

5/11/01

SUPREME COURT OF LOUISIANA

No. 00-C-1227

SHOWBOAT STAR PARTNERSHIP,
SHOWBOAT OF LOUISIANA, INC., AND
LAKE PONTCHARTRAIN SHOWBOAT, INC.

Versus

RALPH SLAUGHTER, SECRETARY OF DEPARTMENT
OF REVENUE AND TAXATION, STATE OF LOUISIANA

LEMMON, J., Dissenting in Part from the Denial of Rehearing

On original hearing, we completely denied plaintiffs recovery of interest on the basis that plaintiffs suffered no detriment because payment of non-punitive interest on money retained by the taxpayer is payment for use of the money.

Interest imposed under La. Rev. Stat. 47:1601 at the rate of one-and-one half percent per month is punitive interest. Therefore, plaintiffs were harmed by their reliance on the Department's advice to the extent of having to pay interest in excess of the rate at which plaintiffs could have borrowed money to pay the taxes when due. Accordingly, plaintiffs should be allowed to recover that part of the interest paid under protest in excess of the prevailing rate of interest at that time.