

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5488

To amend the Internal Revenue Code of 1986 to extend the period of limitation for filing a claim for credit or refund of an estate tax overpayment attributable to litigation continuing after the return for the estate is filed.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2006

Mr. ADERHOLT introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to extend the period of limitation for filing a claim for credit or refund of an estate tax overpayment attributable to litigation continuing after the return for the estate is filed.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Estate Litigation Fair-  
5        ness Act”.

1 **SEC. 2. EXTENDING PERIOD OF LIMITATION ON FILING**  
 2 **CLAIM FOR CREDIT OR REFUND OF ESTATE**  
 3 **TAX OVERPAYMENTS ATTRIBUTABLE TO LITI-**  
 4 **GATION CONTINUING AFTER THE RETURN**  
 5 **FOR THE ESTATE IS FILED.**

6 (a) IN GENERAL.—Section 6511 of the Internal Rev-  
 7 enue Code of 1986 (relating to limitations on credit or  
 8 refund) is amended by redesignating subsection (i) as sub-  
 9 section (j) and by inserting after subsection (h) the fol-  
 10 lowing new subsection:

11 “(i) SPECIAL RULE FOR ESTATE TAX OVERPAY-  
 12 MENTS ATTRIBUTABLE TO LITIGATION CONTINUING  
 13 AFTER THE RETURN FOR THE ESTATE IS FILED.—

14 “(1) EXTENSION OF PERIOD OF LIMITATION.—

15 If the claim for credit or refund relates to an over-  
 16 payment of tax imposed by chapter 11 by reason of  
 17 an expense—

18 “(A) which is paid or incurred after the re-  
 19 turn for the estate is filed, and

20 “(B) which would not have been so paid or  
 21 incurred but for litigation continuing after the  
 22 filing of such return,

23 then the 3-year period of limitation described in sub-  
 24 sections (a) and (b) shall not expire before the end  
 25 of the 4-year period beginning on the first date such  
 26 litigation is no longer subject to judicial review.

1           “(2) AMOUNT OF CREDIT OR REFUND.—In the  
2 case of a claim described in paragraph (1), the  
3 amount of the credit or refund may exceed the por-  
4 tion of the tax paid within the period prescribed in  
5 subsection (b)(2).

6           “(3) TERMINATION.—This subsection shall not  
7 apply to estates of decedents dying after the last day  
8 of the 1-year period beginning on the date of the en-  
9 actment of this subsection.”.

10 (b) EFFECTIVE DATE.—

11           (1) IN GENERAL.—The amendments made by  
12 this section shall apply to estates of decedents dying  
13 after October 1, 1998.

14           (2) WAIVER OF STATUTE OF LIMITATIONS.—If  
15 the credit or refund of any overpayment of tax re-  
16 sulting from the amendments made by subsection  
17 (a) is prevented at any time before the close of the  
18 1-year period beginning on the date of the enact-  
19 ment of this Act by the operation of any law or rule  
20 of law (including res judicata), refund or credit of  
21 such overpayment (to the extent attributable to such  
22 amendments) may, nevertheless, be made or allowed  
23 if claim therefor is filed before the close of such 1-  
24 year period.

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