed, up to a maximum penalty of 25 percent.

Interest on estate tax delinquencies is paid at a variable rate equaling an annualized average of the federal short-term rate plus two percentage points. Interest on estate tax refunds is paid at a variable rate equaling an annualized average of the federal short-term rate plus one percentage point.

Summary:

Interest Computation - Tax Liabilities - Generally.

The date that interest on a tax liability begins to accrue is changed. Instead of accruing interest from the last day of the year when a tax liability is incurred, interest starts to accrue from the last day of the month following the month when taxes were due. (For example, a quarterly taxpayer who must file a return for the tax period ending on March 31 and who fails to file and pay taxes due by April 30, will be subject to interest on the unpaid taxes that begins to accrue on May 1.)

Interest Rate - Tax Liabilities - Generally.

Starting January 1, 1999, all taxpayer accounts, regardless of the age of the account, will be assessed interest at the same variable rate. The variable rate equals an annualized average of the federal short-term rate plus two percentage points.

Interest Rate - Tax Refunds - Generally.

Starting January 1, 1999, interest allowed on all taxpayer refunds will be allowed at the same variable rate regardless of the tax period when taxes were overpaid. The variable rate equals an annualized average of the federal short-term rate plus two percentage points.

Interest Computation and Rate - Tax Warrants.

Starting January 1, 1999, interest is assessed only on the portion of the warrant amount representing taxes due, and not on penalties and interest included within the total warrant amount.

Starting January 1, 1999, the Department of Revenue must compute interest on outstanding tax amounts for warrants on a daily basis and must use a variable rate equaling an annualized average of the federal short-term rate plus two percentage points.

Interest Rate - Real Estate Excise Taxes.

Starting January 1, 1999, interest on delinquent real estate excise taxes will be assessed using a variable rate equaling an annualized average of the federal short-term rate plus two percentage points.

The Department of Revenue is responsible for notifying county treasurers of the variable rate to be used for each calendar year.

Estate Taxes - Penalties and Interest.

The practice of automatically assessing estate tax penalties when a return is not filed on time is eliminated. The Department of Revenue must waive or cancel estate tax

penalties if the late filing of a return is due to circumstances beyond the control of the person responsible for filing the return.

Beginning on January 1, 1999, interest on estate tax liabilities and tax refunds will be assessed at a variable rate equaling the federal short-term rate plus two percentage points.

Votes on Final Passage:

House 96 0

Senate 46 0

Effective: July 27, 1997

Partial Veto Summary: The Governor vetoed the section allowing interest and penalties to be waived when an estate tax return is not filed on time due to circumstances beyond the control of the person responsible for filing it, since this section was duplicated by a similar provision in SB 5121 enacted as C 136 L 97.