WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1951

ENROLLED
SENATE BILL NO. 293

(By Mr. Bean)

PASSED March 10, 1951

In Effect Ninety days from Passage
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Senate Bill No. 293
(By Mr. Bean)

[Passed March 10, 1951; in effect ninety days from passage.]

AN ACT to amend and reenact section two-a, article one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred twenty-nine, acts of the legislature, regular session, one thousand nine hundred thirty-nine, relating to refunds of taxes erroneously collected.

Be it enacted by the Legislature of West Virginia:

That section two-a, article one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred twenty-nine, acts of the legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

Section 2-a. Refund of Taxes Erroneously Collected.—

2 On and after the effective date of this act, any taxpayer
claiming to be aggrieved through being required to pay any tax into the treasury of this state, may, within three years from the date of such payment, 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 col-
lected; 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 tax-
payer 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: Pro-
vided, however, 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; and, 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 pro-
vided is acting in good faith and that there is a substantial
question as to the lawfulness of the collection of such tax.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Robert C. Byrd
Chairman Senate Committee

James M. Loof
Chairman House Committee

Originated in the Senate.

Takes effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker House of Delegates

The within approved this the 16th day of March, 1951.

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Governor.