

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.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

A Bill

SENATE BILL 946

4
5 By: Senator Trusty
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS TAX PROCEDURE ACT;
10 TO ALLOW TAXPAYERS TO FILE AMENDED RETURNS AND
11 CLAIMS FOR REFUNDS FOR AS LONG AS THE STATUTE OF
12 LIMITATIONS FOR ASSESSMENT IS OPEN TO THE
13 DIRECTOR OF THE DEPARTMENT OF FINANCE AND
14 ADMINISTRATION; TO CLARIFY THAT TAXPAYERS MAY
15 SEEK JUDICIAL RELIEF UPON A FINDING OF A CREDIT
16 OWING; AND FOR OTHER PURPOSES.

Subtitle

17
18
19 TO AMEND THE TAX PROCEDURE ACT TO ALLOW
20 TAXPAYERS TO FILE AMENDED RETURNS AND
21 REFUNDS UNTIL THE STATUTE OF LIMITATIONS
22 EXPIRES FOR THE DIRECTOR AND TO CLARIFY
23 THAT TAXPAYERS MAY SEEK JUDICIAL RELIEF
24 UPON A FINDING OF A CREDIT OWING.
25
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Arkansas Code § 26-18-306(i), concerning the filing of an
30 amended return, is amended to read as follows:

31 (i)(1)(A) An amended return or verified claim for credit or refund of
32 an overpayment of any state tax shall be filed by the taxpayer within three
33 (3) years from the time the return was filed or two (2) years from the time
34 the tax was paid, whichever of the periods expires the later, or as long as
35 the statute of limitations for an assessment under subsection (a) of this
36 section is still open to the director.



1 (B) The provisions of subdivision (i)(1)(A) of this
 2 section shall not apply to a tax paid as a result of an audit or proposed
 3 assessment.

4 (2) Any taxpayer who fails to file a return, underreports his or
 5 her income by twenty-five percent (25%) or more, or fails to notify the
 6 director of any change or correction by the Internal Revenue Service in the
 7 taxpayer's taxable income, shall not be entitled to file an amended return or
 8 verified claim for credit or refund after the expiration of three (3) years
 9 from the date the original return or notification of change was originally
 10 due.

11 (3) Notwithstanding the limitation in subdivision (i)(2) of this
 12 section, any act or omission which tolls the time in which an assessment may
 13 be made under subsection (a) of this section, shall also toll the time in
 14 which an amended return or verified claim for a credit or refund of an
 15 overpayment of a state tax may be filed under this subsection (i).

16
 17 SECTION 2. Arkansas Code § 26-18-401, concerning assessment of tax, is
 18 amended to add a new subsection as follows:

19 (c) If a proposed assessment under § 26-18-401 or an examination to
 20 determine the accuracy of a return of a taxpayer results in a credit owing
 21 the taxpayer, then the director shall issue a final determination setting out
 22 the credit amount and notifying the taxpayer of the taxpayer's right to
 23 appeal for judicial relief under § 26-18-406.

24
 25 SECTION 3. Arkansas Code § 26-18-405(d)(4), concerning decisions on
 26 proposed assessments, is amended to add the following subdivision:

27 (E) If a proposed assessment or an examination to
 28 determine the accuracy of a return of a taxpayer is amended pursuant to an
 29 administrative hearing prescribed by this section and the result is a credit
 30 owing the taxpayer, then the director shall issue a final determination
 31 setting out the credit amount and notifying the taxpayer of the taxpayer's
 32 right to appeal for judicial relief under § 26-18-406.

33
 34 SECTION 4. The language and intent of this act is a clarification of
 35 existing law and does not imply that existing law may be construed as being
 36 inconsistent with the law as amended by this act.