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**Ways & Means Committee**

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**HB 3223**

**Brief Description:** Establishing a temporary penalty and interest waiver program for certain excise taxes administered by the department of revenue.

**Sponsors:** Representatives Hunter and Orcutt; by request of Department of Revenue.

**Brief Summary of Bill**

- Creates a temporary waiver program for interest and penalties on certain unpaid excise taxes.

**Hearing Date:** 12/11/10

**Staff:** Rick Peterson (786-7150).

**Background:**

Penalties and interest charges apply to the underpayment and the late payment of taxes.

Penalties are added to the taxes due under the following circumstances: late filing of tax returns; late payment of taxes; failure to register as a taxpayer; disregard of specific written instructions; failure to pay sales tax to the seller; tax evasion; and misuse of resale certificates or reseller permits. Penalties may be waived if the underpayment or failure to pay tax was the result of circumstances beyond the control of the taxpayer.

Interest is added to the amount of outstanding taxes. However, interest is not added to the amount of any penalties assessed. The rate of interest is calculated as an average of the federal short term rate plus two percentage points. The rates for calendar year 2010 and 2011 are three percent. Interest may only be waived or cancelled if the failure to pay was the direct result of written instructions or a due date was extended for the sole convenience of the Department of Revenue.

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When taxpayers make a payment, amounts are applied first to interest, then penalties, and finally to the tax due.

**Summary of Bill:**

A temporary waiver of penalties and interest on unpaid taxes is allowed.

The Department of Revenue (DOR) is authorized to waive most penalties and interest related to unpaid state business and occupation tax (B&O), state public utility tax (PUT), and state and local sales or use taxes that were due before February 1, 2011.

To obtain an interest and penalty waiver, a taxpayer must meet the following conditions:

- By April 18, 2011, file a completed waiver application form with the DOR;
- By April 18, 2011, file all outstanding tax returns and any amended tax returns relating to the tax liabilities for which a penalty and interest waiver is requested;
- By May 1, 2011, make full payment of taxes due for which a penalty and interest waiver are requested;
- Timely file all tax returns and make all tax payments due from January 31, 2011, and before May 1, 2011;
- By May 1, 2011, pay any penalties for tax evasion or the misuse of a reseller permit or resale certificate; and
- The taxpayer must never have been a defendant in a criminal prosecution related to an offense involving the failure to collect or pay the proper amount of any excise tax.

Taxpayers receiving penalty or interest waivers may not seek a refund or otherwise challenge their tax liability paid under the waiver program.

The DOR may not waive penalties for tax evasion or misuse of reseller permits or resale certificates.

For taxpayers with outstanding balances owing to the DOR, payments made to the DOR prior to May 1, 2011, are applied first to B&O, PUT, and sales and use taxes, then to any other taxes, and then to penalties and interest.

**Appropriation:** None.

**Fiscal Note:** Requested on December 10, 2010.

**Effective Date:** The bill contains an emergency clause and takes effect on February 1, 2011.