

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Mahony

A Bill

SENATE BILL 330

For An Act To Be Entitled

"AN ACT TO AMEND THE ARKANSAS TAX PROCEDURE ACT, ARKANSAS
CODE 26-18-101, ET SEQ., TO CLARIFY THAT THE TAX REFUND
PROVISIONS DO NOT APPLY TO CONSTITUTIONAL CLAIMS; TO
PROVIDE A THREE-YEAR LIMITATIONS PERIOD FOR ILLEGAL
EXACTION CLAIMS; TO ADOPT THE VOLUNTARY PAYMENT RULE FOR
REFUNDS OF UNCONSTITUTIONAL TAXES; AND FOR OTHER
PURPOSES."

Subtitle

"EXCLUDES CONSTITUTIONAL TAX CLAIMS FROM
THE REFUND PROVISIONS; PROVIDES THREE
YEAR PERIOD FOR ILLEGAL EXACTION CLAIMS;
ADOPTS VOLUNTARY PAYMENT RULE FOR
CONSTITUTIONAL CLAIMS."

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

SECTION 1. Arkansas Code 26-18-507 is amended to add a new subsection
to read as follows:

*"(f) This section shall not apply to claims for refund founded on
challenges to the constitutionality of state tax statutes under provisions of
the Arkansas or United States Constitutions. A taxpayer's sole recourse for
such constitutional challenges to state tax statutes shall be pursuant to
Arkansas Constitution, Article 16, Section 13 to which the Arkansas Rules of
Civil Procedure shall apply. Claims for refund based on an illegal
application or administration of a state tax law shall be made pursuant to
this section.*

1 SECTION 2. Arkansas Code 26-18-306 is amended to add a new subsection
2 to read as follows:

3 *"(k) No action pursuant to Article 16, Section 13 of the Arkansas*
4 *Constitution shall be brought against the State of Arkansas for refund of*
5 *state taxes more than three (3) years after such taxes were paid."*

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7 SECTION 3. Arkansas Code Title 26, Chapter 18, Subchapter 5 is amended
8 to add a new section to read as follows:

9 *"26-18-509. No refund of voluntarily paid state tax shall be allowed*
10 *for claims made pursuant to Article 16, Section 13 of the Arkansas*
11 *Constitution if such tax was paid prior to the date on which suit was filed.*
12 *This section shall not apply to the following taxes:*

13 *(a) taxes which are not collected and administered by the Director of*
14 *the Department of Finance and Administration;*

15 *(b) municipal or county sales and use taxes which are collected by the*
16 *Director of the Department of Finance and Administration but distributed to*
17 *the municipality or county; and*

18 *(c) state taxes which are collected by the Director of the Department*
19 *of Finance and Administration and held in a special account separate and*
20 *apart from General Revenues."*

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22 SECTION 4. *The provisions of this act affect substantive rights of*
23 *taxpayers and shall not apply to any claim for refund of a state tax which a*
24 *taxpayer may possess prior to the effective date of this act.*

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26 SECTION 5. All provisions of this act of a general and permanent
27 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
28 Code Revision Commission shall incorporate the same in the Code.

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30 SECTION 6. If any provision of this act or the application thereof to
31 any person or circumstance is held invalid, such invalidity shall not affect
32 other provisions or applications of the act which can be given effect without
33 the invalid provision or application, and to this end the provisions of this
34 act are declared to be severable.

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1 SECTION 7. All laws and parts of laws in conflict with this act are
2 hereby repealed.

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/s/Mahony

As Engrossed: 1/31/95 2/9/95 2/21/95

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