

Stricken language would be deleted from and underlined language would be added to the law as it existed  
prior to this session of the General Assembly.  
Act 238 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

# A Bill

SENATE BILL 324

4  
5 By: Senator Capps  
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## For An Act To Be Entitled

9 AN ACT TO EXTEND THE STATUTE OF LIMITATIONS FOR A  
10 VETERAN TO FILE A CLAIM FOR REFUND OF AN  
11 OVERPAYMENT OF INCOME TAX THAT RESULTS FROM A  
12 RETROACTIVE DETERMINATION BY THE SECRETARY OF  
13 VETERANS AFFAIRS THAT THE VETERAN IS ENTITLED TO  
14 COMPENSATION FOR A SERVICE-CONNECTED DISABILITY;  
15 AND FOR OTHER PURPOSES.  
16  
17

## Subtitle

18  
19 TO EXTEND THE TIME FOR A VETERAN TO FILE  
20 A CLAIM FOR REFUND OF INCOME TAX PAID  
21 DURING THE PERIOD WHEN A DISABILITY  
22 CLAIM IS PENDING BUT NOT DETERMINED.  
23  
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

27 SECTION 1: Arkansas Code § 26-18-306 is amended to add an additional  
28 subsection to read as follows:

29 (1)(1) The limitation periods in subsection (i) of this section to  
30 file a claim for credit or refund of an overpayment of state tax do not apply  
31 to a taxpayer who is a veteran if the:

32 (A) Overpayment of state tax claimed resulted from the:

33 (i) Reduction of uniformed service retired pay  
34 computed under 10 U.S.C. § 1046 or 1047, as in effect on January 1, 2009; or

35 (ii) Waiver of retired pay under 38 U.S.C. § 5305,



1 as in effect on January 1, 2009; and

2 (B) Reduction of the uniformed service retired pay or  
 3 waiver of retired pay provided in subdivision (1)(1)(A) of this section is  
 4 the result of an award of compensation under a determination by the Secretary  
 5 of Veterans Affairs that part or all of the payments to the taxpayer are  
 6 payments made for a service-connected disability that are not included in  
 7 gross income under 26 U.S.C. § 104, as in effect on January 1, 2009.

8 (2) An amended return or verified claim for credit or refund of  
 9 an overpayment of state tax described in subdivision (1)(1) of this section  
 10 shall be filed by the taxpayer within one (1) year of the date of the  
 11 determination described in subdivision (1)(1)(B) of this section or the  
 12 effective date of this section, whichever occurs later.

13 (3) A credit or refund for an overpayment of state tax shall not  
 14 be allowed under this subsection for any tax year which began before January  
 15 1, 2001.

16  
 17 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
 18 General Assembly of the State of Arkansas that federal law currently extends  
 19 the statute of limitations to request a federal income tax refund to allow an  
 20 individual who receives military retirement benefits that are subject to  
 21 federal income tax and is later determined to be eligible for service-  
 22 connected disability benefits that are not subject to federal income tax to  
 23 claim a refund of the tax paid on the benefits that are retroactively  
 24 determined to be excluded from income. There is no comparable extension of  
 25 the statute of limitations in state law, and a veteran is unable to receive a  
 26 state income tax refund on the same benefits for which the veteran is able to  
 27 receive a federal income tax refund. Therefore, an emergency is declared to  
 28 exist and this act being immediately necessary for the preservation of the  
 29 public peace, health, and safety shall become effective on:

30 (1) The date of its approval by the Governor;

31 (2) If the bill is neither approved nor vetoed by the Governor, the  
 32 expiration of the period of time during which the Governor may veto the bill;  
 33 or

34 (3) If the bill is vetoed by the Governor and the veto is overridden,  
 35 the date the last house overrides the veto.

36 **APPROVED: 2/25/2009**