

# Legislative Analysis

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## INTEREST RATE ON REFUNDS

**House Bill 4002 (Substitute H-2)**

**Sponsor: Rep. Mike Shirkey**

**Committee: Tax Policy**

**Complete to 3-18-13**

## A SUMMARY OF HOUSE BILL 4002 AS REPORTED FROM COMMITTEE 3-6-13

The bill would amend the Revenue Act, 1941 PA 122, to impose additional interest on the late payment of personal income tax refunds owed to taxpayers by the Department of Treasury.

For income tax returns filed before March 1<sup>st</sup>, the interest would be added for refunds not paid by May 1<sup>st</sup>. For income tax returns filed after March 1<sup>st</sup>, the interest would be added for refunds not paid within 60 days after the return is filed. In these instances, under House Bill 4002, the department would have to pay an additional interest rate of 3% per annum (accruing daily) until the refund is paid.

The additional interest would only apply to income tax returns that meeting the following criteria:

- The refund is due on an original personal income tax return that was filed in a timely manner (generally, April 15th).
- The refund is not adjusted by the Department of Treasury.
- In accordance with Section 27a of the Revenue Act (MCL 205.27a), the statute of limitations on filing the return has not been suspended by the Department of Treasury except during the course of an audit.<sup>1</sup>
- The return is "complete" for processing purposes, with no calculation errors and contains all required information, including any state or federal tax returns or schedules necessary to process the return.<sup>2</sup>
- The taxpayer submitting the return and the claim for a refund has submitted any additional information and documentation within 30 days of the request to provide such information by the Department of Treasury.
- The refund is not subject to interception under Section 30a of the Revenue Act (MCL 205.30a) to satisfy a taxpayer's tax or other liability to the state (including child support), the IRS, or a garnishment.
- The amount to be refunded is more than \$1.

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<sup>1</sup> The Revenue Act provides taxpayers with four years from the date of an original return to request a refund. See, Revenue Administrative Bulletin 2008-8, December 8, 2008, *Revenue Act - Audits and the Suspension of the Statute of Limitations*, [http://www.michigan.gov/documents/treasury/RAB\\_2008-8\\_258580\\_7.pdf](http://www.michigan.gov/documents/treasury/RAB_2008-8_258580_7.pdf).

<sup>2</sup> Evidently this subsection should also require the taxpayer to furnish any required tax forms as well.

Under current law, if a taxpayer is owed a refund, the Department of Treasury must pay interest on the amount of the refund beginning 45 days after the claim is filed or 45 days after the date established by law for the filing of the return, whichever is later.<sup>3</sup> (This applies to refunds for the overpayment of taxes; the overpayment of taxes, penalties, and interest erroneously assessed and collected; or the overpayment of taxes, penalties, and interest unjustly assessed, excessive in amount, or wrongfully collected.)

The current interest rate is determined under Section 23 of the Revenue Act (MCL 205.23) as one percentage point above the average predominant prime rate quoted by not less than three commercial banks to large businesses (the "adjusted prime rate"). Under this calculation, Treasury currently pays a daily interest rate of 0.0001164 based on an adjusted annual rate of 4.25%.<sup>4</sup> [Treasury sets the interest rate on July 1st (for July 1 - December 31) and January 1st (for January 1 - June 30).]

### **FISCAL IMPACT:**

As written, the bill would reduce state revenue by an unknown amount.

### **POSITIONS:**

The Masco Corporation indicated support for the bill. (3-6-13)

The Department of Treasury opposes the bill as currently written (3-6-13)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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<sup>3</sup> See, Revenue Administrative Bulletin 1996-4, May 13, 1996, *Credit or Refund of Overpayment of Taxes or Credits in Excess of Tax Due and Applicable Interest*, [http://www.michigan.gov/documents/96-4\\_114735\\_7.pdf](http://www.michigan.gov/documents/96-4_114735_7.pdf).

<sup>4</sup> See, Revenue Administrative Bulletin 2012-4, *Interest Rate*, October 10, 2012, [http://www.michigan.gov/documents/taxes/RAB\\_2012-4\\_401006\\_7.pdf](http://www.michigan.gov/documents/taxes/RAB_2012-4_401006_7.pdf).