

1 SB183
2 173672-1
3 By Senators Melson, Orr and Pittman
4 RFD: Finance and Taxation General Fund
5 First Read: 09-FEB-16

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8 SYNOPSIS: This bill will allow the department to
9 calculate the interest due to taxpayers on refunds
10 beginning thirty days from the date the refund
11 petition and supporting documentation is received
12 by the department.

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14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To amend Section 40-1-44, Code of Alabama 1975, and
19 to calculate the interest due to taxpayers on refunds
20 beginning thirty days from the date the refund petition and
21 supporting documentation is received by the department.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

25 "§40-1-44.

26 "(a) Interest shall be added as provided herein to
27 any tax or other amount due the department which is not paid

1 by the due date. Interest on any delinquency shall be charged
2 from the due date of the tax, except (1) interest on
3 delinquent license taxes levied under Chapter 12 of this title
4 shall be charged from the delinquent date provided in
5 subsection (e) of Section 40-12-10; and (2) interest on
6 delinquent license tax and registration fees levied on motor
7 vehicles shall be charged beginning after the period allowed
8 for registration or renewal; and (3) interest on the freight
9 lines and equipment companies tax levied in Section 40-21-52
10 shall be charged from the delinquent date thereof. The
11 interest shall be computed based on the underpayment rate
12 established by the Secretary of the Treasury under the
13 authority of 26 U.S.C. §6621.

14 " (b) (1) Except as provided in subdivision (2) of
15 this subsection (b), interest shall be paid by the department
16 on any refund of tax erroneously paid directly to the
17 department. Interest shall be computed on any ~~overpayment from~~
18 ~~the date of overpayment to the department; except, as follows:~~
19 a. interest on any refund resulting from a net operating loss
20 carryover or carryback shall be computed from the date the
21 claim giving rise to the refund is filed, b. interest on any
22 overpayment of tax withheld and paid over to the state
23 pursuant to Article 2 of Chapter 18 of this title and
24 estimated tax paid pursuant to Section 40-18-83, shall be paid
25 beginning 90 days after the due date of the return required by
26 Section 40-18-27 for individuals, and Section 40-18-39 for
27 corporations, or the date the return is filed, whichever is

1 later, c. for a properly documented refund petition, interest
2 shall be paid beginning 30 days after the receipt of the
3 refund petition and supporting documentation by the taxing
4 division. Interest as required above shall be computed at the
5 same rate as provided herein for interest on underpayments.

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

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

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

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

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

18 ~~"e. c.~~ The motor fuels excise tax levied by Section
19 40-17-141 for which a refund or credit is allowed by Section
20 40-17-142;

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

23 ~~"g. e.~~ The motor fuels excise tax levied under the
24 Alabama Terminal Excise Tax Act, which has been paid to a
25 supplier by a licensed distributor or end user who is
26 authorized to obtain a refund under Section 40-17-329, if the

1 refund is paid within 90 days of the receipt of the proper
2 documentation."

3 Section 2. The provisions of this act are severable.
4 If any part of this act is declared invalid or
5 unconstitutional, that declaration shall not affect the part
6 which remains.

7 Section 3. This act shall become effective on the
8 first day of the third month, following its passage and
9 approval by the Governor, or upon its otherwise becoming law.