

HOUSE BILL NO. 128

INTRODUCED BY HARRINGTON

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

January 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 SENATE

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 HOUSE

March 6, 1979	Returned from second house. Concurred in. Sent to enrolling.  Reported correctly enrolled.
---------------	---

1 HOUSE BILL NO. 128  
 2 INTRODUCED BY Hamington  
 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  
 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  
 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  
 14 limitations. (1) If the department discovers from the  
 15 examination of a return or upon claim duly filed by a  
 16 taxpayer or upon final judgment of a court that the amount  
 17 of income tax collected is in excess of the amount due or  
 18 that any penalty or interest was erroneously or illegally  
 19 collected, the amount of the overpayment shall be credited  
 20 against any income tax, penalty, or interest then due from  
 21 the taxpayer and the balance of such excess shall be  
 22 refunded to the taxpayer.

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

1 for filing the return or after 1 year from the date the  
 2 overpayment occurred, whichever period expires later, unless  
 3 before the expiration of such period a claim therefor is  
 4 filed by the taxpayer or the department has determined the  
 5 existence of the overpayment and has approved the refund or  
 6 credit thereof. However, if an overpayment of tax results  
 7 from a net operating loss carryback, the overpayment may be  
 8 refunded or credited within the period that expires on the  
 9 15th day of the 40th month following the close of the  
 10 taxable year of the net operating loss if that period  
 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  
 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,

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  
 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  
 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  
 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;

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 ~~†4†(5)~~ 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-

Approved by Committee  
on Taxation

1 House BILL NO. 128  
2 INTRODUCED BY Hamington  
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  
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  
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~~  
14 limitations. (1) If the department discovers from the  
15 examination of a return or upon claim duly filed by a  
16 taxpayer or upon final judgment of a court that the amount  
17 of income tax collected is in excess of the amount due or  
18 that any penalty or interest was erroneously or illegally  
19 collected, the amount of the overpayment shall be credited  
20 against any income tax, penalty, or interest then due from  
21 the taxpayer and the balance of such excess shall be  
22 refunded to the taxpayer.

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

1 ~~for filing the return or after 1 year from the date the~~  
2 ~~overpayment occurred, whichever period expires later, unless~~  
3 ~~before the expiration of such period a claim therefor is~~  
4 ~~filed by the taxpayer or the department has determined the~~  
5 ~~existence of the overpayment and has approved the refund or~~  
6 ~~credit thereof. However, if an overpayment of tax results~~  
7 ~~from a net operating loss carryback, the overpayment may be~~  
8 ~~refunded or credited within the period that expires on the~~  
9 ~~15th day of the 40th month following the close of the~~  
10 ~~taxable year of the net operating loss if that period~~  
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  
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,

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  
 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  
 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  
 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;

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 ~~††(5)~~ 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-

1 HOUSE BILL NO. 128  
 2 INTRODUCED BY Hamington  
 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  
 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  
 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~~  
 14 limitations. (1) If the department discovers from the  
 15 examination of a return or upon claim duly filed by a  
 16 taxpayer or upon final judgment of a court that the amount  
 17 of income tax collected is in excess of the amount due or  
 18 that any penalty or interest was erroneously or illegally  
 19 collected, the amount of the overpayment shall be credited  
 20 against any income tax, penalty, or interest then due from  
 21 the taxpayer and the balance of such excess shall be  
 22 refunded to the taxpayer.

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

1 for filing the return or after 1 year from the date the  
 2 overpayment occurred, whichever period expires later, unless  
 3 before the expiration of such period a claim therefor is  
 4 filed by the taxpayer or the department has determined the  
 5 existence of the overpayment and has approved the refund or  
 6 credit thereof. However, if an overpayment of tax results  
 7 from a net operating loss carryback, the overpayment may be  
 8 refunded or credited within the period that expires on the  
 9 15th day of the 40th month following the close of the  
 10 taxable year of the net operating loss if that period  
 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  
 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 (4) Except as hereinafter provided for, effective  
 25 with taxable years ending on or after December 31, 1962,

1 interest shall be allowed on overpayments at the rate of 8%  
 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  
 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  
 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  
 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;

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 ~~(4)(5)~~ 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-

HOUSE BILL NO. 128

INTRODUCED BY HARRINGTON

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 15-30-149, MCA, TO EXTEND, UNDER CERTAIN SPECIFIED CIRCUMSTANCES, THE PERIOD WITHIN WHICH REFUNDS MAY BE MADE BY THE DEPARTMENT OF REVENUE FOR THE OVERPAYMENT OF INCOME TAX; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-149, MCA, is amended to read:

"15-30-149. Credits and refunds ~~---period---~~ of limitations. (1) If the department discovers from the examination of a return or upon claim duly filed by a taxpayer or upon final judgment of a court that the amount of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment shall be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of such excess shall be 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 overpayment occurred, whichever period expires later, 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 carryback, the overpayment may be refunded or credited within the period that expires on the 15th day of the 49th month following the close of the taxable year of the net operating loss if that period expires later than 5 years from the due date of the return for the year to which the net operating loss is carried back.

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

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



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  
 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  
 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  
 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;

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 ~~(4)~~(5) 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-