

SENATE, No. 1440

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1996

By Senator CONNORS

1 AN ACT concerning interest on gross income tax refunds, amending
2 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 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 the prime rate pursuant to
11 R.S.54:48-2 upon any overpayment in respect of the tax imposed by
12 this act, determined for each month or fraction thereof, compounded
13 annually at the end of each year, from the date that such interest
14 commences to accrue to the date of refund; but no interest shall be
15 allowed or paid on an overpayment of less than \$1.00, nor upon any
16 overpayment refunded within [six months] 45 days after the last date
17 prescribed, or permitted by extension of time, for filing the return or
18 within [six months] 45 days after the return is filed, whichever is
19 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 refunds for
23 taxable years ending after its enactment.

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STATEMENT

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28 This bill requires New Jersey to pay interest on gross income tax
29 overpayments refunded more than 45 days after the due date of the
30 filing of a return, or 45 days after the permitted extension of the filing,
31 whichever is later.

32 Currently, interest is paid on refunds from the later of the date that
33 a gross income tax return is filed or the date that the tax return is due,
34 but the payment of interest is forgiven if a refund is made within six
35 months. This bill decreases the forgiveness period to 45 days.

36 This bill provides parity with the federal Internal Revenue Code,
37 which provides a 45 day forgiveness period for interest on federal tax
38 refunds. Refunded taxes are the taxpayer's property. Taxes are
39 typically paid over by the taxpayer's employer, through wage and
40 salary withholding. The refunded taxes may already have been in the
41 possession of the State for as much as fifteen months. This bill will
42 assure that taxpayers are compensated for delayed refunds, and will
43 remove any incentive for delaying refund payments.

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3 Requires State to pay interest on gross income tax overpayments

4 refunded more than 45 days after timely filing.