

1 SB12  
2 113866-2  
3 By Senator Little (Z)  
4 RFD: Finance and Taxation Education  
5 First Read: 12-JAN-10  
6 PFD: 07/31/2009

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8 SYNOPSIS: Under existing law, the Department of  
9 Revenue pays interest on the overpayments of income  
10 taxes beginning 90 days after the due date of the  
11 return.

12 This bill would provide that the department  
13 would pay income tax refunds in a timely manner and  
14 provide further for the interest rate.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT

19  
20 To amend Section 40-1-44, Code of Alabama 1975,  
21 relating to interest on delinquent taxes and overpayments, to  
22 provide that the Department of Revenue would pay income tax  
23 refunds in a timely manner and provide further for the  
24 interest rate.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 40-1-44, Code of Alabama 1975, is  
27 amended to read as follows:

1           "§40-1-44.

2           "(a) Interest shall be added as provided herein to  
3 any tax or other amount due the department which is not paid  
4 by the due date. Interest on any delinquency shall be charged  
5 from the due date of the tax, except (1) interest on  
6 delinquent license taxes levied under Chapter 12 of this title  
7 shall be charged from the delinquent date provided in  
8 subsection (e) of Section 40-12-10; and (2) interest on  
9 delinquent license tax and registration fees levied on motor  
10 vehicles shall be charged beginning after the period allowed  
11 for registration or renewal; and (3) interest on the freight  
12 lines and equipment companies tax levied in Section 40-21-52  
13 shall be charged from the delinquent date thereof. The  
14 interest shall be computed based on the underpayment rate  
15 established by the Secretary of the Treasury under the  
16 authority of 26 U.S.C. §6621.

17           "(b) (1) The department shall refund any tax  
18 erroneously paid or any overpayment of taxes received by it  
19 within 30 days after receipt of the tax return.

20           "(2) Except as provided in subdivision ~~(2)~~ of this  
21 ~~subsection (b)~~ (3), interest shall be paid by the department  
22 on any refund of tax erroneously paid directly to the  
23 department. Interest shall be computed on any overpayment from  
24 the date of overpayment to the department; except, a. interest  
25 on any refund resulting from a net operating loss carryover or  
26 carryback shall be computed from the date the claim giving  
27 rise to the refund is filed, b. interest on any overpayment of

1 tax withheld and paid over to the state pursuant to Article 2  
2 of Chapter 18 of this title and estimated tax paid pursuant to  
3 Section 40-18-83, shall be paid beginning ~~90~~ 30 days after ~~the~~  
4 ~~due date of~~ the return required by Section 40-18-27 for  
5 individuals, and Section 40-18-39 for corporations, ~~or the~~  
6 ~~date the return is filed, whichever is later~~ is received by  
7 the department. Interest as required above shall be computed  
8 at ~~the same rate as provided herein for interest on~~  
9 ~~underpayments~~ 12 percent annually.

10 ~~"(2)~~ (3) No interest shall be paid on any overpayment  
11 of the following taxes:

12 "a. Taxes paid by entities for which a refund is  
13 allowed by Sections 40-9-12 and 40-9-13;

14 "b. License taxes which are refunded pursuant to  
15 Sections 40-12-23 and 40-12-24;

16 "c. Gasoline taxes paid on gasoline used for  
17 agricultural purposes for which a refund is allowed by  
18 Division 3, Article 2, Chapter 17 of this title;

19 "d. Gasoline taxes paid on gasoline used for the  
20 static testing of engines for which a refund is allowed by  
21 Division 4, Article 2, Chapter 17 of this title;

22 "e. The motor fuels excise tax levied by Section  
23 40-17-141 for which a refund or credit is allowed by Section  
24 40-17-142;

25 "f. The tobacco taxes levied by Chapter 25 of this  
26 title; and

1                    "g. The motor fuels excise tax levied under Sections  
2                    40-17-2 and 40-17-220, for which a refund is provided for  
3                    off-road users in Chapter 17 of this title, if the refund is  
4                    paid within 90 days of the receipt of the proper  
5                    documentation."

6                    Section 2. This act shall become effective  
7                    immediately following its passage and approval by the  
8                    Governor, or its otherwise becoming law.