

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

# A Bill

SENATE BILL 780

## 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 or its political  
5 subdivisions for refund of state or local taxes more than three (3) years  
6 after such taxes were paid."

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

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

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

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

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20          SECTION 4. A taxpayer may file notice of an involuntary payment by  
21 attaching to the instrument of payment a notarized statement declaring the  
22 tax to be paid involuntarily and containing the specific provision of the  
23 Constitution being contested. If an action is not brought pursuant to  
24 Article 16, § 13 of the Arkansas constitution within three (3) years the  
25 involuntary payment shall be considered voluntary.

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27          SECTION 5. The provisions of this act affect substantive rights of  
28 taxpayers and shall not apply to any claim for refund of a state tax which a  
29 taxpayer may possess prior to the effective date of this act.

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31          SECTION 6. All provisions of this act of a general and permanent  
32 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
33 Code Revision Commission shall incorporate the same in the Code.

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35          SECTION 7. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect  
2 other provisions or applications of the act which can be given effect without  
3 the invalid provision or application, and to this end the provisions of this  
4 act are declared to be severable.

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6 SECTION 8. All laws and parts of laws in conflict with this act are  
7 hereby repealed.

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/s/Mahony

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