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HOUSE BILL NO. 128

INTRODUCED BY HARRINGTON

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

January 1	12, 1979		Introduced and referred to Committee on Taxation.
February	2, 1979		Committee recommend bill do pass. Report adopted.
February	3, 1979		Printed and placed on members' desks.
February	5, 1979		Second reading, do pass.
February	6, 1979		Considered correctly engrossed.
February	7, 1979		Third reading, passed. Transmitted to second house.
		IN THE SENA	TE
February	8, 1979		Introduced and referred to Committee on Taxation.
February	28, 1979		Committee recommend bill be concurred in. Report adopted.
March 2,	1979		Second reading, concurred in.
March 5,	1979		Third reading, concurred in.
		IN THE HOUS	E
March 6,	1979		Returned from second house. Concurred in. Sent to enrolling.
			Reported correctly enrolled.

LC 0450/01

Hall & BILL NO. 128 1 INTRODUCED BY Hammaton 2 BY REQUEST OF THE DEPARTMENT OF REVENUE 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 5 15-30-149. MCA. TO EXTEND. UNDER CERTAIN SPECIFIED 6 CIRCUMSTANCES. THE PERIOD WITHIN WHICH REFUNDS MAY B^C MADE 7 BY THE DEPARTMENT OF REVENUE FOR THE OVERPAYHENT OF INCOME 8 9 TAX: AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 15-30-149, MCA, is amended to read: 13 *15-30-149. Credits and refunds -- period of limitations. (1) If the department discovers from the 14 15 examination of a return or upon claim duly filed by a taxpayer or upon final judgment of a court that the amount 16 17 of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally 18 19 collected, the amount of the overpayment shall be credited against any income tax, penalty, or interest then due from 20 21 the taxpayer and the balance of such excess shall be 22 refunded to the taxpayer.

(2) Effective with taxable years ending on or after 23 24 December 31, 1959, no such credit or refund shall be allowed Z5 or made after 5 years from the date prescribed by statute

. for filing the return or after 1 year from the date the overpayment occurred, whichever period expires later, unless 2 3 before the expiration of such period a claim therefor is filed by the taxpayer or the department has determined the 4 existence of the overpayment and has approved the refund or 5 credit thereof. However, if an overpayment of tax results 6 from a net operating loss carryback. the overpayment may be 7 8 refunded or credited within the period that expires on the Q. 15th day of the 40th month following the close of the 10 taxable year of the net operating loss if that period expires later than 5 years from the due date of the return 11 12 for the year to which the net operating loss is carried 13 back. 14 (3) Within 6 months after a claim for refund is filed. 15 the department shall examine said claim and either approve 16 or disapprove it. If said claim is approved, the credit or 17 refund shall be made to the taxpayer within 60 days after

18 the claim is approved; if the claim is disallowed, the 19 department shall so notify the taxpayer and shall grant a 20 hearing thereon upon proper application by the taxpaver. If 21 the department disapproves a claim for refund, review of the 22 determination of the department may be had as otherwise 23 provided in this chapter.

24 (3)(4) Except as hereinafter provided for, effective with taxable years ending on or after December 31, 1962, 25

-2- HE 125 INTRODUCED BIL

LC 0450/01

1 interest shall be allowed on overpayments at the rate of 6% 2 per annum from the due date of the return or from the date 3 of the overpayment (whichever date is later) to the date the department approves refunding or crediting of the 4 5 overpayment. With respect to tax paid by withholding or by estimate, the date of overpayment shall be deemed to be the 6 7 date on which the return for the taxable year was due. No 8 interest shall accrue on an overpayment if the taxpayer 9 elects to have it applied to his estimated tax for the 10 succeeding taxable year, nor shall interest accrue during 11 any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to 12 13 furnish information requested by the department for the 14 purpose of verifying the amount of the overpayment. No 15 interest shall be allowed if:

16 (a) the overpayment is refunded within 6 months from
17 the date the return is due or the date the return is filed,
18 whichever date is later;

19 (b) the overpayment results from the carryback of a20 net operating loss; or

21 (c) the amount of interest is less than \$1.

22 <u>f4f(5)</u> An overpayment not made incident to a bona fide
23 and orderly discharge of an actual income tax liability or
24 one reasonably assumed to be imposed by this law shall not
25 be considered an overpayment with respect to which interest

- 1 is allowable."
- 2 Section 2. Effective date. This act is effective on
- 3 its passage and approval.

-End-

46th Legislature

LC 0450/01

Approved by Committee on Taxation

1	House BILL NO. 138									
2	INTRODUCED BY									
3	BY REQUEST OF THE DEPARTMENT OF REVENUE									
4										
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION									
6	15-30-149, MCA, TO EXTEND, UNDER CERTAIN SPECIFIED									
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7 CIRCUMSTANCES, THE PERIOD WITHIN WHICH REFUNDS MAY BE MADE 8 BY THE DEPARTMENT OF REVENUE FOR THE OVERPAYHENT OF INCOME 9 TAX: AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.**

10

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 15-30-149. MCA. is amended to read: 12 13 *15-30-149. Credits and refunds --- period. of limitations. (1) If the department discovers from the 14 examination of a return or upon claim duly filed by a 15 taxpayer or upon final judgment of a court that the amount 16 17 of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally 18 collected, the amount of the overpayment shall be credited 19 against any income tax, penalty, or interest then due from 20 the taxpayer and the balance of such excess shall be 21 22 refunded to the taxpayer.

(2) Effective with taxable years ending on or after
 December 31, 1959, no such credit or refund shall be allowed
 or made after 5 years from the date prescribed by statute

for filing the return or after 1 year from the date the 1 overpayment occurred, whichever period expires later, unless , before the expiration of such period a claim therefor is з filed by the taxpayer or the department has determined the ٠ 5 existence of the overpayment and has approved the refund or credit thereof. However, if an overcavent of tax results 6 from a net operating loss carryback, the overpayment may be 7 R refunded or credited within the period that expires on the 9 15th day of the 40th month following the close of the taxable year of the net operating loss if that period 10 expires later than 5 years from the due date of the return 11 12 for the year to which the net operating loss is carried back. 13 14 [3] Within 6 months after a claim for refund is filedy the department shall examine said claim and either approve 15 or disapprove it. If said claim is approved, the credit or 16 refund shall be made to the taxpayer within 60 days after 17 the claim is approved; if the claim is disallowed, the 18 19 department shall so notify the taxpayer and shall grant a 20 hearing thereon upon proper application by the taxpayer. If 21 the department disapproves a claim for refund, review of the 22 determination of the department may be had as otherwise 23 provided in this chapter.

24 (3)(4) Except as hereinafter provided for, effective
25 with taxable years ending on or after December 31, 1962,
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HB 128 --- SECOND READING

LC 0450/01

interest shall be allowed on overpayments at the rate of 6% 1 per annum from the due date of the return or from the date 2 of the overpayment (whichever date is later) to the date the 3 4 department approves refunding or crediting of the 5 overpayment. With respect to tax paid by withholding or by 6 estimate, the date of overpayment shall be deemed to be the 7 date on which the return for the taxable year was due. No 8 interest shall accrue on an overpayment if the taxpayer elects to have it applied to his estimated tax for the 9 10 succeeding taxable year. nor shall interest accrue during n any period the processing of a claim for refund is delayed 12 more than 30 days by reason of failure of the taxpayer to 13 furnish information requested by the department for the 14 purpose of verifying the amount of the overpayment. No 15 interest shall be allowed if:

16 (a) the overpayment is refunded within 6 months from
17 the date the return is due or the date the return is filed.
18 whichever date is later;

(b) the overpayment results from the carryback of a
 net operating loss; or

21 (c) the amount of interest is less than \$1.

22 <u>tth[51]</u> An overpayment not made incident to a bona fide 23 and orderly discharge of an actual income tax liability or 24 one reasonably assumed to be imposed by this law shall not 25 be considered an overpayment with respect to which interest

- 1 is allowable."
- 2 Section 2. Effective date. This act is effective on
- 3 its passage and approval.

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46th Legislature

LC 0450/01

HOLLA & BILL NO. 138 1 INTRODUCED BY _____ 2 BY REQUEST OF THE DEPARTMENT OF REVENUE 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 5 15-30-149, MCA, TO EXTEND, UNDER CERTAIN SPECIFIED Þ. CIRCUMSTANCES, THE PERIOD WITHIN WHICH REFUNDS MAY BE MADE 7 BY THE DEPARTMENT OF REVENUE FOR THE OVERPAYMENT OF INCOME 8

9 TAX; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.*

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 15-30-149, MCA, is amended to read: 12 13 "15-30-149. Credits and refunds _____period___of limitations. (1) If the department discovers from the 14 examination of a return or upon claim duly filed by a 15 taxpayer or upon final judgment of a court that the amount 16 of income tax collected is in excess of the amount due or 17 that any penalty or interest was erroneously or illegally 18 collected, the amount of the overpayment shall be credited 19 20 against any income tax, penalty, or interest then due from the taxpayer and the balance of such excess shall be 21 refunded to the taxpayer. 22

(2) Effective with taxable years ending on or after
December 31, 1959, no such credit or refund shall be allowed
or made after 5 years from the date prescribed by statute

1 for filing the return or after 1 year from the date the overpayment occurred, whichever period expires later, unless Z before the expiration of such period a claim therefor is 3 filed by the taxpayer or the department has determined the existence of the overpayment and has approved the refund or ۰. ٨ credit thereof. However, if an overpayment of tax results from a net operating loss carryback. the overpayment may be 7 refunded or credited within the period that expires on the 9 15th day of the 40th month following the close of the taxable year of the net operating loss if that period 10 11 expires later than 5 years from the due date of the return 12 for the year to which the net operating loss is carried 13 back. 14 [3] Within 6 months after a claim for refund is filed. 15 the department shall examine said claim and either approve 16 or disapprove it. If said claim is approved, the credit or 17 refund shall be made to the taxpayer within 60 days after .18 the claim is approved; if the claim is disallowed, the department shall so notify the taxpayer and shall grant a 19 20 hearing thereon upon proper application by the taxpayer. If

21 the department disapproves a claim for refund, review of the 22 determination of the department may be had as otherwise 23 provided in this chapter.

t3)141 Except as hereinafter provided for, effective
 with taxable years ending on or after December 31, 1962,

-2- HBI28' THIRD READING

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interest shall be allowed on overpayments at the rate of 5% 1 2 per annum from the due date of the return or from the date of the overpayment (whichever date is later) to the date the 3 4 department approves refunding or crediting of the 5 overpayment. With respect to tax paid by withholding or by 6 estimate, the date of overpayment shall be deemed to be the date on which the return for the taxable year was due. No 7 interest shall accrue on an overpayment if the taxpayer 6 elects to have it applied to his estimated tax for the 9 10 succeeding taxable year, nor shall interest accrue during any period the processing of a claim for refund is delayed n more than 30 days by reason of failure of the taxpayer to 12 furnish information requested by the department for the 13 purpose of verifying the amount of the overpayment. No 14 interest shall be allowed if: 15

16 (a) the overpayment is refunded within 6 months from
17 the date the return is due or the date the return is filed,
18 whichever date is later;

19 (b) the overpayment results from the carryback of a 20 net operating loss; or

21 (c) the amount of interest is less than \$1.

22 (49(3) An overpayment not made incident to a bona fide
23 and orderly discharge of an actual income tax liability or
24 one reasonably assumed to be imposed by this law shall not
25 be considered an overpayment with respect to which interest

LC 0450/01

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- 1 is allowable."
- 2 Section 2. Effective date. This act is effective on
- 3 its passage and approval.

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HB 0128/02

		HOUSE BILL	NU.	120						
2	INTRODUCED BY HARRINGTON									
3	BY REQUES	ST OF THE DEP	PARTME	NT DF	REVE	NUE				
4										
5	A BILL FOR AN ACT	ENTITLED:	" AN	ACT	10	AMEND	SECTION			

6 15-30-149, MCA, TO EXTEND, UNDER CERTAIN SPECIFIED
7 CIRCUMSTANCES, THE PERIOD WITHIN WHICH REFUNDS MAY BE MADE
8 BY THE DEPARTMENT OF REVENUE FOR THE OVERPAYMENT OF INCOME
9 TAX; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 15-30-149, MCA, is amended to read: 17 "15-30-149. Credits and refunds -- period____of 13 limitations. (1) If the department discovers from the 14 examination of a return or upon claim duly filed by a 15 16 taxpayer or upon final judgment of a court that the amount of income tax collected is in excess of the amount due or 17 that any penalty or interest was erroneously or illegally 18 collected, the amount of the overpayment shall be credited 19 against any income tax, penalty, or interest then due from 29 21 the taxpayer and the balance of such excess shall be 22 refunded to the taxpayer.

(2) Effective with taxable years ending on or after
December 31, 1959, no such credit or refund shall be allowed
or made after 5 years from the date prescribed by statute

for filing the return <u>or__after_lyear_from_the_date_the</u> <u>overpayment_occurred:_whicheyer_period_expires_later:</u> unless before the expiration of such period a claim therefor is filed by the taxpayer or the department has determined the existence of the overpayment and has approved the refund or credit_thereof. However:__if_an_overpayment_of_tax_results from_a_net_operating_loss_carrybacks_the_overpayment_may__be refunded_or__credited_within_the_period_that_expires_on_the listh_day_of_the__fith__month__following__the__close__of__the taxable__year__of__the__oet_operating_loss__if_tbat_period expires_later_than_5_years_from_the_due_date_of__tbe__return for__the__year__to__which__tbe_net_operating_loss_is_carried

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14 [3] Within 6 months after a claim for refund is filed. the department shall examine said claim and either approve 15 16 or disapprove it. If said claim is approved, the credit or 17 refund shall be made to the taxpayer within 60 days after 18 the claim is approved; if the claim is disallowed, the 19 department shall so notify the taxpayer and shall grant a 20 hearing thereon upon proper application by the taxpayer. If 21 the department disapproves a claim for refund, review of the 22 determination of the department may be had as otherwise 23 provided in this chapter.

24 (3)(4) Except as hereinafter provided for effective
25 with taxable years ending on or after December 31, 1962.

-2- че 128 REFERENCE BILL

HB 128

1 interest shall be allowed on overpayments at the rate of 6% per annum from the due date of the return or from the date 2 3 of the overpayment (whichever date is later) to the date the 4 department approves refunding or crediting of the 5 overpayment. With respect to tax paid by withholding or by estimate, the date of overpayment shall be deemed to be the 6 7 date on which the return for the taxable year was due. No interest shall accrue on an overpayment if the taxpayer 8 9 elects to have it applied to his estimated tax for the 10 succeeding taxable year, nor shall interest accrue during 11 any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to 12 13 furnish information requested by the department for the 14 purpose of verifying the amount of the overpayment. No 15 interest shall be allowed if:

16 (a) the overpayment is refunded within 6 months from
17 the date the return is due or the date the return is filed,
18 whichever date is later;

19 (b) the overpayment results from the carryback of a20 net operating loss; or

21 (c) the amount of interest is less than \$1.

22 <u>f49151</u> An overpayment not made incident to a bona fide 23 and orderly discharge of an actual income tax liability or 24 one reasonably assumed to be imposed by this law shall not 25 be considered an overpayment with respect to which interest

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1 is allowable."

- 2 Section 2. Effective date. This act is effective on
- 3 its passage and approval.

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