

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 538

Short Title: Result from DOR Inaction on Review Requests. (Public)

Sponsors: Senators Clodfelter and Tucker (Primary Sponsors).

Referred to: Finance.

April 1, 2013

A BILL TO BE ENTITLED

AN ACT TO GRANT A TAXPAYER'S REQUEST FOR A REFUND OR TO REMOVE A PROPOSED ASSESSMENT BY OPERATION OF LAW IF THE DEPARTMENT OF REVENUE HAS NOT ISSUED A FINAL DETERMINATION WITHIN THE STATUTORY TIME FRAME.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-241.14 reads as rewritten:

"§ 105-241.14. Final determination after Departmental review.

(a) Refund. – If a taxpayer files a timely request for a Departmental review of a proposed denial of a refund and the Department and the taxpayer are unable to resolve the taxpayer's objection to the proposed denial, the Department must send the taxpayer a notice of final determination concerning the refund. The notice of final determination must state the basis for the determination and inform the taxpayer of the procedure for contesting the determination. The statement of the basis for the determination does not limit the Department from changing the basis.

(b) Assessment. – If a taxpayer files a timely request for a Departmental review of a proposed assessment and the Department and the taxpayer are unable to resolve the taxpayer's objection to the proposed assessment, the Department must send the taxpayer a notice of final determination concerning the assessment. A notice of final determination concerning an assessment must contain the following information:

- (1) The basis for the determination. This information may be stated on the notice or be set out in a separate document. The statement of the basis for the determination does not limit the Department from changing the basis.
- (2) The amount of tax, interest, and penalties payable by the taxpayer.
- (3) The procedure the taxpayer must follow to contest the final determination.
- (4) A statement that the amount payable stated on the notice is collectible by the Department unless the taxpayer contests the final determination.
- (5) An explanation of the collection options available to the Department if the taxpayer does not pay the amount shown due on the notice and any remedies available to the taxpayer concerning these collection options.

(c) Time Limit. – The process set out in G.S. 105-241.13 for reviewing and attempting to resolve a proposed denial of a refund or a proposed assessment must conclude, and a final determination must be issued within nine months after the date the taxpayer files a request for review. The Department and the taxpayer may extend this time limit by mutual agreement.



1 ~~Failure to issue a notice of final determination within the required time does not affect the~~
2 ~~validity of a proposed denial of a refund or proposed assessment.~~

3 (d) Consequences of Inaction. – Failure to issue a notice of final determination within
4 the time limit set in subsection (c) of this section is considered a grant of a requested refund or
5 the removal of a proposed assessment by operation of law, unless one or more of the
6 circumstances listed in this subsection applies. When a refund is granted by operation of law,
7 the Department must send the taxpayer the refund. When an assessment is removed by
8 operation of law, the Department must notify the taxpayer that the assessment is removed. The
9 circumstances that negate this result are:

10 (1) The Department and the taxpayer extended the time limit set in subsection
11 (c) of this section by mutual agreement and that time has not expired.

12 (2) The Department made a written request to the taxpayer for additional
13 information and the taxpayer has not responded to the request.

14 (3) The Department received information from the taxpayer pursuant to a
15 written request for additional information and the time set in this subdivision
16 for further action has not expired. Within 30 days after receiving information
17 from a taxpayer, the Department must review the information and make
18 another request, if the information provided was insufficient, or issue a final
19 determination."

20 **SECTION 2.** This act is effective when it becomes law and applies to requests for
21 review filed on or after that date or pending on that date.