

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 97*

Short Title: Clarify Refunds of Tax Overpayments. (Public)

Sponsors: Senators Rucho, Hartsell, Daniel; Apodaca, Blake, Brock, Davis, Harrington, Hise, Mansfield, Meredith, Newton, Pate, Rouzer, and Tucker.

Referred to: Finance.

February 22, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY WHEN THE DEPARTMENT OF REVENUE IS REQUIRED TO
3 INITIATE A REFUND OF AN OVERPAYMENT OF TAX AND TO AUTHORIZE THE
4 ISSUANCE OF REFUNDS OF OVERPAYMENTS THAT HAVE BEEN IDENTIFIED
5 BY THE DEPARTMENT CONSISTENT WITH THIS CLARIFICATION.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 105-241.7(a) reads as rewritten:

8 "**§ 105-241.7. Procedure for obtaining a refund.**

9 (a) Initiated by Department. – The Department must refund an overpayment made by a
10 taxpayer ~~when-if the Department processes a return and finds all of the following:~~ discovers the
11 overpayment before the expiration of the statute of limitations for obtaining a refund.
12 Discovery occurs in any of the following circumstances:

- 13 (1) ~~The statute of limitations for obtaining a refund has not expired.~~The
14 automated processing of a return indicates the return requires further review.
15 (2) ~~The amount shown due on the return is not correct.~~ A review of a return by
16 an employee of the Department indicates an overpayment.
17 (3) ~~The correction of the amount due shows that the taxpayer has overpaid the~~
18 ~~tax.~~An audit of a taxpayer by an employee of the Department indicates an
19 overpayment."

20 **SECTION 2.(a)** The General Assembly makes the following findings concerning
21 the application of the statute of limitations to a refund initiated by the Department of Revenue:

- 22 (1) The statute of limitations is satisfied when the Department is on notice that a
23 refund may be due.
24 (2) The Department is on notice that a refund may be due when the
25 Department's automated processing of a return indicates that the return
26 requires further review, regardless of when an employee of the Department
27 verifies whether a refund is in fact due.
28 (3) Former G.S. 105-266 and G.S. 105-241.7 are consistent with the findings in
29 this section and require the Department to refund an overpayment of tax if,
30 before the statute of limitations expires, the Department discovers through
31 its automated processing that a return requires further review.

32 **SECTION 2.(b)** The Department of Revenue is directed to issue refunds the
33 Department discovered within the statute of limitations as applied in accordance with
34 subsection (a) of this section.

35 **SECTION 3.** This act is effective when it becomes law.

