

Amendments to House Bill No. 592
3rd Reading Copy

Requested by Representative Karl Waitschies

For the Senate Taxation Committee

Prepared by Jeff Martin
April 8, 2005 (1:18PM)

1. Title, page 1, line 7.

Following: "USING"**Insert:** "THE GREATER OF 8% OR"

Explanation - Conform title with previous House amendments

2. Title, page 1, line 8.

Following: "TAXPAYERS;"**Insert:** "IMPOSING A HIGHER INTEREST RATE ON CERTAIN TAXPAYERS
UNDER CERTAIN CONDITIONS; ESTABLISHING A UNIFORM INTEREST
RATE APPLIED TO THE OVERPAYMENT OF TAXES OR FEES;"Explanation - Conform title with previous House amendments and
add uniform interest applied to refund (15-1-216(9)-effective
1/1/07)

3. Title, page 1, line 10.

Following: "15-30-142,"**Insert:** "15-30-149,"

4. Title, page 1, line 11.

Following: "15-31-510,"**Insert:** "15-31-531,"

5. Page 2.

Following: line 7**Insert:** "Section 2. Section 15-1-216

, MCA, is amended to read:

**"15-1-216. Uniform penalty and interest assessments for
violation of tax provisions -- applicability -- exceptions.**

(1) (a) A person who fails to file a required tax return or other

report with the department by the due date, including any extension of time, of the return or report must be assessed a late filing penalty of \$50 or the amount of the tax due, whichever is less.

(b) A person who purposely fails to file a required return, statement, or other report must be assessed an additional late filing penalty of \$200 or the amount of the tax due, whichever is less.

(c) A person who fails to pay a tax when due must be assessed a late payment penalty of 1.5% a month or fraction of a month on the unpaid tax. The penalty may not exceed 18% of the tax due.

(d) A person who purposely fails to pay a tax when due must be assessed an additional penalty equal to 25% of the tax due or \$200, whichever is less, plus interest as provided in subsection (2).

(2) Interest on taxes not paid when due must be assessed at the rate of 12% a year, ~~accrued at 1% a month or fraction of a month, on the unpaid tax.~~ Interest on delinquent taxes and on deficiency assessments is computed from the original due date of the return until the tax is paid. Interest accrues daily on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing the return.

(3) (a) Except as provided in subsection (3)(b), this section applies to taxes, fees, and other assessments imposed under Titles 15 and 16.

(b) This section does not apply to:

- (i) property taxes;
- (ii) gasoline and vehicle fuel taxes collected by the department of transportation pursuant to Title 15, chapter 70; or
- (iii) taxes, fees, and other assessments subject to other penalty or interest charges as provided by law."

{Internal References to 15-1-216: x to all

15-1-217	15-24-921	15-30-142	15-30-209
15-30-209	15-30-323	15-30-323	15-30-323
15-31-510	15-31-543	15-31-545	15-35-105
15-35-112	15-35-113	15-36-311	15-36-313
15-36-314	15-36-315	15-37-105	15-37-108
15-37-109	15-37-114	15-37-115	15-37-205
15-37-210	15-37-211	15-38-107	15-38-107
15-38-107	15-50-309	15-50-309	15-51-103
15-51-109	15-51-110	15-51-111	15-51-111
15-53-147	15-53-147	15-59-106	15-59-106
15-59-112	15-59-113	15-60-204	15-60-208
15-65-115	15-65-115	15-65-115	15-65-116
15-66-204	15-66-208	15-67-204	15-67-208
15-68-514	15-68-517	15-68-525	15-72-112
15-72-112	15-72-112	15-72-114	15-72-114
15-72-116	16-1-403	16-1-409	16-1-411
16-11-143	16-11-203	75-2-220	75-2-220
75-5-516	80-2-230	87-2-903}	

Renumber: subsequent sections

Explanation - Allows daily accrual of interest-effective 7/1/05

6. Page 2, line 11.

Following: "exceptions"

Insert: "-- uniform provision for interest on overpayments"

7. Page 4.

Following: line 2

Insert: "(9) Interest allowed for the overpayment of taxes or fees is the same rate as is charged for unpaid or delinquent taxes. For the purposes of this subsection, interest charged for unpaid or delinquent taxes is the interest rate determined in subsection (4) (a) (i)."

8. Page 5.

Following: line 24

Insert: "Section 6. Section 15-30-149, MCA, is amended to read:

"15-30-149. Credits and refunds -- period of limitations.

(1) If the department discovers from the examination of a return or upon a claim ~~duly~~ filed by a taxpayer or upon final judgment of a court that the amount of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment must be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of the excess must be refunded to the taxpayer.

(2) (a) A credit or refund under the provisions of this section may be allowed only if, prior to the expiration of the period provided by 15-30-146 and 15-30-147, the taxpayer files a claim or the department determines there has been an overpayment.

(b) If an overpayment of tax results from a net operating loss carryback, the overpayment may be refunded or credited within the period that expires on the 15th day of the 40th month following the close of the ~~taxable~~ tax year of the net operating loss if that period expires later than 5 years from the due date of the return for the year to which the net operating loss is carried back.

(3) Within 6 months after a claim for refund is filed, the department shall examine the claim and either approve or disapprove it. If the claim is approved, the credit or refund must be made to the taxpayer within 60 days after the claim is approved. If the claim is disallowed, the department shall notify the taxpayer and a review of the determination of the department may be pursued as provided in 15-1-211.

(4) Interest is allowed on overpayments at the same rate as charged on delinquent taxes as provided in 15-1-216. Interest is payable from the due date of the return or from the date of the overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. With respect

to tax paid by withholding or by estimate, the date of overpayment is the date on which the return for the ~~taxable tax~~ year was due. Interest does not accrue on an overpayment if the taxpayer elects to have it applied to the taxpayer's estimated tax for the succeeding taxable year. Interest does not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. Interest is not allowed if:

(a) the overpayment is refunded within 45 days from the date the return is due or the date the return is filed, whichever date is later;

(b) the overpayment results from the carryback of a net operating loss; or

(c) the amount of interest is less than \$1.

(5) An overpayment not made incident to a bona fide and orderly discharge of an actual income tax liability or one reasonably assumed to be imposed by this law is not considered an overpayment with respect to which interest is allowable."

{Internal References to 15-30-149: None.}

"

Renumber: subsequent sections

Explanation - Reference section to 15-1-216

9. Page 16.

Following: line 17

Insert: "Section 16. Section 15-31-531

, MCA, is amended to read:

"15-31-531. Credit for overpayment -- interest on overpayment. (1) If the department ~~of revenue~~ determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment ~~shall~~ must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as ~~hereinafter~~ provided for in subsection (3), interest ~~shall~~ must be allowed on overpayments at the same rate as is charged on delinquent taxes, as provided in 15-1-216, due from the due date of the return or from the date of overpayment, ~~{whichever date is later}~~, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest ~~shall~~ may not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. ~~No interest shall be~~

(b) Interest is not allowed:

~~(a)(i)~~ if the overpayment is refunded within 6 months from

the date the return is due or from the date the return is filed, whichever is later; or

~~(b)(ii)~~ if the amount of interest is less than \$1.

~~(3)(4)~~ A payment not made incident to a bona fide and orderly discharge of an actual corporation license tax liability or one reasonably assumed to be imposed by this ~~law shall~~ chapter is not be considered an overpayment with respect to which interest is allowable."

{Internal References to 15-31-531:

15-31-119 x 15-31-406 x}

"

Explanation - Reference section to 15-1-216.

10. Page 28, line 10.

Strike: "5"

Insert: "7"

11. Page 28, line 15.

Strike: "2"

Insert: "3"

12. Page 28, line 19.

Strike: "2"

Insert: "3"

13. Page 28, line 21.

Strike: "2"

Insert: "3"

- END -