1 # CALCULATION OF INTEREST ON TAX
2 # OVERPAYMENTS
3 ## 2005 GENERAL SESSION
4 ## STATE OF UTAH
5 ## Sponsor: Howard A. Stephenson

6
7 **LONG TITLE**
8 **General Description:**
9   This bill modifies the Revenue and Taxation title relating to the calculation of interest
10 on tax overpayments.
11 **Highlighted Provisions:**
12   This bill:
13   ▸ prescribes the calculation of interest on tax overpayments if an amended return is
14 filed; and
15   ▸ makes technical changes.
16 **Monies Appropriated in this Bill:**
17   None
18 **Other Special Clauses:**
19   None
20 **Utah Code Sections Affected:**
21 AMENDS:
22   **59-1-402**, as last amended by Chapter 93, Laws of Utah 1994

23
24 *Be it enacted by the Legislature of the state of Utah:*
25   Section 1. Section **59-1-402** is amended to read:
26   **59-1-402. Interest.**
27   (1) Notwithstanding Subsections (2) and (3), the rate of interest applicable to certain

28   installment sales for the purposes of the corporate franchise tax shall be determined pursuant to

29   Section 453A, Internal Revenue Code, as provided in Section 59-7-112.

30   (2) Except as otherwise provided for by law, the interest rate for a calendar year for all

31   taxes and fees administered by the commission shall be calculated based on the federal

32   short-term rate determined by the Secretary of the Treasury under Section 6621, Internal

33   Revenue Code, and in effect for the preceding fourth calendar quarter.

34   (3) The interest rate calculation shall be as follows:

35   (a) [In] except as provided in Subsection (6), in the case of overpayments and refunds,

36   [except as otherwise provided in Subsection (6),] simple interest shall be calculated at the rate

37   of two percentage points above the federal short-term rate[.]; or

38   (b) [In] in the case of underpayments, deficiencies, and delinquencies, simple interest

39   shall be calculated at the rate of two percentage points above the federal short-term rate.

40   (4) (a) [If] Except as provided in Subsection (4)(c), if any overpayment of tax or fee

41   administered by the commission is refunded within 90 days after the last date prescribed for

42   filing the return of such tax or fee, no interest shall be allowed on the overpayment.

43   (b) [If] Except as provided in Subsection (4)(c), if the return is filed after the last date

44   prescribed for filing the return, no interest shall be allowed on the overpayment if the

45   overpayment is refunded within 90 days after the date the return is filed.

46   [(c) If a refund of an overpayment is requested, and if interest may be calculated in

47   accordance with this section,]

48   (c) (i) Notwithstanding Subsection (4)(a) or (b), in the case of an amended return,

49   interest on an overpayment shall be allowed:

50   (A) for a time period:

51   (I) that begins on the later of:

52   (Aa) the date the original return was filed; or

53   (Bb) the due date for filing the original return not including any extensions for filing

54   the original return; and

55   (II) that ends on the date the commission receives the amended return; and

56   (B) if the commission does not make a refund of an overpayment under this Subsection

57   (4)(c) within a 90-day period after the date the commission receives the amended return, for a

58   time period:

59   (I) that begins 91 days after the commission receives the amended return; and

60   (II) subject to Subsection (4)(c)(ii), that ends on the date that the commission

61   completes processing the refund of the overpayment.

62   (ii) For purposes of Subsection (4)(c)(i)(B)(II), interest shall be calculated forward

63   from the preparation date of the refund document to allow for processing.

64   (5) Interest on any underpayment, deficiency, or delinquency of any tax or fee

65   administered by the [tax] commission shall be computed from the time the original return is

66   due, excluding any filing or payment extensions, to the date the payment is received.

67   (6) (a) [Interest] Notwithstanding Subsection (3)(a), interest on refunds may not be

68   paid on any overpayment [which] that arises from a statute [which] that is determined to be

69   invalid under state or federal law or declared unconstitutional under the constitution of the

70   United States or Utah if the basis for the refund is the retroactive application of a judicial

71   decision upholding the claim of unconstitutionality or the invalidation of a statute.

72   (b) For purposes of this Subsection (6):

73   (i) "[Final] final judicial decision" means a final ruling by a court of this state or the

74   United States for which the time for any further review or proceeding has expired[.]; and

75   (ii) "[Retroactive] retroactive application of a judicial decision" means the application

76   of a final judicial decision [which] that:

77   (A) invalidates a state or federal taxation statute; and [which]

78   (B) requires the state to provide refunds for overpayments that were made:

79   (I) prior to the final judicial decision; or [for overpayments made]

80   (II) during the 180-day period after the final judicial decision.

81   (7) This section does not apply to:

82   (a) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

83   (b) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

84   [(a) Title 59,] (c) Chapter 2, Property Tax Act, except for Section 59-2-1309[, Title

85   59,];

86   (d) Chapter 3 [or 4,], Tax Equivalent Property Act;

87   (e) Chapter 4, Privilege Tax; or

88   (f) Chapter 13, Part 5[.], Interstate Agreements.

89   [(b) Title 41, Chapter 1a, except for Section 41-1a-301, or Title 41, Chapter 3.]

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Legislative Review Note
     as of 12-9-04 3:26 PM

Based on a limited legal review, this legislation has not been determined to have a high
probability of being held unconstitutional.

                                        Office of Legislative Research and General Counsel

State Impact

No fiscal impact as this bill would codify current practice.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst