

June 13, 2002

S 1409. MAKE TAX REFUND RULES UNIFORM. TO MAKE TAX REFUND PROCEDURES EASIER BY PROVIDING THAT REFUND CLAIMS BASED ON CONSTITUTIONAL ISSUES FOLLOW THE SAME PROCEDURE AS OTHER REFUND CLAIMS, AND BY ALLOWING TAXPAYERS TO FILE PROTECTIVE REFUND CLAIMS. Amends GS 105-266.1 to provide that the procedure for refunds based on a claim that a tax is unconstitutional also apply to those based on claims that the tax is excessive or incorrect. Directs the Sec'y of Revenue to deny any claim based solely on constitutional grounds without a hearing. If the Sec'y determines that the entire amount of the claim may not be due and that the matter raises questions other than whether the tax is constitutional, the Sec'y must grant a hearing. Provides that such a hearing shall be held within 60 days of the Sec'y's initial determination. Adds a new GS 105-266(c1) to provide for a protective refund claim in situations where a taxpayer's right to a refund is contingent on future events and may not be determinable until after the statute of limitations expires. Requires the claim to identify the contingencies affecting the claim, the date by which they are likely to be resolved, the nature of the refund, and the tax years for which a potential refund is claimed. If the Sec'y determines that such a claim does not satisfy these requirements, the Sec'y must notify the taxpayer and provide an opportunity to amend the claim. Allows the taxpayer to request a hearing on the claim if it is no longer contingent on future events. Authorizes the Sec'y to schedule a hearing at any time after the date stated in the claim for resolution unless the taxpayer has already requested such a hearing. Makes numerous conforming changes to GS 105-267, 105-266.1, 105-266, 105-113.113(a), 105-239.1(c), and 105-214.4. Effective Jan. 1, 2003, and applies to taxes paid on or after that date.

Intro. by Kerr.

Ref. to Finance	GS 105
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