

State of Arkansas
87th General Assembly
Regular Session, 2009

A Bill

SENATE BILL 324

By: Senator Capps

For An Act To Be Entitled

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

Subtitle

TO EXTEND THE TIME FOR A VETERAN TO FILE
A CLAIM FOR REFUND OF INCOME TAX PAID
DURING THE PERIOD WHEN A DISABILITY
CLAIM IS PENDING BUT NOT DETERMINED.

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

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

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

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

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

(ii) Waiver of retired pay under 38 U.S.C. § 5305, as in effect on January 1, 2009; and



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

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

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

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

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

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

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