HOUSE BILL REPORT

ESHB 1402

As Passed House
March 8, 1991

Title: An act relating to excise tax penalties and interest.

Brief Description: Changing penalties and interest for tax evasion, refunds, and late payment.

Sponsor(s): By House Committee on Revenue (originally sponsored by Representatives Morris, Holland, Wang, Wynne, Van Luven, Ogden and Fraser; by request of Department of Revenue).

Brief History:
Reported by House Committee on:
Revenue, January 31, 1991, DPS;
Passed House, March 8, 1991, 96-0.

HOUSE COMMITTEE ON REVENUE

Majority Report: *That Substitute House Bill No. 1402 be substituted therefore, and the substitute bill do pass.* Signed by 14 members: Representatives Wang, Chair; Fraser, Vice Chair; Holland, Ranking Minority Member; Wynne, Assistant Ranking Minority Member; Appelwick; Belcher; Brumsickle; Day; Leonard; Morris; Morton; Rust; Silver; and Van Luven.

Staff: Robin Appleford (786-7093).

Background: The Department of Revenue (DOR) assesses interest on underpaid and late taxes and refunds overpaid taxes with interest. The current interest rate on underpayment is 9 percent, while the rate for refunds is 3 percent of the amount of tax.

The statutes also provides for penalties on businesses who have tax liability, but fail to file a return or pay taxes owed by the due date. The penalty is 20 percent of taxes owed if DOR audits a business and finds that a business owes taxes and failed to file a return. DOR sets a new due date, and if the business fails to file by this date, an additional 10 percent penalty is assessed. If DOR issues a warrant to collect the taxes, an additional 5 percent penalty applies. However, total penalties assessed may not exceed 25 percent.

Taxpayers must pay an additional 50 percent penalty if DOR can prove that failure to pay resulted from an intent to evade taxes.

Summary of Bill: For taxes owed after January 1, 1992, the interest rate on underpaid and late taxes is changed from 9 percent to a rate that is 2 percentage points above an average of the federal short-term rate. For refunds on taxes paid after January 1, 1992, the interest rate is changed from 3 percent to a rate that is 1 percentage point above an average of the federal short-term rate. The average rate is to be computed by taking the average of the federal short-term rate for the months of January, April, July and October of the preceding calendar year. The rates used in the calculation are those published by the United States Secretary of the Treasury.

The limit on penalties for businesses who fail to file returns is raised from 25 percent to 35 percent. In addition, a new negligence penalty of 25 percent is applied to those taxpayers who receive written instructions for future reporting of taxes and ignore the instructions. The negligence penalty may not be applied to taxpayers who are appealing their assessments. DOR is to clearly indicate on any written instructions to taxpayers that failure to comply with the instructions may result in application of the negligence penalty. DOR may not impose both the evasion penalty and the negligence penalty to the same tax amount. The negligence penalty may not be applied to taxpayers who have made a good faith effort to comply with DOR's specific written instructions.

Fiscal Note: Requested January 26, 1991.

Effective Date: January 1, 1992.

Testimony For: This bill will bring Department of Revenue interest rates in line with market interest rates. The negligence penalty is needed in cases where businesses ignore the Department's instructions but the Department is unable to prove that there has been intent to evade taxes. The business community supports this policy change.

Testimony Against: None.

Witnesses: Dennis Okamoto, Director, Department of Revenue (in favor).