

Fifty-eighth
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2315

Introduced by

Senators Stenehjem, Holmberg, Wardner

Representatives Belter, Grosz, Porter

1 A BILL for an Act to amend and reenact subsection 1 of section 57-38-35.2, subsection 1 of
2 section 57-39.2-25, and section 57-51-19 of the North Dakota Century Code, relating to the rate
3 of interest on overpayments of income tax, sales and use tax, and oil and gas gross production
4 tax and oil extraction tax; and to provide an effective date.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Subsection 1 of section 57-38-35.2 of the North Dakota
7 Century Code is amended and reenacted as follows:

- 8 1. Interest at the rate of fifty hundredths of one percent per month or fraction of a
9 month must be allowed and paid upon overpayments of tax as follows:
- 10 a. Interest on refunds arising from excess income tax withholding or
11 overpayment of estimated tax accrues for payment forty-five days after the
12 due date of the return or after the date the return was filed, whichever comes
13 later.
- 14 b. Interest on refunds arising from amended returns or claims made for credit or
15 refund accrues for payment from the due date of the return to the date of
16 payment of the refund excepting the month in which the return was required
17 to be filed.
- 18 c. Interest on refunds arising from net operating loss carrybacks or capital loss
19 carrybacks accrues for payment from the due date of the return for the year,
20 determined without regard to extensions of the time for filing, giving rise to the
21 loss carryback, to the date of payment of the refund, except that no interest
22 accrues if the refund payment is made within forty-five days of the date the
23 amended return or claim is filed to claim the refund attributable to the net
24 operating loss or capital loss carryback.

1 **SECTION 2. AMENDMENT.** Subsection 1 of section 57-39.2-25 of the North Dakota
2 Century Code is amended and reenacted as follows:

- 3 1. Whenever by any provisions of this chapter a refund is authorized, the
4 commissioner shall certify the amount of the refund, the reason therefor, and the
5 name of the payee to the office of management and budget, who shall thereupon
6 draw a warrant on the general fund in the amount specified payable to the named
7 payee. Interest of ~~ten~~ six percent per annum must be allowed and paid upon any
8 overpayment of tax from sixty days after the due date of the return or after the date
9 the return was filed or after the date the tax due was fully paid, whichever comes
10 later, to the date of the refund.

11 **SECTION 3. AMENDMENT.** Section 57-51-19 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **57-51-19. Claim for credit or refund.** In all cases of overpayment, duplicate payment,
14 or payment made in error, the commissioner may issue a certificate stating therein the facts
15 and the amount of the refund to which the taxpayer may be entitled. Upon presentation of the
16 certificate to the office of management and budget, a warrant shall be issued to the taxpayer for
17 the purpose of refunding any overpayment, duplicate payment, or payment made in error out of
18 the unapportioned gross production tax in the state treasury and a pro rata share thereof must
19 be charged against the county entitled to share in the tax. Interest arising from refunds of
20 overpayments, duplicate payments, and erroneous payments must be allowed and paid at the
21 rate of ~~ten~~ six percent per annum and accrues for payment from sixty days after the due date of
22 the return or after the return was filed or after the tax was fully paid, whichever comes later.

23 A taxpayer may file a claim for credit or refund of an overpayment of tax within three
24 years of the due date of the return or three years after the return was filed. However, if there is
25 a change in tax liability on any return by an amount in excess of twenty-five percent of the
26 amount of tax liability reported on a return, a claim for refund of tax may be filed within six years
27 after the due date of the return or six years after the return was filed, whichever period expires
28 last.

29 **SECTION 4. EFFECTIVE DATE.** This Act is effective for refunds made after June 30,
30 2003.