



2015-2016 General Assembly

HOUSE BILL 533: Modify Present Use Value Exceptions to Disqualification, Sec. 2: Administrative Review of Statute of Limitations Determinations by Department of Revenue

Committee:
Introduced by:
Analysis of: Sec. 2 of S.L. 2016-76

Date: September 12, 2016
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OVERVIEW: *Sec. 2 of S.L. 2016-76 allows a taxpayer to contest before the Office of Administrative Hearings the determination by the Department of Revenue that the taxpayer's amended return or claim for refund were filed outside the statute of limitations.*

Sec. 2 of this act became effective June 30, 2016, and the act allows a taxpayer to appeal a past denial of an amended return or claim for refund due to the statute of limitations if the taxpayer appeals the denial within 60 days of June 30, 2016.

CURRENT LAW: Generally, a taxpayer may request a refund of any overpayment from the Department of Revenue ("Department") within 3 years of the date the original return was due, including any approved extensions, or within 2 years after the tax was paid, whichever is later. If the Department determines the taxpayer's request is outside the statute of limitations, the Department will issue a notice of denial. Prior to the act, the taxpayer could only dispute the denial in superior court.

BILL ANALYSIS: Section 2 of S.L. 2016-76 allows a taxpayer whose claim for refund is denied because the claim is filed after the statute of limitations has passed to appeal the determination through the Office of Administrative Hearings. A final decision by the administrative law judge on the denial is subject to judicial review. If the taxpayer prevails, the case is remanded to the Department to consider the merits of the amended return or claim for refund.

Section 2 of S.L. 2016-76 also allows a taxpayer to appeal a past denial of a refund because the statute of limitations has passed if the taxpayer appeals the denial within 60 days of the enactment of this act.

EFFECTIVE DATE: Section 2 of S.L. 2016-76 became effective June 30, 2016.

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