

By Senator Horne

6-1222-98

See HB

1 A bill to be entitled
 2 An act relating to tax administration; amending
 3 s. 95.091, F.S.; revising the time period
 4 within which an action to collect a tax may be
 5 begun when no lien to secure payment of the tax
 6 is provided by law; revising time periods
 7 within which the Department of Revenue and
 8 Department of Business and Professional
 9 Regulation may determine and assess the amount
 10 of any tax, penalty, or interest due under
 11 taxes which they have authority to administer
 12 and the conditions under which such time
 13 periods apply; amending s. 215.26, F.S.;
 14 revising the time period within which
 15 application for refund of taxes must be made;
 16 providing an effective date.

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 18 Be It Enacted by the Legislature of the State of Florida:

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 20 Section 1. Subsection (2) and paragraph (a) of
 21 subsection (3) of section 95.091, Florida Statutes, are
 22 amended to read:

23 95.091 Limitation on actions to collect taxes.--
 24 (2) If no lien to secure the payment of a tax is
 25 provided by law, no action may be begun to collect the tax
 26 more than 2 years after ~~5 years~~ from the date the tax is
 27 assessed or becomes delinquent, whichever is later.

28 (3)(a)1. With the exception of taxes levied under
 29 chapter 198 and tax adjustments made pursuant to s. 220.23,
 30 the Department of Revenue may determine and assess the amount
 31 of any tax, penalty, or interest due under any tax enumerated

1 in s. 72.011 which it has authority to administer and the
2 Department of Business and Professional Regulation may
3 determine and assess the amount of any tax, penalty, or
4 interest due under any tax enumerated in s. 72.011 which it
5 has authority to administer:

6 a. Within 3 ~~5~~ years after the date the tax is due, any
7 return with respect to the tax is due, or such return is
8 filed, whichever occurs later;

9 b. Within 3 ~~6~~ years after the date the taxpayer ~~either~~
10 ~~makes a substantial underpayment of tax, or files a~~
11 ~~substantially incorrect~~ return that underreports the tax by
12 more than 25 percent;

13 c. At any time while the right to a refund or credit
14 of the tax is available to the taxpayer;

15 d. At any time after the taxpayer has failed to make
16 any required payment of the tax, has failed to file a required
17 return, or has filed a grossly false or fraudulent return; or

18 e. In any case in which there has been a refund of tax
19 erroneously made for any reason, within 2 ~~5~~ years after making
20 such refund, or at any time after making such refund if it
21 appears that any part of the refund was induced by fraud or
22 the misrepresentation of a material fact.

23 2. For the purpose of this paragraph, a tax return
24 filed before the last day prescribed by law, including any
25 extension thereof, shall be deemed to have been filed on such
26 last day, and payments made prior to the last day prescribed
27 by law shall be deemed to have been paid on such last day.

28 Section 2. Subsection (2) of section 215.26, Florida
29 Statutes, is amended to read:

30 215.26 Repayment of funds paid into State Treasury
31 through error.--

1 (2) Application for refunds as provided by this
2 section must be filed with the Comptroller, except as
3 otherwise provided in this subsection, within 3 years after
4 the right to the refund has accrued or else the right is
5 barred. ~~Except as provided in chapter 198 and s. 220.23, an~~
6 ~~application for a refund of a tax enumerated in s. 72.011,~~
7 ~~which tax was paid after September 30, 1994, must be filed~~
8 ~~with the Comptroller within 5 years after the date the tax is~~
9 ~~paid.~~The Comptroller may delegate the authority to accept an
10 application for refund to any state agency, or the judicial
11 branch, vested by law with the responsibility for the
12 collection of any tax, license, or account due. The
13 application for refund must be on a form approved by the
14 Comptroller and must be supplemented with additional proof the
15 Comptroller deems necessary to establish the claim; provided,
16 the claim is not otherwise barred under the laws of this
17 state. Upon receipt of an application for refund, the judicial
18 branch or the state agency to which the funds were paid shall
19 make a determination of the amount due. If an application for
20 refund is denied, in whole or in part, the judicial branch or
21 such state agency shall notify the applicant stating the
22 reasons therefor. Upon approval of an application for refund,
23 the judicial branch or such state agency shall furnish the
24 Comptroller with a properly executed voucher authorizing
25 payment.

26 Section 3. This act shall take effect October 1 of the
27 year in which enacted.

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HOUSE SUMMARY

Revises the time period within which an action to collect a tax may be begun when no lien to secure payment of the tax is provided by law. Revises time periods within which the Department of Revenue and Department of Business and Professional Regulation may determine and assess the amount of any tax, penalty, or interest due under taxes which they have authority to administer and the conditions under which such time periods apply. Revises the time period within which application for refund of taxes must be made.