

House Amendment 1036

Amendment Text

PAG LIN

1 1 Amend [House File 2](#) as follows:
1 2 #1. Page 1, line 6, by striking the figure "2003"
1 3 and inserting the following: "2004".
1 4 #2. Page 1, line 11, by striking the figure "2003"
1 5 and inserting the following: "2004".
1 6 #3. Page 1, line 14, by striking the figure "2001"
1 7 and inserting the following: "2002".
1 8 #4. Page 1, line 16, by striking the figure "2002"
1 9 and inserting the following: "2003".
1 10 #5. Page 1, line 29, by striking the figure "2003"
1 11 and inserting the following: "2004".
1 12 #6. Page 1, by inserting after line 29 the
1 13 following:
1 14 "Sec. ____ Section [422.73](#), Code 2001, is amended
1 15 by adding the following new subsection:
1 16 NEW SUBSECTION. 4. Notwithstanding subsection 2,
1 17 a claim for refund of individual income tax paid for
1 18 any tax year beginning on or after January 1, 1985,
1 19 and before January 1, 1989, is considered timely if
1 20 filed with the department on or before October 31,
1 21 2001, if the taxpayer's claim is the result of the
1 22 unconstitutional taxation of federal pension benefits
1 23 based upon the decision in Davis v. Michigan
1 24 Department of Treasury, 489 U.S. 803, 109 S. Ct. 1500
1 25 (1989).
1 26 A taxpayer entitled to a refund of tax paid under
1 27 this subsection shall receive an amount equal to one
1 28 hundred percent of the refund without interest. The
1 29 claim for refund must be filed separately from any
1 30 income tax return and a refund shall not be allowed as
1 31 a credit for income taxes owed. A claim must be filed
1 32 between the effective date of this Act and October 31,
1 33 2001. An extension for filing shall not be allowed
1 34 and claims disallowed on the basis of timeliness shall
1 35 not be allowed upon appeal to any other state agency
1 36 notwithstanding any other provision of law.
1 37 The claim for refund must be made on claim forms to
1 38 be made available by the department. In order for a
1 39 taxpayer to have a valid refund claim, the taxpayer
1 40 must supply legible copies of documents the director
1 41 deems necessary to show entitlement to the refund,
1 42 including but not limited to income tax forms and W-2P
1 43 forms, which will establish the state income tax that
1 44 was paid on the federal pension benefits for the tax
1 45 years in question. The burden of proof is on the
1 46 taxpayer to show that the claim for refund is valid.
1 47 Estates are not entitled to file a claim for refund
1 48 under this subsection, except a spouse of a deceased
1 49 taxpayer who was the spouse of the taxpayer when the
1 50 unconstitutional tax was imposed may file a claim for
2 1 refund without reopening the deceased taxpayer's
2 2 estate. If a taxpayer has filed a claim under this
2 3 subsection and subsequently dies before receipt of the
2 4 refund, the taxpayer's estate is entitled to receipt
2 5 of any valid refund claim.
2 6 The department shall make a reasonable attempt to
2 7 notify individuals who are entitled to a refund under

2 8 this subsection".
2 9 #7. Page 1, by striking line 30 and inserting the
2 10 following: "Sec. ____ EFFECTIVE AND APPLICABILITY
2 11 DATES. This Act, being deemed of immediate
2 12 importance, takes effect upon enactment. Section 1 of
2 13 this Act applies".
2 14 #8. Title page, line 1, by inserting after the
2 15 word "Act" the following "relating to the time and
2 16 the criteria for filing of claims for refund under the
2 17 state individual income tax by retired federal
2 18 employees as a result of the unconstitutional taxation
2 19 of federal pensions and".
2 20 #9. Title page, line 2, by inserting after the
2 21 word "including" the following: "an effective date
2 22 provision and".
2 23
2 24
2 25 _____
2 26 WARNSTADT of Woodbury
2 27 HF 2.202 79
2 28 mg/gg