

No. 1986-193

AN ACT

SB 1486

Amending the act of May 21, 1943 (P.L.349, No.162), entitled, as amended, "An act requiring political subdivisions to refund certain taxes, license fees, penalties, fines or moneys paid thereto, and providing procedure for obtaining such refunds," requiring interest to be paid on certain overpayments of tax.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 1 and 2 of the act of May 21, 1943 (P.L.349, No.162), entitled, as amended, "An act requiring political subdivisions to refund certain taxes, license fees, penalties, fines or moneys paid thereto, and providing procedure for obtaining such refunds," amended June 21, 1957 (P.L.381, No.204), are amended to read:

Section 1. (a) Whenever any person or corporation of this Commonwealth has paid or caused to be paid, or hereafter pays or causes to be paid, into the treasury of any political subdivision, directly or indirectly, voluntarily or under protest, any taxes of any sort, license fees, penalties, fines or any other moneys to which the political subdivision is not legally entitled; then, in such cases, the proper authorities of the political subdivision, upon the filing with them of a written and verified claim for the refund of the payment, are hereby directed to make, out of budget appropriations of public funds, refund of such taxes, license fees, penalties, fines or other moneys to which the political subdivision is not legally entitled. Refunds of said moneys shall not be made, unless a written claim therefor is filed, with the political subdivision involved, within [two] *three* years of payment thereof.

(b) The right to a refund afforded by this act may not be resorted to in any case in which the taxpayer involved had or has available under any other statute, ordinance or resolution, a specific remedy by way of review, appeal, refund or otherwise, for recovery of moneys paid as aforesaid, unless the claim for refund is for the recovery of moneys paid under a provision of a statute, ordinance or resolution subsequently held, by final judgment of a court of competent jurisdiction, to be unconstitutional, or under an interpretation of such provision subsequently held by such court, to be erroneous.

(c) (1) *Any taxpayer who has paid any tax money to which the political subdivision is not legally entitled shall receive interest on such sum of money. The political subdivision shall pay interest on such sums at the same rate and in the same manner as the Commonwealth is required to pay pursuant to section 806.1 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."*

(2) *For purposes of this subsection, the term "political subdivision" means a county, city, borough, incorporated town, township, home rule*

municipality, school district, vocational school district and county institution district.

Section 2. In the event of refusal or failure on the part of authorities of the political subdivision involved to make any such refund of taxes, license fees, penalties, fines or other moneys to which the political subdivision is not legally entitled, *or refusal or failure to pay interest as required by section 1*, then the aggrieved person or corporation shall have the right to bring suit for and recover any such taxes, *interest*, license fees, penalties, fines or other moneys to which the political subdivision is not legally entitled, subject to the limitation herein provided, by instituting an action in assumpsit in the court of common pleas of the county wherein such political subdivision is located.

Section 2. The provisions of this amendatory act are to be construed prospectively and shall apply to all payments made to political subdivisions on or after July 1, 1987.

Section 3. This act shall take effect July 1, 1987.

APPROVED—The 17th day of December, A. D. 1986.

DICK THORNBURGH