

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

SENATE BILL 428

4
5 By: Senator E. Williams
6

For An Act To Be Entitled

8 AN ACT TO AMEND § 27-18-507 TO ALLOW THE DEPARTMENT
9 OF FINANCE AND ADMINISTRATION TO OFFSET ANY TAX
10 REFUND DUE FOR ANY TAX COLLECTED BY THE DEPARTMENT
11 AGAINST A DEBT FOR ANY TAX ADMINISTERED BY THE
12 DEPARTMENT, AND FOR OTHER PURPOSES.
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Subtitle

15 AN ACT TO ALLOW THE DEPARTMENT OF FINANCE
16 AND ADMINISTRATION TO OFFSET ANY TAX
17 REFUND DUE FOR ANY TAX COLLECTED BY THE
18 DEPARTMENT AGAINST A DEBT FOR ANY TAX
19 ADMINISTERED BY THE DEPARTMENT.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 26-18-507 is amended to read as follows:
26 26-18-507. Claims for refunds of overpayments.

27 (a)(1) Any taxpayer who has paid any state tax to the State of
28 Arkansas in excess of the state taxes lawfully due, subject to the
29 requirements of this chapter, shall be refunded the overpayment of the state
30 tax determined by the Director of the Department of Finance and
31 Administration to be erroneously paid upon the filing of an amended return or
32 a verified claim for refund, subject to subsection (e) of this section.

33 (2) This subsection does not include an action based on Arkansas
34 Constitution, Article 16, § 13.

35 (b) The claim shall specify:

36 (1) The name of the taxpayer;



1 (2) The time when and the period for which the state tax was
2 paid;

3 (3) The nature and kind of state tax paid;

4 (4) The amount of the state tax ~~which~~ that the taxpayer claimed
5 was erroneously paid;

6 (5) The grounds upon which a refund is claimed; and

7 (6) Any other information relative to the payment as may be
8 prescribed by the director.

9 (c) The director shall determine what amount of refund, if any, is due
10 as soon as practicable after a claim has been filed, but in no event shall
11 the taxpayer be entitled to file a suit for refund under § 26-18-406, until
12 at least six (6) months have elapsed from the date of the filing of the claim
13 for refund, or the director has issued a notice of denial of a claim for
14 refund.

15 (d) Notwithstanding any provisions of the law to the contrary, a
16 taxpayer who acts only as an agent of the state in the collection of any
17 state tax shall be entitled to claim a credit or refund of ~~such~~ the state tax
18 only if the taxpayer establishes that he or she has:

19 (1) Borne the state tax in question;

20 (2) Repaid the amount of the state tax to the person from whom
21 he or she collected it; or

22 (3) Obtained the consent of the person to the allowance of the
23 credit or refund.

24 (e)(1)(A) The director shall make a written determination and give
25 notice to the taxpayer concerning whether or not a refund is due.

26 (B)(i) If a refund is due, the director shall certify that
27 the claim is to be paid to the taxpayer as provided by law or credited
28 against state taxes due or to become due.

29 (ii)(a) If the director determines that the taxpayer
30 entitled to the refund has an outstanding state tax delinquency for which a
31 certificate of indebtedness has been filed, the director shall apply the
32 refund due as payment against the outstanding state tax delinquency. If the
33 amount of the state tax refund exceeds the amount of the outstanding state
34 tax delinquency, the excess amount shall be paid to the taxpayer in
35 accordance with subdivision (e)(1)(B)(i) of this section.

36 (b) The director shall notify each taxpayer in

1 writing whose refund results from the filing of a joint return that the joint
2 refund will be applied against the outstanding state tax delinquency.

3 (c) A taxpayer who claims that only the
4 taxpayer's spouse owes the delinquent state tax debt may seek administrative
5 relief by filing a written protest under oath within thirty (30) days after
6 the notice under subdivision (e)(1)(B)(ii)(b) is received that includes
7 information regarding why the taxpayer does not owe the delinquent state tax
8 debt and either requests a hearing in person or based upon the information
9 submitted with the protest.

10 (d) A hearing on a written protest made under
11 this subdivision (e)(1)(B)(ii) and any judicial relief requested following
12 the administrative hearing process shall be provided in accordance with the
13 applicable provisions of §§ 26-18-405 and 26-18-406.

14 (2)(A) If the director's determination is to disallow the claim
15 for refund, in whole or in part, then the director shall ~~forthwith~~
16 immediately issue a written decision giving notice to the taxpayer of the
17 denial of the claim for refund.

18 (B) The taxpayer may seek administrative review and relief
19 from the director's decision to deny a claim for refund by protesting as
20 provided in §§ 26-18-404 and 26-18-405.

21 (3) The taxpayer may seek judicial relief under the provisions
22 of § 26-18-406 from:

23 (A) A notice of a denial of a claim for refund issued by
24 the director; or

25 (B) The director's failure to issue a written decision
26 after the claim for refund has been filed for six (6) months.

27 (f)(1) This section shall not apply to state taxes paid as a result of
28 an audit or proposed assessment.

29 (2) ~~Taxes~~ State taxes paid as a result of an audit or proposed
30 assessment may not be recovered unless § 26-18-406 applies.

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32 SECTION 2. This act is effective on or after January 1, 2012.

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35 APPROVED: 03/30/2011