

1 SB18
2 178586-1
3 By Senator Melson
4 RFD: Tourism and Marketing
5 First Read: 15-AUG-16

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8 SYNOPSIS: Under existing law, the Department of
9 Revenue is required to pay interest on any refund
10 of taxes erroneously paid to the department.
11 Interest is calculated from the date of
12 overpayment, except for interest on a refund
13 resulting from a net operating loss carryover or
14 carryback, computed from the date of filing of the
15 claim for refund, and interest on a claim resulting
16 from overpayment of withholding and excess
17 estimated tax payments computed from 90 days from
18 the due date of the return.

19 This bill would revise the requirement for
20 payment of interest for refunds, other than those
21 resulting from a net loss carryover or carryback or
22 over withholding and excess estimated tax payments,
23 from the date of overpayment to 30 days after
24 receipt by the department of a properly documented
25 refund petition.

26 Also, under existing law, the refund of
27 overpayments on taxes paid on gasoline used for

1 agriculture or static testing purposes is excepted
2 from the payment of interest. This bill would
3 remove that exception.
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5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 To amend Section 40-1-44, Code of Alabama 1975, to
10 revise the tax refunds on which and the time when the
11 Department of Revenue is required to begin paying interest on
12 certain tax refunds.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

16 "§40-1-44.

17 "(a) Interest shall be added as provided herein to
18 any tax or other amount due the department which is not paid
19 by the due date. Interest on any delinquency shall be charged
20 from the due date of the tax, except (1) interest on
21 delinquent license taxes levied under Chapter 12 of this title
22 shall be charged from the delinquent date provided in
23 subsection (e) of Section 40-12-10; and (2) interest on
24 delinquent license tax and registration fees levied on motor
25 vehicles shall be charged beginning after the period allowed
26 for registration or renewal; and (3) interest on the freight
27 lines and equipment companies tax levied in Section 40-21-52

1 shall be charged from the delinquent date thereof. The
2 interest shall be computed based on the underpayment rate
3 established by the Secretary of the Treasury under the
4 authority of 26 U.S.C. §6621.

5 "(b) (1) Except as provided in subdivision (2) ~~of~~
6 ~~this subsection (b)~~, interest shall be paid by the department
7 on any refund of tax erroneously paid directly to the
8 department. Interest shall be computed ~~on any overpayment from~~
9 ~~the date of overpayment to the department; except, as follows:~~

10 a. interest on any refund resulting from a net operating loss
11 carryover or carryback shall be computed from the date the
12 claim giving rise to the refund is filed, b. interest on any
13 overpayment of tax withheld and paid over to the state
14 pursuant to Article 2 of Chapter 18 ~~of this title~~ and
15 estimated tax paid pursuant to Section 40-18-83, shall be paid
16 beginning 90 days after the due date of the return required by
17 Section 40-18-27 for individuals, and Section 40-18-39 for
18 corporations, or the date the return is filed, whichever is
19 later, and c. interest on any overpayment not covered by a. or
20 b. shall be paid beginning 30 days after the receipt of a
21 properly documented refund petition and supporting
22 documentation by the department. Interest as required above
23 shall be computed at the same rate as provided herein for
24 interest on underpayments.

25 "(2) No interest shall be paid on any overpayment of
26 the following taxes:

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

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

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

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

11 ~~"e. c. The motor fuels excise tax levied by Section
12 40-17-141 for which a refund or credit is allowed by Section
13 40-17-142;~~

14 ~~"f. d. The tobacco taxes levied by Chapter 25 of
15 this title; and~~

16 ~~"g. e. The motor fuels excise tax levied under the
17 Alabama Terminal Excise Tax Act, which has been paid to a
18 supplier by a licensed distributor or end user who is
19 authorized to obtain a refund under Section 40-17-329, if the
20 refund is paid within 90 days of the receipt of the proper
21 documentation."~~

22 Section 2. This act shall become effective on the
23 first day of the third month, following its passage and
24 approval by the Governor, or upon its otherwise becoming law.