



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB4470

by Rep. Dwight Kay

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/909

from Ch. 120, par. 9-909

Amends the Illinois Income Tax Act. Provides that a taxpayer may carry forward a tax refund to the following taxable year. Provides that income tax return forms shall contain appropriate explanations and spaces to enable the taxpayer to elect to carry forward their refund to the following taxable year.

LRB098 17114 HLH 52201 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. A taxpayer may carry forward  
16 an amount refunded under this Section to the following taxable  
17 year. The Department shall print, on its income tax return  
18 forms, appropriate explanations and spaces to enable the  
19 taxpayer to elect to carry forward their refund to the  
20 following taxable year.

21 (b) Credits against estimated tax. The Department may  
22 prescribe regulations providing for the crediting against the  
23 estimated tax for any taxable year of the amount determined by

1 the taxpayer or the Department to be an overpayment of the tax  
2 imposed by this Act for a preceding taxable year.

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

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

15 (e) Notice of denial. As soon as practicable after a claim  
16 for refund is filed, the Department shall examine it and either  
17 issue a notice of refund, abatement or credit to the claimant  
18 or issue a notice of denial. If the Department has failed to  
19 approve or deny the claim before the expiration of 6 months  
20 from the date the claim was filed, the claimant may  
21 nevertheless thereafter file with the Department a written  
22 protest in such form as the Department may by regulation  
23 prescribe, provided that, on or after July 1, 2013, protests  
24 concerning matters that are subject to the jurisdiction of the  
25 Illinois Independent Tax Tribunal shall be filed with the  
26 Illinois Independent Tax Tribunal and not with the Department.

1 If the protest is subject to the jurisdiction of the  
2 Department, the Department shall consider the claim and, if the  
3 taxpayer has so requested, shall grant the taxpayer or the  
4 taxpayer's authorized representative a hearing within 6 months  
5 after the date such request is filed.

6 On and after July 1, 2013, if the protest would otherwise  
7 be subject to the jurisdiction of the Illinois Independent Tax  
8 Tribunal, the claimant may elect to treat the Department's  
9 non-action as a denial of the claim by filing a petition to  
10 review the Department's administrative decision with the  
11 Illinois Independent Tax Tribunal, as provided by Section 910.

12 (f) Effect of denial. A denial of a claim for refund  
13 becomes final 60 days after the date of issuance of the notice  
14 of such denial except for such amounts denied as to which the  
15 claimant has filed a protest with the Department or a petition  
16 with the Illinois Independent Tax Tribunal, as provided by  
17 Section 910.

18 (g) An overpayment of tax shown on the face of an unsigned  
19 return shall be considered forfeited to the State if after  
20 notice and demand for signature by the Department the taxpayer  
21 fails to provide a signature and 3 years have passed from the  
22 date the return was filed. An overpayment of tax refunded to a  
23 taxpayer whose return was filed electronically shall be  
24 considered an erroneous refund under Section 912 of this Act  
25 if, after proper notice and demand by the Department, the  
26 taxpayer fails to provide a required signature document. A

1 notice and demand for signature in the case of a return  
2 reflecting an overpayment may be made by first class mail. This  
3 subsection (g) shall apply to all returns filed pursuant to  
4 this Act since 1969.

5 (h) This amendatory Act of 1983 applies to returns and  
6 claims for refunds filed with the Department on and after July  
7 1, 1983.

8 (Source: P.A. 97-507, eff. 8-23-11; 97-1129, eff. 8-28-12;  
9 98-463, eff. 8-16-13.)