

HOUSE COMMITTEE AMENDMENTS

2019 Regular Session

Amendments proposed by House Committee on Ways and Means to Reengrossed Senate Bill No. 198 by Senator Peacock

1 AMENDMENT NO. 1

2 On page 1, line 2, after "1408(D)(1)" and before "and (E)," insert "and (2)(a)"

3 AMENDMENT NO. 2

4 On page 1, delete lines 3 and 4 in their entirety and insert the following:

5 "and (F), 1483, 1484(C), 1574.1(E), and 1580(B)(3), to enact R.S. 47:337.77(B)(7),
6 340(E)(4), 1436(B)(3), 1481(B) and (C), 1484(D), 1561.1(C), 1621(B)(10), and
7 1623(G), and to repeal R.S. 47:337.77(F), 1403(B)(6)(b), and 1621(F), relative to"

8 AMENDMENT NO. 3

9 On page 1, line 9, after "accounts;" and before "to provide" insert the following:

10 "to authorize the Board of Tax Appeals to use escrow account funds for certain
11 purposes; to provide relative to the satisfaction of claims against the state; to
12 authorize a simplified claim against the state procedure under certain circumstances;"

13 AMENDMENT NO. 4

14 On page 1, line 10, after "refunds;" insert the following:

15 "to authorize tax refunds under certain circumstances; to provide for certain
16 requirements; to repeal the prohibition of the payment of refunds under certain
17 circumstances; to provide for an effective date;"

18 AMENDMENT NO. 5

19 On page 1, line 13, after "1408(D)(1)" and before "and (E)," insert "and (2)(a)"

20 AMENDMENT NO. 6

21 On page 1, delete lines 14 and 15 in their entirety and insert the following:

22 "(F), 1483, 1484(C), 1574.1(E), and 1580(B)(3) are hereby amended and reenacted
23 and R.S. 47:337.77(B)(7), 340(E)(4), 1436(B)(3), 1481(B) and (C), 1484(D),
24 1561.1(C), 1621(B)(10), and 1623(G) are hereby enacted to read as follows:"

25 AMENDMENT NO. 7

26 On page 2, between lines 14 and 15, insert the following:

27 §337.77. Refunds of overpayments authorized

28 * * *

29 B. The collector shall make a refund of each overpayment where it is
30 determined that:

31 * * *

1 C.(1) Whenever a tax statute or regulation administered by the
 2 department has been declared unconstitutional or unenforceable in a final,
 3 non-appealable decision of the board or any court of competent jurisdiction,
 4 and a taxpayer has not challenged the constitutionality or enforceability of the
 5 tax statute or regulation through the payment under protest procedure set forth
 6 in R.S. 47:1576, the taxpayer may seek to recover the amounts paid under the
 7 statute or regulation by filing a claim as set forth in this Subsection.

8 (2) A claim filed pursuant to this Subsection shall be submitted to the
 9 department on forms prescribed by the secretary, setting forth the amount of
 10 the claim. The filing of the claim with the department shall be deemed a filing
 11 with the board for purposes of this Part as of the date the claim is filed with the
 12 secretary.

13 (3) Once reviewed for correctness, all claims submitted to the secretary
 14 shall be forwarded to the board for its examination of the justice, merits, and
 15 correctness of each claim. If the secretary's review of any claim remains
 16 pending for more than ninety days, the secretary shall forward the claim to the
 17 board within sixty days of the written request of the claimant.

18 (4) Nothing in this Subsection shall restrict or limit any other remedy
 19 available to the claimant under any other applicable law.

20 * * *

21 §1483. Payment of approved claims

22 A.(1) If the claim is approved and it should be an amount not exceeding ~~one~~
 23 ~~twenty~~ thousand dollars, the ~~chairman of the~~ Board of Tax Appeals shall issue a
 24 ~~warrant upon the State Treasurer, for the amount for which the same is approved,~~
 25 ~~judgment for payment of an approved claim,~~ stating in said warrant the judgment
 26 the amount, purposes, and reasons for which the same is drawn the judgment. If
 27 said claim shall amount to more than ~~one~~ twenty thousand dollars; and is approved
 28 by ~~said Board of Tax Appeals,~~ the board, the chairman, giving all the facts and
 29 circumstances in connection therewith, shall report the ~~same~~ judgment to the ~~next~~
 30 session of the legislature for its consideration as provided for in this Part.
 31 Provided that where such claim accrues to more than one person, as for example, the
 32 heirs or legatees of another, and the claim is determined by the board to be properly
 33 due and owing, payment thereof to the party or parties asserting the same before the
 34 board shall not be denied because of the failure or refusal of others to join in and
 35 assert such claim, but in such event only the portion due such claimant or claimants
 36 shall be paid and then only if the amount to be paid to each such claimant does not
 37 exceed ~~one~~ twenty thousand dollars.

38 B.(1) Any judgment issued by the board for the payment of an approved
 39 claim when the amount approved does not exceed twenty thousand dollars shall
 40 be paid out of current collections without interest following submission to the
 41 secretary. The total amount of judgments paid in a fiscal year from current
 42 collections pursuant to this Subsection shall not exceed two million dollars,
 43 unless a higher amount for that fiscal year is approved by the Commissioner of
 44 Administration and the Joint Legislative Committee on the Budget.

45 (2) The payment of judgments for approved claims shall be paid by the
 46 secretary in the order in which the claims were approved by the board. If the
 47 total amount of claims approved by the board and authorized for payment
 48 under this Section exceeds the amount authorized pursuant to Paragraph (1) of
 49 this Subsection in a fiscal year, the payment of any excess claims shall be issued
 50 in the subsequent year in the same order of priority and with priority over any
 51 claims subsequently approved by the board.

(4) No offset authorized pursuant to this Subsection may be taken prior to July 1, 2017.

D. All claims approved by the Board of Tax Appeals or the secretary as a result of Act No. 109 from the 2015 Regular Session, may be taken as an offset against any state corporate income or franchise tax liability of the claimant as follows:

(1) Up to fifty percent of the total claim approved by the board or the secretary shall be allowed as a nonrefundable offset in the two taxable periods immediately following the agreement of the parties to the offset. For each taxable period in which an offset authorized by this Subsection is taken, the amount of the offset shall not be treated as a credit for purposes of R.S. 47:1675 and shall be applied against state income or corporation franchise tax liability before application of any other credits of any kind or nature whatsoever, including but not limited to credits described in R.S. 47:1675. The secretary shall authorize an extension of time not to exceed two years within which an offset may be taken if payment of the amount of the total claim approved is not satisfied after two years.

(2) A claimant for which the secretary has authorized an offset pursuant to this Subsection may transfer all or any portion of the offset to any member of the affiliated group of entities that includes the claimant and that files a federal consolidated return filed under the Internal Revenue Code. Any portion of an offset transferred to a member of the federal consolidated group that includes the claimant shall be allowed only as an offset against the same taxes and shall be subject to the same limitations provided in Paragraph (1) of this Subsection. The transfer shall be in accordance with the procedures set forth by rule or on forms or instructions provided by the secretary.

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AMENDMENT NO. 11

On page 6, line 14, after "of" and before "resulting" delete "26 U.S.C. 6501" and insert "26 U.S.C. 6501(e)"

AMENDMENT NO. 12

On page 6, between lines 18 and 19, insert the following:

"§1621. Refunds of overpayments authorized

* * *

B. The secretary shall make a refund of each overpayment where it is determined that:

* * *

(10) The tax was overpaid due to payment pursuant to an unconstitutional law, invalid or unenforceable rule or regulation, or because of a mistake of law arising from the misinterpretation by the collector of the provisions of any law or of any rule or regulation.

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1 AMENDMENT NO. 13

- 2 On page 7, line 6, after "Section 2." and before "hereby" delete "R.S. 47:1403(B)(6) is" and
3 insert "R.S. 47:337.77(F), 1403(B)(6)(b) and 1621(F) are"