WEST VIRGINIA CODE: §11-1-2A

§11-1-2a. Refund of taxes erroneously collected.

(1) On and after the effective date of this section, any taxpayer claiming to be aggrieved through being required to pay any tax into the treasury of this state, may, within five years from the date of the filing of the return in respect of which the tax was imposed or within four years from the date the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within four years from the time the tax was paid, and not after, file with the official or department through which the tax was paid, a petition in writing to have refunded to him any such tax, or any part thereof, the payment whereof is claimed by him to have been required unlawfully; and if, on such petition, and the proofs filed in support thereof, the official collecting the same shall be of the opinion that the payment of the tax collected, or any part thereof was improperly required, he shall refund the same to the taxpayer by the issuance of his or its requisition on the treasury upon which the Auditor shall issue his warrant as hereinafter provided; if the official collecting the same shall be in doubt as to whether or not such taxes were unlawfully paid, or if he be of the opinion that the payment of the tax collected, or any part thereof, was lawful, and the taxpayer within thirty days after notice of such opinion is not satisfied with the ruling of such official, then such tax official may on his own initiative, and shall, upon written notice so to do from the taxpayer given within said thirty-day period, promptly institute against said taxpayer, in a court of competent jurisdiction, a declaratory judgment proceeding to ascertain whether any such tax, or part thereof, has been unlawfully collected; if it be determined in such proceeding that any such tax, or part thereof was unlawfully collected, then such official shall promptly refund the same to the taxpayer by the issuance of his or its requisition on the treasury; and the Auditor shall issue his warrant on the treasurer for any refund requisitioned under this section payable to the taxpayer entitled to the refund, and the treasurer shall pay such warrant out of the fund into which the amount so refunded was originally paid: Provided, That no refund shall be made at any time on any claim involving the assessed valuation or appraisement of the property which was fixed at the time the tax was originally paid: Provided further, That such official shall be under no duty to institute any such declaratory judgment proceeding unless it shall appear that the taxpayer giving the notice as herein provided is acting in good faith and that there is a substantial question as to the lawfulness of the collection of such tax.

(2) With respect to any tax imposed for any period ending prior to the effective date of this section, the time within which any taxpayer claiming to be aggrieved, through being required to pay any tax into the treasury of this state, may file with the official or department through which the tax was paid the petition provided in subsection (1) shall be three years from the date of such payment, and not after.

(3) The provisions of this section shall take effect on July 1, 1967.

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