

By Senator Haridopolos

26-1331-04

See HB 391

1 A bill to be entitled
2 An act relating to tax administration; amending
3 ss. 213.235 and 220.807, F.S.; providing an
4 alternative to a requirement that the interest
5 rate on certain tax deficiencies shall be the
6 rounded adjusted prime rate charged by banks
7 plus 4 percentage points; providing application
8 of certain adjustments; requiring the
9 Department of Revenue to use certain adjusted
10 prime rates in certain calculations; amending
11 ss. 213.24, 213.255, 220.723, and 220.809,
12 F.S., to conform; providing an effective date.

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

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16 Section 1. Subsections (1), (2), (3), and (5) of
17 section 213.235, Florida Statutes, are amended to read:

18 213.235 Determination of interest on deficiencies.--

19 (1) Notwithstanding any other provision of law, the
20 annual rate of interest applicable to tax payment deficiencies
21 that arise on or after January 1, 2000, shall be the adjusted
22 rate established by the executive director of the department
23 under subsection (2) or subsection (3), unless a lower rate
24 for the particular tax is specifically provided for in law, in
25 which case the lower rate applies. This annual rate of
26 interest applies to all taxes enumerated in s. 213.05.

27 (2)(a) If the adjusted prime rate charged by banks,
28 rounded to the nearest full percent, plus 4 percentage points,
29 during either:

30 1.(a) The 6-month period ending on September 30 of any
31 calendar year, or

1 ~~2.(b)~~ The 6-month period ending on March 31 of any
2 calendar year
3
4 differs from the interest rate in effect on either such date,
5 the executive director of the department shall, within 20
6 days, establish an adjusted rate of interest equal to such
7 adjusted prime rate plus 4 percentage points.

8 ~~(b)(3)~~ An adjusted rate of interest established under
9 this subsection ~~section~~ becomes effective:

10 ~~1.(a)~~ On January 1 of the succeeding year, if based
11 upon the adjusted prime rate plus 4 percentage points for the
12 6-month period ending on September 30; or

13 ~~2.(b)~~ On July 1 of the same calendar year, if based
14 upon the adjusted prime rate plus 4 percentage points for the
15 6-month period ending on March 31.

16 ~~(3)(a)~~ Notwithstanding subsection (2), if payment of a
17 tax payment deficiency is made within 60 days after issuance
18 of an assessment, billing, or notice and demand for payment,
19 or an agreement for scheduling payments of taxes, interest,
20 and penalties is made within 60 days after issuance of an
21 assessment, billing, or notice and demand for payment,
22 interest on the tax deficiency shall be the adjusted prime
23 rate charged by banks, rounded to the nearest full percent. If
24 the adjusted prime rate charged by banks, rounded to the
25 nearest full percent during either:

26 ~~1.~~ The 6-month period ending on September 30 of any
27 calendar year, or

28 ~~2.~~ The 6-month period ending on March 31 of any
29 calendar year
30
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1 differs from the interest rate in effect on either such date,
2 the executive director of the department shall, within 20
3 days, establish an adjusted rate of interest equal to such
4 adjusted prime rate.

5 (b) An adjusted rate of interest established under
6 this subsection becomes effective:

7 1. On January 1 of the succeeding year, if based upon
8 the adjusted prime rate for the 6-month period ending on
9 September 30; or

10 2. On July 1 of the same calendar year, if based upon
11 the adjusted prime rate for the 6-month period ending on March
12 31.

13 (5) Once established, an adjusted rate of interest
14 remains in effect until further adjusted under subsection (2)
15 or subsection (3).

16 Section 2. Subsection (1) of section 213.24, Florida
17 Statutes, is amended to read:

18 213.24 Accrual of penalties and interest on
19 deficiencies; deficiency billing costs.--

20 (1) If an assessment, billing, or notice and demand is
21 made for the payment of any amount due under laws made
22 applicable to this chapter and if such amount is paid within
23 60 ~~30~~ days after the date of such assessment, billing, or
24 notice and demand, no additional penalties or interest under
25 this section on the amount so paid shall be imposed for the
26 period after the date of such assessment, billing, or notice
27 and demand.

28 Section 3. Subsection (12) of section 213.255, Florida
29 Statutes, is amended to read:

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1 213.255 Interest.--Interest shall be paid on
2 overpayments of taxes, payment of taxes not due, or taxes paid
3 in error, subject to the following conditions:

4 (12) The rate of interest shall be the adjusted rate
5 established pursuant to s. 213.235(3), except that the annual
6 rate of interest shall never be greater than 11 percent. This
7 annual rate of interest shall be applied to all refunds of
8 taxes administered by the department except for corporate
9 income taxes and emergency excise taxes governed by ss.
10 220.721 and 220.723.

11 Section 4. Subsection (1) of section 220.723, Florida
12 Statutes, is amended to read:

13 220.723 Overpayments; interest.--

14 (1) Interest shall be allowed and paid in accordance
15 with the provisions of s. 220.807(3) upon any overpayment of a
16 tax imposed by this chapter. However, if any overpayment is
17 refunded or credited within 3 months after the date upon which
18 the taxpayer files written notice advising the department of
19 such overpayment, no interest shall be allowed on such
20 overpayment.

21 Section 5. Subsections (1), (2), (3), and (5) of
22 section 220.807, Florida Statutes, are amended to read:

23 220.807 Determination of rate of interest.--

24 (1) The annual rate of interest applicable to this
25 chapter shall be the adjusted rate established by the
26 executive director of the Department of Revenue under
27 subsection (2) or subsection (3), except that the annual rate
28 of interest shall never be greater than 12 percent.

29 (2)(a) If the adjusted prime rate charged by banks,
30 rounded to the nearest full percent, plus 4 percentage points,
31 during either:

1 ~~1.(a)~~ The 6-month period ending on September 30 of any
2 calendar year; or

3 ~~2.(b)~~ The 6-month period ending on March 31 of any
4 calendar year;

5
6 differs from the interest rate in effect on either such date,
7 the executive director of the Department of Revenue shall,
8 within 20 days, establish an adjusted rate of interest equal
9 to such adjusted prime rate plus 4 percentage points.

10 ~~(b)(3)~~ An adjusted rate of interest established under
11 this subsection ~~section~~ shall become effective:

12 ~~1.(a)~~ On January 1 of the succeeding year, if based
13 upon the adjusted prime rate plus 4 percentage points for the
14 6-month period ending on September 30; or

15 ~~2.(b)~~ On July 1 of the same calendar year, if based
16 upon the adjusted prime rate plus 4 percentage points for the
17 6-month period ending on March 31.

18 ~~(3)(a)~~ Notwithstanding subsection (2), if payment of a
19 tax payment deficiency is made within 60 days after issuance
20 of an assessment, billing, or notice and demand for payment,
21 or if an agreement for scheduling payments of taxes, interest,
22 and penalties is made within 60 days after issuance of an
23 assessment, billing, or notice and demand for payment,
24 interest on the tax deficiency shall be the adjusted prime
25 rate charged by banks, rounded to the nearest full percent. If
26 the adjusted prime rate charged by banks, rounded to the
27 nearest full percent during either:

28 ~~1.~~ The 6-month period ending on September 30 of any
29 calendar year; or

30 ~~2.~~ The 6-month period ending on March 31 of any
31 calendar year

1
2 differs from the interest rate in effect on either such date,
3 the executive director of the department shall, within 20
4 days, establish an adjusted rate of interest equal to such
5 adjusted prime rate.

6 (b) An adjusted rate of interest established under
7 this subsection becomes effective:

8 1. On January 1 of the succeeding year, if based upon
9 the adjusted prime rate for the 6-month period ending on
10 September 30; or

11 2. On July 1 of the same calendar year, if based upon
12 the adjusted prime rate for the 6-month period ending on March
13 31.

14 (5) Once established, an adjusted rate of interest
15 shall remain in effect until an adjustment is made under
16 subsection (2) or subsection (3).

17 Section 6. Subsection (5) of section 220.809, Florida
18 Statutes, is amended to read:

19 220.809 Interest on deficiencies.--

20 (5) If an assessment, billing, or notice and demand is
21 made for the payment of any amount due under this chapter, and
22 if such amount is paid within 60 ~~30~~ days after the date of
23 such assessment, billing, or notice and demand, interest under
24 this section on the amount so paid shall not be imposed for
25 the period after the date of such assessment, billing, or
26 notice and demand.

27 Section 7. Amendments made by this act to sections
28 213.235 and 220.807, Florida Statutes, apply to interest due
29 on tax payment deficiencies that arise on or after July 1,
30 2004, and also apply to interest due on tax payment
31 deficiencies that arose on or after January 1, 2000, but

1 remain unpaid as of July 1, 2004. When calculating the rate
2 that takes effect on July 1, 2004, the department shall use in
3 making that calculation the adjusted prime rate charged by
4 banks, rounded to the nearest full percent, during the 6-month
5 period ending on March 31, 2004.

6 Section 8. This act shall take effect July 1, 2004.
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