

SENATE, No. 442

STATE OF NEW JERSEY

INTRODUCED JANUARY 18, 1996

By Senator KENNY

1 AN ACT concerning the interest paid on gross income tax refunds,
2 amending N.J.S.54A:9-7.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. N.J.S.54A:9-7 is amended to read as follows:

8 54A:9-7. Overpayment. (a) General. The director, within the
9 applicable period of limitations may credit an overpayment of income
10 tax against any liability in respect of any tax imposed by the tax law on
11 the person who made the overpayment, and the balance shall be
12 refunded by the comptroller out of the proceeds of the tax retained by
13 him for such general purpose. Any refund under this section shall be
14 made only upon the filing of a return and upon a certificate of the
15 director approved by the comptroller. The State Treasurer, as a
16 condition precedent to the approval of such a certificate, may examine
17 into the facts as disclosed by the return of the person who made the
18 overpayment and other information and data available in the files of
19 the director.

20 (b) Excessive withholding. If the amount allowable as a credit for
21 tax withheld from the taxpayer exceeds his tax to which the credit
22 relates, the excess shall be considered an overpayment.

23 (c) Overpayment by employer. If there has been an overpayment
24 of tax required to be deducted and withheld under N.J.S.54A:7-4,
25 refund shall be made to the employer only to the extent that the
26 amount of the overpayment was not deducted and withheld by the
27 employer.

28 (d) Credits against estimated tax. The director may prescribe
29 regulations providing for the crediting against the estimated income
30 tax for any taxable year of the amount determined to be an
31 overpayment of the income tax for a preceding taxable year. If any
32 overpayment of income tax is so claimed as a credit against estimated
33 tax for the succeeding taxable year, such amount shall be considered
34 as a payment of the income tax for the succeeding taxable year

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (whether or not claimed as a credit in the declaration of estimated tax
2 for such succeeding taxable year), and no claim for credit or refund of
3 such overpayment shall be allowed for the taxable year for which the
4 overpayment arises.

5 (e) Rule where no tax liability. If there is no tax liability for a
6 period in respect of which an amount is paid as income tax, such
7 amount shall be considered an overpayment.

8 (f) Under regulations prescribed by the director with approval of
9 the State Treasurer interest shall be allowed and paid at the rate
10 determined by the director to be equal to three percentage points
11 above the prime rate pursuant to R.S.54:48-2 upon any overpayment
12 in respect of the tax imposed by this act, determined for each month
13 or fraction thereof, compounded annually at the end of each year, from
14 the date that such interest commences to accrue to the date of refund;
15 but no interest shall be allowed or paid on an overpayment of less than
16 \$1.00, nor upon any overpayment refunded within [six months] 90
17 days after the last date prescribed, or permitted by extension of time,
18 for filing the return or within [six months] 90 days after the return is
19 filed, whichever is later.

20 (cf: P.L.1993, c.331, s.5)

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22 2. This act shall take effect immediately and apply to overpayments
23 with respect to returns due on or after January 1, 1996.

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STATEMENT

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28 This bill compensates taxpayers who do not receive their gross
29 income tax refunds from the State Treasurer in a timely manner, by
30 increasing the interest the State must pay to a taxpayer from the prime
31 rate to three points more than the prime rate and by reducing the
32 period in which refunds may be made without the payment of interest
33 from six months to 90 days.

34 Under current law, a taxpayer owes penalty interest at the rate of
35 at least three percentage points above the prime rate for each day that
36 a gross income tax liability remains unpaid after its due date.
37 However, the State is not required to pay interest on tax refunds that
38 are mailed to taxpayers within six months after the taxpayer has
39 applied for a refund. If the State exceeds the six month limit it pays
40 interest at the prime rate, a rate at least three percentage points lower
41 than is required of a taxpayer making a late payment.

42 The Director of the Division of Taxation recently stated that for the
43 April 1995 gross income tax filings for tax year 1994 the Division of
44 Taxation intentionally processed income tax payments quickly but
45 "pushed aside the refunds. That's smart business." To ensure the fair
46 treatment of taxpayers, and to assist tax administrators in

1 distinguishing between sharp business practices and the duty of public
2 employees to equitably administer the laws, this bill makes the interest
3 rate paid by the State on delayed gross income tax refunds identical to
4 the minimum interest rate taxpayers would be required to pay on late
5 tax payments.

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11 Increases interest rate paid on gross income tax refunds, shortens
interest-free grace period for such refunds.