

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SENATE BILL 97
RATIFIED BILL**

AN ACT TO CLARIFY WHEN THE DEPARTMENT OF REVENUE IS REQUIRED TO INITIATE A REFUND OF AN OVERPAYMENT OF TAX AND TO AUTHORIZE THE ISSUANCE OF REFUNDS OF OVERPAYMENTS THAT HAVE BEEN IDENTIFIED BY THE DEPARTMENT CONSISTENT WITH THIS CLARIFICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-241.7(a) reads as rewritten:

"§ 105-241.7. Procedure for obtaining a refund.

(a) Initiated by Department. – The Department must refund an overpayment made by a taxpayer ~~when if the Department processes a return and finds all of the following:~~ discovers the overpayment before the expiration of the statute of limitations for obtaining a refund. Discovery occurs in any of the following circumstances:

- (1) ~~The statute of limitations for obtaining a refund has not expired.~~ The automated processing of a return indicates the return requires further review.
- (2) ~~The amount shown due on the return is not correct.~~ A review of a return by an employee of the Department indicates an overpayment.
- (3) ~~The correction of the amount due shows that the taxpayer has overpaid the tax.~~ An audit of a taxpayer by an employee of the Department indicates an overpayment."

SECTION 2.(a) The General Assembly makes the following findings concerning the application of the statute of limitations to a refund initiated by the Department of Revenue:

- (1) The statute of limitations is satisfied when the Department is on notice that a refund may be due.
- (2) The Department is on notice that a refund may be due when the Department's automated processing of a return indicates that the return requires further review, regardless of when an employee of the Department verifies whether a refund is in fact due.
- (3) Former G.S. 105-266 and G.S. 105-241.7 are consistent with the findings in this section and require the Department to refund an overpayment of tax if, before the statute of limitations expires, the Department discovers through its automated processing that a return requires further review.

SECTION 2.(b) The Department of Revenue is directed to issue refunds the Department discovered within the statute of limitations as applied in accordance with subsection (a) of this section.



SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of March,

2011.

Walter H. Dalton
President of the Senate

Thom Tillis
Speaker of the House of Representatives

Beverly E. Perdue
Governor

Approved _____m. this _____ day of _____, 2011