

**SB2833**



**97TH GENERAL ASSEMBLY**

**State of Illinois**

**2011 and 2012**

**SB2833**

Introduced 1/24/2012, by Sen. David S. Luechtefeld

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/909

from Ch. 120, par. 9-909

Amends the Illinois Income Tax Act. Provides that the Department shall (instead of may) prescribe regulations providing for a taxpayer election on an original return or an amended return for the crediting against the estimated tax for any taxable year of the amount determined by the taxpayer or the Department to be an overpayment of the tax imposed by this Act for a preceding taxable year. Effective immediately.

LRB097 17233 HLH 62433 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Section 909 as follows:

6 (35 ILCS 5/909) (from Ch. 120, par. 9-909)

7 Sec. 909. Credits and Refunds.

8 (a) In general. In the case of any overpayment, the  
9 Department, within the applicable period of limitations for a  
10 claim for refund, may credit the amount of such overpayment,  
11 including any interest allowed thereon, against any liability  
12 in respect of the tax imposed by this Act, regardless of  
13 whether other collection remedies are closed to the Department  
14 on the part of the person who made the overpayment and shall  
15 refund any balance to such person or credit any balance to that  
16 person pursuant to an election in subparagraph (b) of this  
17 Section.

18 (b) Credits against estimated tax. The Department shall ~~may~~  
19 prescribe regulations providing for a taxpayer election on an  
20 original return or an amended return for the crediting against  
21 the estimated tax for any taxable year of the amount determined  
22 by the taxpayer or the Department to be an overpayment of the  
23 tax imposed by this Act for a preceding taxable year.

1           (c) Interest on overpayment. Interest shall be allowed and  
2 paid at the rate and in the manner prescribed in Section 3-2 of  
3 the Uniform Penalty and Interest Act upon any overpayment in  
4 respect of the tax imposed by this Act. For purposes of this  
5 subsection, no amount of tax, for any taxable year, shall be  
6 treated as having been paid before the date on which the tax  
7 return for such year was due under Section 505, without regard  
8 to any extension of the time for filing such return.

9           (d) Refund claim. Every claim for refund shall be filed  
10 with the Department in writing in such form as the Department  
11 may by regulations prescribe, and shall state the specific  
12 grounds upon which it is founded.

13           (e) Notice of denial. As soon as practicable after a claim  
14 for refund is filed, the Department shall examine it and either  
15 issue a notice of refund, abatement or credit to the claimant  
16 or issue a notice of denial. If the Department has failed to  
17 approve or deny the claim before the expiration of 6 months  
18 from the date the claim was filed, the claimant may  
19 nevertheless thereafter file with the Department a written  
20 protest in such form as the Department may by regulation  
21 prescribe. If a protest is filed, the Department shall consider  
22 the claim and, if the taxpayer has so requested, shall grant  
23 the taxpayer or the taxpayer's authorized representative a  
24 hearing within 6 months after the date such request is filed.

25           (f) Effect of denial. A denial of a claim for refund  
26 becomes final 60 days after the date of issuance of the notice

1 of such denial except for such amounts denied as to which the  
2 claimant has filed a protest with the Department, as provided  
3 by Section 910.

4 (g) An overpayment of tax shown on the face of an unsigned  
5 return shall be considered forfeited to the State if after  
6 notice and demand for signature by the Department the taxpayer  
7 fails to provide a signature and 3 years have passed from the  
8 date the return was filed. An overpayment of tax refunded to a  
9 taxpayer whose return was filed electronically shall be  
10 considered an erroneous refund under Section 912 of this Act  
11 if, after proper notice and demand by the Department, the  
12 taxpayer fails to provide a required signature document. A  
13 notice and demand for signature in the case of a return  
14 reflecting an overpayment may be made by first class mail. This  
15 subsection (g) shall apply to all returns filed pursuant to  
16 this Act since 1969.

17 (h) This amendatory Act of 1983 applies to returns and  
18 claims for refunds filed with the Department on and after July  
19 1, 1983.

20 (Source: P.A. 97-507, eff. 8-23-11.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.