

HB 0391

2004

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

12  
 13 Be It Enacted by the Legislature of the State of Florida:

14  
 15           Section 1. Subsections (1), (2), (3), and (5) of section  
 16          213.235, Florida Statutes, are amended to read:

17           213.235 Determination of interest on deficiencies.--

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

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

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

31 2.(b) The 6-month period ending on March 31 of any  
 32 calendar year

33  
 34 differs from the interest rate in effect on either such date,  
 35 the executive director of the department shall, within 20 days,  
 36 establish an adjusted rate of interest equal to such adjusted  
 37 prime rate plus 4 percentage points.

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

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

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

46 (3)(a) Notwithstanding subsection (2), if payment of a tax  
 47 payment deficiency is made within 60 days after issuance of an  
 48 assessment, billing, or notice and demand for payment, or an  
 49 agreement for scheduling payments of taxes, interest, and  
 50 penalties is made within 60 days after issuance of an  
 51 assessment, billing, or notice and demand for payment, interest  
 52 on the tax deficiency shall be the adjusted prime rate charged  
 53 by banks, rounded to the nearest full percent. If the adjusted  
 54 prime rate charged by banks, rounded to the nearest full percent  
 55 during either:

56 1. The 6-month period ending on September 30 of any  
 57 calendar year, or

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58        2. The 6-month period ending on March 31 of any calendar  
 59 year

60  
 61 differs from the interest rate in effect on either such date,  
 62 the executive director of the department shall, within 20 days,  
 63 establish an adjusted rate of interest equal to such adjusted  
 64 prime rate.

65        (b) An adjusted rate of interest established under this  
 66 subsection becomes effective:

67            1. On January 1 of the succeeding year, if based upon the  
 68 adjusted prime rate for the 6-month period ending on September  
 69 30; or

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

72        (5) Once established, an adjusted rate of interest remains  
 73 in effect until further adjusted under subsection (2) or  
 74 subsection (3).

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

77        213.24 Accrual of penalties and interest on deficiencies;  
 78 deficiency billing costs.--

79        (1) If an assessment, billing, or notice and demand is  
 80 made for the payment of any amount due under laws made  
 81 applicable to this chapter and if such amount is paid within 60  
 82 ~~30~~ days after the date of such assessment, billing, or notice  
 83 and demand, no additional penalties or interest under this  
 84 section on the amount so paid shall be imposed for the period  
 85 after the date of such assessment, billing, or notice and  
 86 demand.

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

89 213.255 Interest.--Interest shall be paid on overpayments  
 90 of taxes, payment of taxes not due, or taxes paid in error,  
 91 subject to the following conditions:

92 (12) The rate of interest shall be the adjusted rate  
 93 established pursuant to s. 213.235(3), except that the annual  
 94 rate of interest shall never be greater than 11 percent. This  
 95 annual rate of interest shall be applied to all refunds of taxes  
 96 administered by the department except for corporate income taxes  
 97 and emergency excise taxes governed by ss. 220.721 and 220.723.

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

100 220.723 Overpayments; interest.--

101 (1) Interest shall be allowed and paid in accordance with  
 102 the provisions of s. 220.807(3) upon any overpayment of a tax  
 103 imposed by this chapter. However, if any overpayment is refunded  
 104 or credited within 3 months after the date upon which the  
 105 taxpayer files written notice advising the department of such  
 106 overpayment, no interest shall be allowed on such overpayment.

107 Section 5. Subsections (1), (2), (3), and (5) of section  
 108 220.807, Florida Statutes, are amended to read:

109 220.807 Determination of rate of interest.--

110 (1) The annual rate of interest applicable to this chapter  
 111 shall be the adjusted rate established by the executive director  
 112 of the Department of Revenue under subsection (2) or subsection  
 113 (3), except that the annual rate of interest shall never be  
 114 greater than 12 percent.

115 (2)(a) If the adjusted prime rate charged by banks,

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116 rounded to the nearest full percent, plus 4 percentage points,  
 117 during either:

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

120 2.(b) The 6-month period ending on March 31 of any  
 121 calendar year;

122  
 123 differs from the interest rate in effect on either such date,  
 124 the executive director of the Department of Revenue shall,  
 125 within 20 days, establish an adjusted rate of interest equal to  
 126 such adjusted prime rate plus 4 percentage points.

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

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

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

135 (3)(a) Notwithstanding subsection (2), if payment of a tax  
 136 payment deficiency is made within 60 days after issuance of an  
 137 assessment, billing, or notice and demand for payment, or if an  
 138 agreement for scheduling payments of taxes, interest, and  
 139 penalties is made within 60 days after issuance of an  
 140 assessment, billing, or notice and demand for payment, interest  
 141 on the tax deficiency shall be the adjusted prime rate charged  
 142 by banks, rounded to the nearest full percent. If the adjusted  
 143 prime rate charged by banks, rounded to the nearest full percent  
 144 during either:

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- 145       1. The 6-month period ending on September 30 of any  
 146       calendar year, or  
 147       2. The 6-month period ending on March 31 of any calendar  
 148       year

149  
 150       differs from the interest rate in effect on either such date,  
 151       the executive director of the department shall, within 20 days,  
 152       establish an adjusted rate of interest equal to such adjusted  
 153       prime rate.

154       (b) An adjusted rate of interest established under this  
 155       subsection becomes effective:

156       1. On January 1 of the succeeding year, if based upon the  
 157       adjusted prime rate for the 6-month period ending on September  
 158       30; or

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

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

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

166       220.809 Interest on deficiencies.--

167       (5) If an assessment, billing, or notice and demand is  
 168       made for the payment of any amount due under this chapter, and  
 169       if such amount is paid within 60 ~~30~~ days after the date of such  
 170       assessment, billing, or notice and demand, interest under this  
 171       section on the amount so paid shall not be imposed for the  
 172       period after the date of such assessment, billing, or notice and  
 173       demand.

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174 Section 7. Amendments made by this act to ss. 213.235 and  
175 220.807, Florida Statutes, apply to interest due on tax payment  
176 deficiencies that arise on or after July 1, 2004, and also apply  
177 to interest due on tax payment deficiencies that arose on or  
178 after January 1, 2000, but remain unpaid as of July 1, 2004.  
179 When calculating the rate that takes effect on July 1, 2004, the  
180 department shall use in making that calculation the adjusted  
181 prime rate charged by banks, rounded to the nearest full  
182 percent, during the 6-month period ending on March 31, 2004.

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