

SENATE BILL REPORT

ESHB 1402

AS OF MARCH 27, 1991

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

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

HOUSE COMMITTEE ON REVENUE

SENATE COMMITTEE ON WAYS & MEANS

Staff: Terry Wilson (786-7715)

Hearing Dates: March 26, 1991

BACKGROUND:

The Department of Revenue (DOR) assesses interest at 9 percent per year on underpaid and late taxes and pays interest at 3 percent per year on refunds of overpaid taxes.

Current law also provides for penalties on businesses that have tax liability but fail to file a return or pay taxes owed by the due date. The penalty increases from 5 percent of taxes owed for failure to pay when due up to 20 percent of taxes owed if payment is not received within 60 days of the due date. If tax is not paid within 30 days of a notice by DOR of taxes due, 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:

For taxes due January 1, 1992, and thereafter, 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 the arithmetical average of the federal short-term rates for the months of January, April, July, and October of the preceding calendar year, rounded to the nearest percentage point. 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. Specific written instructions by DOR must clearly indicate that failure to comply with the instructions may result in penalties. The negligence penalty may not be applied to taxpayers who are appealing their assessments.

DOR may not impose both the evasion penalty and the negligence penalty to the same tax amount.

Appropriation: none

Revenue: yes

Fiscal Note: available

Effective Date: January 1, 1992

TESTIMONY FOR:

Interest on tax refunds needs to be equalized with interest on tax delinquencies. The current evasion penalty is hard to prove because it requires the department to prove intent to evade. A negligence penalty is needed.

TESTIMONY AGAINST: None

TESTIFIED: Dennis Okamoto, Director of Revenue (pro)