

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4
5 By: Representative Jett

A Bill

HOUSE BILL 1681

For An Act To Be Entitled

8 AN ACT TO AMEND THE ARKANSAS TAX PROCEDURE ACT; TO
9 AMEND THE DEFINITIONS UNDER THE ARKANSAS TAX
10 PROCEDURE ACT; TO PROVIDE THAT ERRONEOUSLY PAID
11 REFUNDS ARE CONSIDERED UNDERPAYMENTS OF TAX AND
12 SUBJECT TO ASSESSMENT; TO CREATE STATUTES OF
13 LIMITATION SPECIFIC TO ASSESSMENTS FOR ERRONEOUSLY
14 PAID REFUNDS; TO PROVIDE A FORMAL MECHANISM TO ISSUE
15 ASSESSMENTS FOR ERRONEOUSLY PAID REFUNDS; TO PROVIDE
16 THAT TAX LIENS MAY BE FILED AND EXECUTIONS ISSUED TO
17 RECOVER ERRONEOUSLY PAID REFUNDS; AND FOR OTHER
18 PURPOSES.

Subtitle

22 TO AMEND THE DEFINITIONS UNDER THE
23 ARKANSAS TAX PROCEDURE ACT; AND TO
24 PROVIDE THAT ERRONEOUSLY PAID REFUNDS ARE
25 CONSIDERED UNDERPAYMENTS OF TAX AND ARE
26 SUBJECT TO ASSESSMENT.

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

31 SECTION 1. Arkansas Code § 26-18-104(15), concerning the definitions
32 to be used under the Arkansas Tax Procedure Act, is amended to read as
33 follows:

34 (15) "Tax deficiency" or "deficiency" means ~~the~~ the:

35 (A) The amount by which the tax imposed by any state tax
36 exceeds the excess of the sum of:



1 ~~(A)~~ (i) The amount shown as the tax by the taxpayer
 2 on his or her return if a return was made by the taxpayer; plus

3 ~~(B)~~ (ii) The amounts previously assessed or
 4 collected without assessment as a deficiency; and

5 (B) An erroneously paid refund;
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7 SECTION 2. Arkansas Code § 26-18-104, concerning the definitions to be
 8 used under the Arkansas Tax Procedure Act, is amended to add an additional
 9 subdivision to read as follows:

10 (19) "Erroneously paid refund" means a refund of tax received by
 11 a taxpayer that was not entitled to receive the refund.
 12

13 SECTION 3. Arkansas Code § 26-18-306, concerning the time limitations
 14 for assessments, collection, refunds, and prosecution under the Arkansas Tax
 15 Procedure Act, is amended to add an additional subsection to read as follows:

16 (n)(1) Except as provided in subdivision (n)(2) of this section, an
 17 assessment to recover an erroneously paid refund shall not be made after the
 18 expiration of three (3) years from the date of the refund warrant.

19 (2) However, an assessment may be made at any time to recover an
 20 erroneously paid refund that was paid as a result of fraud or
 21 misrepresentation by the taxpayer.
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23 SECTION 4. Arkansas Code § 26-18-403, concerning proposed assessments
 24 under the Arkansas Tax Procedure Act, is amended to add an additional
 25 subsection to read as follows:

26 (c)(1) An erroneously paid refund is a tax deficiency and is subject
 27 to assessment under this section.

28 (2)(A) When an erroneously paid refund is issued to a taxpayer,
 29 the director shall issue a notice of proposed assessment for the amount of
 30 the erroneously paid refund, plus interest and any penalty authorized under
 31 this chapter.

32 (B) The notice of proposed assessment to recover an
 33 erroneously paid refund shall explain the basis for the proposed assessment
 34 and shall inform the taxpayer that a final assessment under § 26-18-401 shall
 35 be made if the taxpayer fails to protest the assessment under § 26-18-404.

36 (3) Sections 26-18-404, 26-18-405, 26-18-406, and 26-18-701

1 apply to assessments of erroneously paid refunds.

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