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HOUSE BILL 106

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Donald L. Whitaker

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

**RELATING TO TAXATION; PROVIDING FOR INTEREST ON CERTAIN
REFUNDS FOR TAXES PAID FOR GASOLINE USED BY OFF-HIGHWAY USERS.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 7-1-68 NMSA 1978 (being Laws 1965,
Chapter 248, Section 69, as amended) is amended to read:**

"7-1-68. INTEREST ON OVERPAYMENTS. --

**A. As provided in this section, interest shall be
allowed and paid on the amount of tax overpaid by a person
that is subsequently refunded or credited to that person.**

**B. Interest payable on overpayments of tax shall
be paid at the rate of fifteen percent a year, computed on a
daily basis; provided that if a different rate is specified by
a compact or other interstate agreement to which New Mexico is
a party, that rate shall be applied to amounts due under the**

underscored material = new
~~[bracketed material] = delete~~

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[bracketed material] = delete

1 compact or other agreement.

2 C. Unless otherwise provided by this section,
3 interest on an overpayment not arising from an assessment by
4 the department shall be paid from the date the claim for
5 refund was made until a date preceding by not more than thirty
6 days the date on which the amount thereof is credited or
7 refunded to any person; interest on an overpayment arising
8 from an assessment by the department shall be paid from the
9 date overpayment was made until a date preceding by not more
10 than thirty days the date on which the amount thereof is
11 credited or refunded to any person.

12 D. No interest shall be allowed or paid with
13 respect to an amount credited or refunded if:

14 (1) the amount of interest due is less than
15 one dollar (\$1.00);

16 (2) the credit or refund is made within
17 seventy-five days of the date of the claim for refund of:

18 (a) income tax, pursuant to either the
19 Income Tax Act or the Corporate Income and Franchise Tax Act
20 for the tax year immediately preceding the tax year in which
21 the claim is made; or

22 (b) gasoline tax to users of gasoline
23 off the highways;

24 (3) the credit or refund is made within one
25 hundred twenty days of the date of the claim for refund of

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[bracketed material] = delete

1 income tax, pursuant to the Income Tax Act or the Corporate
2 Income and Franchise Tax Act, for any tax year more than one
3 year prior to the year in which the claim is made;

4 (4) Sections 6611(f) and 6611(g) of the
5 Internal Revenue Code, as those sections may be amended or
6 renumbered, prohibit payment of interest for federal income
7 tax purposes;

8 (5) the credit or refund is made within sixty
9 days of the date of the claim for refund of any tax other than
10 income tax;

11 [~~(6) gasoline tax is refunded or credited~~
12 ~~under the Gasoline Tax Act to users of gasoline off the~~
13 ~~highways;~~] or

14 [~~(7)~~] (6) the credit results from
15 overpayments found in an audit of multiple reporting periods
16 and applied to underpayments found in that audit or refunded
17 as a net overpayment to the taxpayer pursuant to Section
18 7-1-29 NMSA 1978.

19 E. Nothing in this section shall be construed to
20 require the payment of interest upon interest."