

LEGISLATIVE BILL 245

Approved by the Governor April 2, 1977

Introduced by Burrows, 30

AN ACT to amend sections 77-1734.01 and 77-1735, Reissue Revised Statutes of Nebraska, 1943, relating to collection of taxes; to provide a two-year statute of limitations on claims for refunds; to allow a refund or credit in certain cases; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 77-1734.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1734.01. (1) In case of payment made of any taxes as a result of a clerical error on the part of taxing officials of the state, county, or other political subdivision of the state, or any taxpayer, the county treasurer is authorized to refund that portion of the tax paid as a result of the clerical error upon verification by the county assessor or other taxing official; that such error has been made and upon approval by the county board. The tax refunded shall be charged against any undistributed money on hand in such treasurer's office belonging to the political subdivisions which received the benefit from the first payment. A claim for a refund under the provisions of this section shall be made in writing to the county treasurer within nine--months two years after payment of such tax.

(2) The county treasurer is authorized to refund or credit to the taxpayer that tax or portion of tax which such taxpayer shall have paid as a result of misunderstanding or honest mistake. Such taxpayer may make written claim for a refund of or credit for such tax within two years after payment has been made, and shall submit such claim to the county treasurer of the county in which the tax was mistakenly paid.

Sec. 2. That section 77-1735, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1735. If a person, who claims a tax, or any part thereof, to be invalid for any reason, shall have paid the same to the treasurer, or other proper authority, in all respects as though the same was legal and valid, he may, at any time within thirty--days two

years after such payment, demand the same in writing from the county treasurer to whom paid. If the same shall not be refunded within ninety days thereafter, he may sue such county treasurer for the amount so demanded. Upon the trial, if it shall be determined that such tax, or any part thereof, was for any reason invalid, judgment shall be rendered therefor with interest and such judgment shall be collected as in other cases; Provided, that if the tax, so claimed to be invalid, was collected for two or more public corporations or subdivisions of the state as a consolidated tax, by a single tax collecting officer, ~~in-that-event~~ if suit be brought to recover the tax paid, or a part thereof, the plaintiff in such action may join as defendants in a single suit as many of the public corporations, or subdivisions, as he seeks recovery from by stating in his petition his claim against each as a separate cause of action.

Sec. 3. That original sections 77-1734.01 and 77-1735, Reissue Revised Statutes of Nebraska, 1943, are repealed.