

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1591

Chapter 73, Laws of 2003

58th Legislature
2003 Regular Session

EXCISE TAXES--INTEREST

EFFECTIVE DATE: 7/27/03 - Except section 2, which becomes effective 1/1/04.

Passed by the House March 11, 2003
Yeas 93 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 9, 2003
Yeas 46 Nays 0

BRAD OWEN

President of the Senate

Approved April 18, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1591** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

April 18, 2003 - 3:50 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 1591

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Representatives Gombosky, Cairnes and McIntire; by request of
Department of Revenue

Read first time 01/31/2003. Referred to Committee on Finance.

1 AN ACT Relating to modifying excise tax interest provisions;
2 amending RCW 82.32.050 and 82.32.060; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 82.32.050 and 1997 c 157 s 1 are each amended to read
5 as follows:

6 (1) If upon examination of any returns or from other information
7 obtained by the department it appears that a tax or penalty has been
8 paid less than that properly due, the department shall assess against
9 the taxpayer such additional amount found to be due and shall add
10 thereto interest on the tax only. The department shall notify the
11 taxpayer by mail of the additional amount and the additional amount
12 shall become due and shall be paid within thirty days from the date of
13 the notice, or within such further time as the department may provide.

14 (a) For tax liabilities arising before January 1, 1992, interest
15 shall be computed at the rate of nine percent per annum from the last
16 day of the year in which the deficiency is incurred until the earlier
17 of December 31, 1998, or the date of payment. After December 31, 1998,
18 the rate of interest shall be variable and computed as provided in

1 subsection (2) of this section. The rate so computed shall be adjusted
2 on the first day of January of each year for use in computing interest
3 for that calendar year.

4 (b) For tax liabilities arising after December 31, 1991, the rate
5 of interest shall be variable and computed as provided in subsection
6 (2) of this section from the last day of the year in which the
7 deficiency is incurred until the date of payment. The rate so computed
8 shall be adjusted on the first day of January of each year for use in
9 computing interest for that calendar year.

10 (c) Interest imposed after December 31, 1998, shall be computed
11 from the last day of the month following each calendar year included in
12 a notice, and the last day of the month following the final month
13 included in a notice if not the end of a calendar year, until the due
14 date of the notice. If payment in full is not made by the due date of
15 the notice, additional interest shall be computed until the date of
16 payment. The rate of interest shall be variable and computed as
17 provided in subsection (2) of this section. The rate so computed shall
18 be adjusted on the first day of January of each year for use in
19 computing interest for that calendar year.

20 (2) For the purposes of this section, the rate of interest to be
21 charged to the taxpayer shall be an average of the federal short-term
22 rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points.
23 The rate set for each new year shall be computed by taking an
24 arithmetical average to the nearest percentage point of the federal
25 short-term rate, compounded annually(~~(, for the months of January,~~
26 ~~April, July, and October of the immediately preceding calendar year as~~
27 ~~published by the United States secretary of the treasury)). That
28 average shall be calculated using the rates from four months: January,
29 April, and July of the calendar year immediately preceding the new
30 year, and October of the previous preceding year.~~

31 (3) No assessment or correction of an assessment for additional
32 taxes, penalties, or interest due may be made by the department more
33 than four years after the close of the tax year, except (a) against a
34 taxpayer who has not registered as required by this chapter, (b) upon
35 a showing of fraud or of misrepresentation of a material fact by the
36 taxpayer, or (c) where a taxpayer has executed a written waiver of such
37 limitation. The execution of a written waiver shall also extend the
38 period for making a refund or credit as provided in RCW 82.32.060(2).

1 (4) For the purposes of this section, "return" means any document
2 a person is required by the state of Washington to file to satisfy or
3 establish a tax or fee obligation that is administered or collected by
4 the department of revenue and that has a statutorily defined due date.

5 **Sec. 2.** RCW 82.32.060 and 1999 c 358 s 13 are each amended to read
6 as follows:

7 (1) If, upon receipt of an application by a taxpayer for a refund
8 or for an audit of the taxpayer's records, or upon an examination of
9 the returns or records of any taxpayer, it is determined by the
10 department that within the statutory period for assessment of taxes,
11 penalties, or interest prescribed by RCW 82.32.050 any amount of tax,
12 penalty, or interest has been paid in excess of that properly due, the
13 excess amount paid within, or attributable to, such period shall be
14 credited to the taxpayer's account or shall be refunded to the
15 taxpayer, at the taxpayer's option. Except as provided in
16 subsection(~~s~~) (2) (~~and (3)~~) of this section, no refund or credit
17 shall be made for taxes, penalties, or interest paid more than four
18 years prior to the beginning of the calendar year in which the refund
19 application is made or examination of records is completed.

20 (2) The execution of a written waiver under RCW 82.32.050 or
21 82.32.100 shall extend the time for making a refund or credit of any
22 taxes paid during, or attributable to, the years covered by the waiver
23 if, prior to the expiration of the waiver period, an application for
24 refund of such taxes is made by the taxpayer or the department
25 discovers a refund or credit is due.

26 ~~(3) ((Notwithstanding the foregoing limitations there shall be
27 refunded or credited to taxpayers engaged in the performance of United
28 States government contracts or subcontracts the amount of any tax paid,
29 measured by that portion of the amounts received from the United
30 States, which the taxpayer is required by contract or applicable
31 federal statute to refund or credit to the United States, if claim for
32 such refund is filed by the taxpayer with the department within one
33 year of the date that the amount of the refund or credit due to the
34 United States is finally determined and filed within four years of the
35 date on which the tax was paid: PROVIDED, That no interest shall be
36 allowed on such refund.~~

1 ~~(4)~~) Any such refunds shall be made by means of vouchers approved
2 by the department and by the issuance of state warrants drawn upon and
3 payable from such funds as the legislature may provide. However,
4 taxpayers who are required to pay taxes by electronic funds transfer
5 under RCW 82.32.080 shall have any refunds paid by electronic funds
6 transfer.

7 ~~((5))~~ (4) Any judgment for which a recovery is granted by any
8 court of competent jurisdiction, not appealed from, for tax, penalties,
9 and interest which were paid by the taxpayer, and costs, in a suit by
10 any taxpayer shall be paid in the same manner, as provided in
11 subsection ~~((4))~~ (3) of this section, upon the filing with the
12 department of a certified copy of the order or judgment of the court.

13 (a) Interest at the rate of three percent per annum shall be
14 allowed by the department and by any court on the amount of any refund,
15 credit, or other recovery allowed to a taxpayer for taxes, penalties,
16 or interest paid by the taxpayer before January 1, 1992. This rate of
17 interest shall apply for all interest allowed through December 31,
18 1998. Interest allowed after December 31, 1998, shall be computed at
19 the rate as computed under RCW 82.32.050(2). The rate so computed
20 shall be adjusted on the first day of January of each year for use in
21 computing interest for that calendar year.

22 (b) For refunds or credits of amounts paid or other recovery
23 allowed to a taxpayer after December 31, 1991, the rate of interest
24 shall be the rate as computed for assessments under RCW 82.32.050(2)
25 less one percent. This rate of interest shall apply for all interest
26 allowed through December 31, 1998. Interest allowed after December 31,
27 1998, shall be computed at the rate as computed under RCW 82.32.050(2).
28 The rate so computed shall be adjusted on the first day of January of
29 each year for use in computing interest for that calendar year.

30 (5) Interest allowed on a credit notice or refund issued after
31 December 31, 2003, shall be computed as follows:

32 (a) If all overpayments for each calendar year and all reporting
33 periods ending with the final month included in a notice or refund were
34 made on or before the due date of the final return for each calendar
35 year or the final reporting period included in the notice or refund:

36 (i) Interest shall be computed from January 31st following each
37 calendar year included in a notice or refund; or

1 (ii) Interest shall be computed from the last day of the month
2 following the final month included in a notice or refund.

3 (b) If the taxpayer has not made all overpayments for each calendar
4 year and all reporting periods ending with the final month included in
5 a notice or refund on or before the dates specified by RCW 82.32.045
6 for the final return for each calendar year or the final month included
7 in the notice or refund, interest shall be computed from the last day
8 of the month following the date on which payment in full of the
9 liabilities was made for each calendar year included in a notice or
10 refund, and the last day of the month following the date on which
11 payment in full of the liabilities was made if the final month included
12 in a notice or refund is not the end of a calendar year.

13 (c) Interest included in a credit notice shall accrue up to the
14 date the taxpayer could reasonably be expected to use the credit
15 notice, as defined by the department's rules. If a credit notice is
16 converted to a refund, interest shall be recomputed to the date the
17 refund is issued, but not to exceed the amount of interest that would
18 have been allowed with the credit notice.

19 NEW SECTION. Sec. 3. Section 2 of this act takes effect January
20 1, 2004.

Passed by the House March 11, 2003.

Passed by the Senate April 9, 2003.

Approved by the Governor April 18, 2003.

Filed in Office of Secretary of State April 18, 2003.