

House Bill 389

By: Representative Knight of the 126<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 48-2-35 of the Official Code of Georgia Annotated, relating to  
2 taxpayer refunds, so as to change certain provisions regarding interest; to repeal conflicting  
3 laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 **SECTION 1.**

6 Code Section 48-2-35 of the Official Code of Georgia Annotated, relating to taxpayer  
7 refunds, is amended by revising subsection (b) as follows:

8 "(b)(1) No interest shall be paid if the taxes or fees were erroneously or illegally assessed  
9 and collected due to the taxpayer failing to claim any credits listed in Article 2 of Chapter  
10 7 of this title on or before the due date for filing the applicable income tax return,  
11 including any extensions which have been granted.

12 (2) Except as provided in paragraph (3) of this subsection, interest on sales or use tax  
13 claims for refund or credit shall be refunded at the rate of 1 percent per month from the  
14 date that a complete claim is filed. A sales or use tax claim for refund or credit is  
15 complete when it contains:

16 (A) The taxpayer's name, address, sales tax account number, and signature;

17 (B) The amount claimed;

18 (C) The periods involved;

19 (D) The specific grounds upon which the claim is based; and

20 (E) Sufficient books and records, invoices, purchase orders, or other similar  
21 documentation to permit the department to verify the amount that should appropriately  
22 be refunded or credited to the claimant. Documents such as, but not limited to,  
23 spreadsheets that summarize a taxpayer's books and records, sales, expenses, or  
24 purchases are not sufficient for purposes of considering a sales or use tax claim for  
25 refund or credit to be complete.

26 (3) The department shall notify the claimant of the department's determination whether  
27 a sales or use tax claim for refund is complete by the 90th day after the filing date of such  
28 claim.

29 (A) If the department determines that a claim is not complete, the department's  
30 notification shall list the missing information and/or documentation and the claimant  
31 shall be allowed 30 days from the transmittal date of the department's notification to  
32 make the claim complete. If the claimant does not make the claim complete by the 30th  
33 day, the statute of limitations contained in paragraph (1) of subsection (c) of this Code  
34 section, which was tolled by the initial filing of the claim, shall continue to run  
35 beginning on the thirty-first day after the department's determination.

36 (B) If the department fails to make a determination within the 90-day period, the  
37 statute of limitations contained in paragraph (1) of subsection (c) of this Code section  
38 shall remain tolled as of the filing date of the claim, and interest shall accrue on any  
39 amount that is ultimately refunded to the claimant at the rate of 1 percent per month  
40 beginning on the filing date of the claim."

41 **SECTION 2.**

42 All laws and parts of laws in conflict with this Act are repealed.