
SENATE BILL NO. 138—COMMITTEE ON TAXATION

(ON BEHALF OF THE DEPARTMENT OF TAXATION)

FEBRUARY 25, 2005

Referred to Committee on Taxation

SUMMARY—Limits circumstances in which overpayments of taxes may be applied to underpayments in another reporting period to reduce penalties. (BDR 32-408)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; limiting the circumstances in which the Department of Taxation may apply overpayments of taxes to underpayments in another reporting period to reduce penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires certain persons to file a tax return or report with the
2 Department of Taxation. The Department is authorized to calculate the amount of
3 taxes owed and assess a penalty for any deficiency. (NRS 360.300) Under existing
4 law, if a taxpayer overpays his taxes for one reporting period and underpays his
5 taxes for another reporting period, the Department must apply the overpayment
6 against taxes owed for the other reporting period and assess a penalty based on the
7 amount of the shortage after applying the overpayment. If taxpayer files a report
8 indicating that taxes are due but then does not pay the taxes in a timely manner, the
9 taxpayer is not entitled to the offset and the Department may assess a penalty
10 against him without regard to the overpayment. (NRS 360.320)

11 This bill establishes additional acts that disqualify a taxpayer from having an
12 overpayment offset a shortage of taxes in another reporting period. These acts
13 include: (1) failing to file a report or return; (2) filing a report or return late; or (3)
14 filing a report or return that erroneously indicates that no taxes are due.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 360.320 is hereby amended to read as follows:
2 360.320 1. Except as otherwise provided in this title, in
3 making a determination of the amount required to be paid, the
4 Department shall offset overpayments for a reporting period of an
5 audit period against underpayments for any other reporting period
6 within the audit period.

7 2. If it is determined that there is a net deficiency, any penalty
8 imposed must be calculated based on the amount of the net
9 deficiency.

10 3. If it is determined that:

11 (a) There is a net deficiency for a reporting period after
12 offsetting any overpayment from any previous reporting period, any
13 interest imposed on the net deficiency must be calculated before
14 determining whether there is an overpayment or net deficiency for
15 the next reporting period within the audit period.

16 (b) There is a net overpayment for a reporting period after
17 offsetting any net deficiency from any previous reporting period,
18 any interest to which the taxpayer is entitled must be calculated
19 before determining whether there is an overpayment or net
20 deficiency for the next reporting period within the audit period.

21 4. The provisions of this section do not apply if , *in any*
22 *reporting period within the audit period*, the taxpayer has
23 ~~submitted~~ :

24 (a) *Failed to file a report or return that he is required to file;*

25 (b) *Filed such a report or return later than the date it is due;*

26 (c) *Filed such a report or return that erroneously shows no*
27 *taxes due; or*

28 (d) *Filed such* a report *or return* that shows taxes due and has
29 not remitted the taxes due in a timely manner.

30 5. As used in this section, "reporting period" includes, without
31 limitation, a calendar month, a calendar quarter, a calendar year and
32 any other period for reporting.

33 **Sec. 2.** This act becomes effective on July 1, 2005.

