

BILL ANALYSIS

Senate Research Center
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S.B. 1321
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Finance
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DIGEST

Currently, the state does not pay interest to the taxpayer along with the tax refund. A delinquent taxpayer is charged a 12 percent rate. One-year certificate of deposit rates are between 4 and 5 percent, which makes interest on the delinquent amount an additional penalty to the 10 percent already charged. If taxpayers remain delinquent beyond 60 days, interest begins to accrue at an annual rate of 12 percent. The combined penalty and interest charged to a taxpayer is 20 percent of the tax due, after only one year. Interest assessment is subject to the same collection procedures available for non-payment of taxes, even after the full tax liability has been remitted and the interest assessment is the only remaining balance. S.B. 1321 would require the state government to operate by the same standards as the taxpayer, and would change the rate of interest from a statutorily defined rate to a variable rate.

PURPOSE

As proposed, S.B. 1321 requires the taxpayer to receive interest payments, along with the tax refund.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the comptroller in SECTION 5 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 111.060, Tax Code, to provide that the yearly interest rate on all delinquent taxes imposed by this title is at the rate of 12 percent for report periods originally due on or before December 31, 1999, after which the rate of interest is variable and determined as provided in Subsection (b). Provides that the rate of interest to be charged to the taxpayer is the prime rate plus one percent, as published in the Wall Street Journal on the first day of each calendar year that is not a Saturday, Sunday, or legal holiday. Provides that delinquent taxes draw interest beginning 60 days after the date due, except as provided by Subsection (d). Makes conforming changes.

SECTION 2. Amends Chapter 111B, Tax Code, by adding Section 111.064, as follows:

Sec. 111.064. INTEREST ON REFUND OR CREDIT. Provides that in a comptroller's final decision on a claim for refund or in an audit, interest is at the rate set in Section 111.060 on the amount found to be erroneously paid for a certain period, except as provided by Subsections (b) and (c). Provides that a credit taken by a taxpayer on the taxpayer's return does not accrue interest. Provides that this section does not apply to an amount paid to the comptroller under Title 6, Property Code, or under an agreement made under Section 153.017. Requires all warrants for interest payments to be drawn against the fund or account into which the erroneously paid tax was deposited. Requires the interest to be paid from funds appropriated for that purpose.

SECTION 3. Amends Section 111.101, Tax Code, as follows:

Sec. 111.101. New heading: SETTLEMENT. Authorizes the comptroller to settle a claim for a tax, penalty, or interest imposed by this title, if the total costs of collection, as conclusively determined by the comptroller, of the total amount due would exceed the total amount due. Authorizes the comptroller to settle a claim for a refund of tax, penalty, or interest imposed by this title, if the total costs of defending a denial of the claim, as conclusively determined by the comptroller, would exceed the total amount claimed. Deletes text regarding the comptroller examining a taxpayer's records. Makes conforming changes.

SECTION 4. Amends Section 111.102, Tax Code, to authorize the comptroller to settle a claim for a tax, penalty, or interest imposed by this title, if collection of the total amount due would make the taxpayer insolvent. Deletes text regarding cost of collection of the amount of tax due. Makes conforming changes.

SECTION 5. Authorizes the comptroller to adopt rules and take other actions before January 1, 2000, as the comptroller considers necessary or advisable to prepare for SECTIONS 3 and 4 of this Act taking effect.

SECTION 6. (a) Authorizes SECTIONS 3, 4, and 5 of this Act to take effect on the first date on which they take effect under Section 39, Article III, Texas Constitution.

(b) Effective date: January 1, 2000, for SECTIONS 1 and 2 of this Act.

SECTION 7. Emergency clause.