



H.B. 260

125th General Assembly
(As Introduced)

Reps. Daniels, McGregor, Seitz, J. Stewart, Core, Webster, Gilb

BILL SUMMARY

- Reduces the rate at which interest accrues on estate tax and personal property tax overpayments, and makes a technical correction to the law governing estate tax overpayments.

CONTENT AND OPERATION

Rate of interest paid on estate tax overpayments reduced

(R.C. 135.45 (not in the bill), 5703.47 (not in the bill), 5731.02 (not in the bill), and 5731.23)

Ohio imposes taxes on the estates of some individuals; generally, an estate is taxable if its taxable value is more than \$338,333. Eighty percent of estate tax revenue is distributed to the city, village, or township where estate property is located; the remainder is credited to the state's general revenue fund.

The tax must be paid and the return must be filed within nine months following the decedent's death. If the tax is not paid on time a penalty may be imposed and interest accrues on the unpaid balance. If the tax paid is more than the amount of tax ultimately found to be due, the estate is entitled to interest on the overpayment. The overpayment and interest must be refunded by the cities, villages, or townships that received the overpayment, as well as from the state's general revenue fund, on a pro rata basis. Interest accrues from nine months from the date of the decedent's death or the date the tax is paid, whichever is later, to the date the overpayment is refunded.

Under current law, the rate of interest paid on estate tax overpayments is the same as the statutory rate that generally applies to unpaid taxes and refunds. This statutory rate is set annually, and is equal to three percentage points above the "federal short-term rate," which is a rate computed on the basis of an index of

yields on short-term U.S. government securities. (The statutory rate for 2003 is 6%.)

The bill changes the rate of interest that accrues on estate tax overpayments. Instead of accruing at the statutory rate, interest will accrue at the average rate of interest paid on funds in the "State Treasurer's Investment Pool," also commonly referred to as the "State Treasury Asset Reserve of Ohio" or "STAR Ohio." (Political subdivisions may pool the moneys in their respective treasuries in the investment pool in order to benefit from the supposedly higher yield that may result from a combined investment pool.) Money in the pool is invested in U.S. government and agency securities, as well as eligible bankers acceptances and commercial paper. The administrative expenses of the pool are paid out of the pool's earnings. The rate of interest earned on moneys deposited in the pool changes daily. In recent months, the rate has averaged about 1%.

Because the rate of interest earned in the Treasurer's investment pool changes daily, for purposes of calculating the rate of interest on estate tax overpayments the bill requires that an "average" rate of interest be calculated to reflect the earnings of the pool during the time interest on the estate tax overpayment accrued. The bill requires that this average rate of interest reflect the deduction of the administrative expenses of the pool from the pool's earnings. Under the bill, the interest is computed from the first day of the ninth month following the decedent's death or the first day of the month in which the tax is paid, whichever is later, to the last day of the month preceding the month in which the overpayment is repaid.

The interest rate prescribed by the bill is likely to be consistently lower than the current statutory rate. Therefore, the likely effect of the bill is to lower the rate of interest that must be paid on estate tax overpayments by cities, villages, townships, and the state.

Rate of interest paid on property tax overpayments reduced

(R.C. 135.45 (not in the bill), 5703.47 (not in the bill), 5709.01 (not in the bill), and 5719.041)

Tangible personal property located and used in business in Ohio is subject to taxation by local taxing units. As with estate tax overpayments, interest accrues on tangible personal property tax overpayments. Under current law, interest accrues at a monthly rate equal to one-twelfth of the statutory rate described above (i.e., the federal short-term rate plus three percentage points).

As with the interest paid on estate tax overpayments, the bill changes the rate of interest that accrues on personal property tax overpayments to the average

rate of interest earned by moneys deposited in the State Treasurer's investment pool described above, less the administrative expenses of the pool. The bill's likely effect is to lower the amount of interest local taxing units must pay when refunding overpayments of tangible personal property taxes.

Technical correction

(R.C. 5731.23)

The bill makes what appears to be a correction to R.C. 5731.23, the section of the Revised Code governing estate tax overpayments. Apparently, Am. Sub. S.B. 413 of the 109th General Assembly, 134 Ohio Laws 821, 822-823 (1971), removed language from R.C. 5731.23 providing discounts for prompt payment of estate taxes, but failed to remove related language pertaining to estate tax payments that also should have been removed at that time. The bill removes the language that also should have been removed by Am. Sub. S.B. 413.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	08-12-03	p. 1027

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