## 2020 Regular Session

### HOUSE BILL NO. 736

## BY REPRESENTATIVE GARY CARTER

# TAX: Authorizes the Louisiana Tax Commission to order the refund of statutory impositions declared invalid

1	AN ACT
2	To amend and reenact R.S. 47:2132(A), relative to statutory impositions; to authorize
3	refunds of statutory impositions under certain circumstances; to provide for certain
4	requirements and limitations; to provide for applicability; to provide for an effective
5	date; and to provide for related matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. R.S. 47:2132(A) is hereby amended and reenacted to read as follows:
8	§2132. Refund of taxes erroneously paid
9	A.(1) Any Except as provided for in Paragraph (2) of this Subsection, any
10	person who has a claim against a political subdivision for ad valorem taxes
11	erroneously paid into the funds of that political subdivision may present the claim
12	to the Louisiana Tax Commission within three years of the date of the payment, in
13	such form and together with such proof as the tax commission may require by its
14	rules and regulations; however, if a person is claiming a previously unclaimed
15	homestead exemption, it may be presented to the tax commission within five years
16	of the date of payment. The tax commission shall consult with the assessor of the
17	parish in which the property which is the subject of the claim is located, and after
18	that assessor advises the tax commission that a refund is due the claimant, the tax
19	commission shall duly examine the merits and correctness of each claim presented
20	to it and shall make a determination thereon within thirty days after receipt of the
21	claim.

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(2)(a) Any person who has a claim against a political subdivision for any
2	statutory imposition that is declared invalid pursuant to a legal challenge for the
3	payment of the statutory imposition may present the claim to the tax commission
4	within three years of the date of the final judgment declaring the statutory imposition
5	invalid and awarding a monetary judgment, in a form prescribed by the tax
6	commission in accordance with its rules and regulations, along with a copy of the
7	judgment rendered by the court. The records of the tax commission shall note the
8	date of submission of the judgment by the taxpayer and shall order repayment of the
9	statutory impositions by the tax collector of the sums declared legally invalid,
10	together with interest and court costs, as directed by the court.
11	(b) The tax collector shall refund the sum of statutory impositions held to be
12	invalid, together with interest and court costs to the taxpayer within thirty days of the
13	order by the tax commission authorizing and directing the tax collector to refund
14	these sums. However, in lieu of a refund as required in this Subparagraph, the tax
15	collector may grant the taxpayer a credit up to the amount ordered by the tax
16	commission to offset ad valorem tax liability or statutory impositions owed by the
17	taxpayer. Any amount of unused credit shall carryover to the benefit of the taxpayer
18	until the total amount ordered by the tax commission has been extinguished.
19	* * *
20	Section 2. The provisions of this Act shall be applicable to all claims of statutory
21	impositions declared invalid by a court on or after January 1, 2020.
22	Section 3. This Act shall become effective upon signature by the governor or, if not
23	signed by the governor, upon expiration of the time for bills to become law without signature
24	by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
25	vetoed by the governor and subsequently approved by the legislature, this Act shall become
26	effective on the day following such approval.

### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

#### HB 736 Reengrossed 2020 Re

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Gary Carter

Abstract: Authorizes the La. Tax Commission to receive taxpayer claims for the refund of statutory impositions that are declared invalid pursuant to a legal challenge within three years of the date of the final judgment declaring the statutory imposition invalid.

<u>Present law</u> authorizes any person who has a claim against a political subdivision for *ad valorem taxes erroneously paid* to present the claim to the La. Tax Commission (hereinafter "commission") within three years of the date of the payment; however, if a person is claiming a previously unclaimed homestead exemption, it may be presented to the tax commission within five years of the date of payment. Requires the commission to consult with the assessor of the parish where the property is located, and after that assessor advises that a refund is due, the tax commission shall examine the merits and correctness of each claim presented to it and make a determination within 30 days after receipt of the claim.

<u>Proposed law</u> retains <u>present law</u> but adds authority for any person who has a claim against a political subdivision for any statutory imposition that is declared invalid pursuant to a legal challenge for the payment of the statutory imposition to present the claim to the commission within three years of the date of the final judgment awarding a monetary judgment and declaring the statutory imposition invalid. Requires the commission to note the date of submission of the judgment by the taxpayer and to order repayment of the statutory impositions by the tax collector of the sums declared legally invalid, together with interest and court costs, as directed by the court.

<u>Proposed law</u> requires the tax collector to refund the sum of statutory impositions held to be invalid, together with interest and court costs, to the taxpayer within 30 days of the order by the commission authorizing and directing the tax collector to refund these sums. However, in lieu of a refund, the tax collector may grant the taxpayer a credit up to the amount ordered by the commission to offset ad valorem tax liability or statutory impositions owed by the taxpayer. Amounts of unused credit shall carryover to the benefit of the taxpayer until the total amount ordered by the commission is extinguished.

<u>Proposed law</u> is applicable to all claims of statutory impositions declared invalid by a court on or after Jan. 1, 2020.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:2132(A))

Summary of Amendments Adopted by House

- The Committee Amendments Proposed by <u>House Committee on Ways and Means</u> to the <u>original</u> bill:
- 1. Specify that the claim presented to the La. Tax Commission for payment of a statutory imposition declared invalid pursuant to a legal challenge must also include the awarding of a monetary judgment.