

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2001.

May 17, 2001

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House
Annapolis MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 344 – Income Tax – Claims for Refunds.

Senate Bill 344 allows a claim for refund or credit for overpayment of income tax attributable to a right to a reduction in a person's Maryland income tax that is established by a decision of an administrative board, or by an appeal of such a decision. The claim must be filed within *one year* after the date of a final decision of the administrative board or a final decision of the highest court to which an appeal is taken. The bill also makes this tax change retroactive to cover the claim filed between January 1, 2000 and July 1, 2001, provided the claim is filed within *18 months* after the date of a final decision of the administrative board or court.

According to the Office of the Comptroller, Senate Bill 344 is likely to impact one or two taxpayers a year. While I understand that in these extremely rare cases, some taxpayers may be justified in requesting a refund, I have two concerns with the legislation which prevent me from signing it into law. The first concern relates to the congruity of federal and State filing limitations and the second pertains to the retroactive application of the Act.

Like so many aspects of the State's individual income tax system, Maryland's statute of limitation for filing a claim for refund or credit for overpayment closely parallels federal tax law. Under State law, a taxpayer may only file a claim for a refund within three years from the date the tax was paid. Under federal IRS rules, a taxpayer may file a claim for a credit or refund of a tax overpayment within the later of three years from the date the return was filed or two years from the date the tax was paid. Given that the State's existing filing limit impacts only a few cases a year, I do not believe that justifies decoupling the State's three-year limit on claims for refunds with the federal government's three-year rule. My second and principal objection to the legislation concerns its retroactive application to affect claims already filed and denied by the Comptroller. As a general matter, changes in tax law are only applied prospectively beginning with the current tax year or a future tax year. Under Senate Bill 344, the change is not only retroactive, but the affected individuals are given *18 months* to file their claims, not *one year* as is the case for prospective taxpayers. Applying a different, more favorable tax law retroactively than is applied prospectively is inherently unfair and in my view, not sound tax policy. I cannot support the retroactive application of Senate Bill 344 and urge the General Assembly to reconsider this provision.

For the above reasons, I have vetoed Senate Bill 344.