

CHAPTER 154
SB 307-FN – FINAL VERSION

02/15/12 0667s

2012 SESSION

12-2939
10/03

SENATE BILL ***307-FN***

AN ACT relative to the refund of tax overpayment related to a fraudulent investment scheme.

SPONSORS: Sen. Odell, Dist 8; Sen. Luther, Dist 12; Sen. Lambert, Dist 13; Sen. Rausch, Dist 19; Sen. D'Allesandro, Dist 20; Sen. Boutin, Dist 16; Rep. Winter, Merr 3; Rep. Cunningham, Sull 2

COMMITTEE: Ways and Means

AMENDED ANALYSIS

This bill allows a taxpayer to petition for refund of tax overpayments resulting from a fraudulent investment scheme.

This bill is a request of the department of revenue administration.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to the refund of tax overpayment related to a fraudulent investment scheme.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 154:1 New Section; Fraudulent Investment Scheme; Refunds. Amend RSA 21-J by inserting
2 after section 28-d the following new section:

3 21-J:28-e Fraudulent Investment Scheme; Refund Request Procedure.

4 I. Notwithstanding any other provision of law, any taxpayer aggrieved by a fraudulent
5 investment scheme may petition for a refund of overpayment of taxes resulting from a fraudulent
6 investment scheme for which an amended federal tax return has been filed claiming a theft loss for
7 the fraudulent investment scheme under Internal Revenue Code section 165. Such petition for
8 refund of overpayment of taxes shall be made within 180 days of the taxpayer filing the amended
9 federal tax return.

10 II. For purposes of this section, “fraudulent investment scheme” means a transaction in
11 which the party perpetrating the fraud receives cash or property from investors, purports to earn
12 income for the investors, and reports to the investors income amounts that are wholly or partially
13 fictitious. In a fraudulent investment scheme the party perpetrating the fraud criminally
14 appropriates some or all of the investors’ cash or property.

15 III. After a petition for refund is filed, the department shall examine the petition and either
16 issue a notice of refund or credit to the claimant or issue a notice of denial. After receipt of the
17 department’s decision, the claimant may file a written petition for reconsideration with the
18 department as provided in RSA 21-J:28-b.

19 154:2 New Subparagraph; Statute of Limitations; Exceptions. Amend RSA 21-J:29, I by
20 inserting after subparagraph (d) the following new subparagraph:

21 (e) Notwithstanding subparagraphs I(b), (c), and (d), in the case of a petition for refund of
22 overpayment of taxes based upon a claim of a fraudulent investment scheme under RSA 21-J:28-e, the
23 petition for a refund shall be made within 180 days of the taxpayer filing an amended federal tax return
24 claiming a theft loss for the fraudulent investment scheme under Internal Revenue Code section 165.

25 154:3 Effective Date. This act shall take effect upon its passage.

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27 Approved: June 7, 2012
28 Effective Date: June 7, 2012