

# SB3334



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB3334

Introduced 2/14/2014, by Sen. Melinda Bush

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/911

from Ch. 120, par. 9-911

Amends the Illinois Income Tax Act. Provides that the limitations period for claims for refunds shall be suspended during any period when the individual seeking the refund is financially disabled. Defines "financial disability". Provides that an individual shall not be treated as financially disabled during any period when that individual's spouse or any other person is authorized to act on behalf of that individual with respect to financial matters. Effective immediately.

LRB098 19711 HLH 54922 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 911 as follows:

6 (35 ILCS 5/911) (from Ch. 120, par. 9-911)

7 Sec. 911. Limitations on Claims for Refund.

8 (a) In general. Except as otherwise provided in this Act:

9 (1) A claim for refund shall be filed not later than 3  
10 years after the date the return was filed (in the case of  
11 returns required under Article 7 of this Act respecting any  
12 amounts withheld as tax, not later than 3 years after the  
13 15th day of the 4th month following the close of the  
14 calendar year in which such withholding was made), or one  
15 year after the date the tax was paid, whichever is the  
16 later; and

17 (2) No credit or refund shall be allowed or made with  
18 respect to the year for which the claim was filed unless  
19 such claim is filed within such period.

20 (b) Federal changes.

21 (1) In general. In any case where notification of an  
22 alteration is required by Section 506(b), a claim for  
23 refund may be filed within 2 years after the date on which

1           such notification was due (regardless of whether such  
2           notice was given), but the amount recoverable pursuant to a  
3           claim filed under this Section shall be limited to the  
4           amount of any overpayment resulting under this Act from  
5           recomputation of the taxpayer's net income, net loss, or  
6           Article 2 credits for the taxable year after giving effect  
7           to the item or items reflected in the alteration required  
8           to be reported.

9           (2) Tentative carryback adjustments paid before  
10          January 1, 1974. If, as the result of the payment before  
11          January 1, 1974 of a federal tentative carryback  
12          adjustment, a notification of an alteration is required  
13          under Section 506(b), a claim for refund may be filed at  
14          any time before January 1, 1976, but the amount recoverable  
15          pursuant to a claim filed under this Section shall be  
16          limited to the amount of any overpayment resulting under  
17          this Act from recomputation of the taxpayer's base income  
18          for the taxable year after giving effect to the federal  
19          alteration resulting from the tentative carryback  
20          adjustment irrespective of any limitation imposed in  
21          paragraph (1) of this subsection.

22          (c) Extension by agreement. Where, before the expiration of  
23          the time prescribed in this section for the filing of a claim  
24          for refund, both the Department and the claimant shall have  
25          consented in writing to its filing after such time, such claim  
26          may be filed at any time prior to the expiration of the period

1 agreed upon. The period so agreed upon may be extended by  
2 subsequent agreements in writing made before the expiration of  
3 the period previously agreed upon. In the case of a taxpayer  
4 who is a partnership, Subchapter S corporation, or trust and  
5 who enters into an agreement with the Department pursuant to  
6 this subsection on or after January 1, 2003, a claim for refund  
7 may be filed by the partners, shareholders, or beneficiaries of  
8 the taxpayer at any time prior to the expiration of the period  
9 agreed upon. Any refund allowed pursuant to the claim, however,  
10 shall be limited to the amount of any overpayment of tax due  
11 under this Act that results from recomputation of items of  
12 income, deduction, credits, or other amounts of the taxpayer  
13 that are taken into account by the partner, shareholder, or  
14 beneficiary in computing its liability under this Act.

15 (d) Limit on amount of credit or refund.

16 (1) Limit where claim filed within 3-year period. If  
17 the claim was filed by the claimant during the 3-year  
18 period prescribed in subsection (a), the amount of the  
19 credit or refund shall not exceed the portion of the tax  
20 paid within the period, immediately preceding the filing of  
21 the claim, equal to 3 years plus the period of any  
22 extension of time for filing the return.

23 (2) Limit where claim not filed within 3-year period.  
24 If the claim was not filed within such 3-year period, the  
25 amount of the credit or refund shall not exceed the portion  
26 of the tax paid during the one year immediately preceding

1 the filing of the claim.

2 (e) Time return deemed filed. For purposes of this section  
3 a tax return filed before the last day prescribed by law for  
4 the filing of such return (including any extensions thereof)  
5 shall be deemed to have been filed on such last day.

6 (f) No claim for refund or credit based on the taxpayer's  
7 taking a credit for estimated tax payments as provided by  
8 Section 601(b) (2) or for any amount paid by a taxpayer pursuant  
9 to Section 602(a) or for any amount of credit for tax withheld  
10 pursuant to Article 7 may be filed unless a return was filed  
11 for the tax year not more than 3 years after the due date, as  
12 provided by Section 505, of the return which was required to be  
13 filed relative to the taxable year for which the payments were  
14 made or for which the tax was withheld. The changes in this  
15 subsection (f) made by this amendatory Act of 1987 shall apply  
16 to all taxable years ending on or after December 31, 1969.

17 (g) Special Period of Limitation with Respect to Net Loss  
18 Carrybacks. If the claim for refund relates to an overpayment  
19 attributable to a net loss carryback as provided by Section  
20 207, in lieu of the 3 year period of limitation prescribed in  
21 subsection (a), the period shall be that period which ends 3  
22 years after the time prescribed by law for filing the return  
23 (including extensions thereof) for the taxable year of the net  
24 loss which results in such carryback (or, on and after August  
25 13, 1999, with respect to a change in the carryover of an  
26 Article 2 credit to a taxable year resulting from the carryback

1 of a Section 207 loss incurred in a taxable year beginning on  
2 or after January 1, 2000, the period shall be that period that  
3 ends 3 years after the time prescribed by law for filing the  
4 return (including extensions of that time) for that subsequent  
5 taxable year), or the period prescribed in subsection (c) in  
6 respect of such taxable year, whichever expires later. In the  
7 case of such a claim, the amount of the refund may exceed the  
8 portion of the tax paid within the period provided in  
9 subsection (d) to the extent of the amount of the overpayment  
10 attributable to such carryback. On and after August 13, 1999,  
11 if the claim for refund relates to an overpayment attributable  
12 to the carryover of an Article 2 credit, or of a Section 207  
13 loss, earned, incurred (in a taxable year beginning on or after  
14 January 1, 2000), or used in a year for which a notification of  
15 a change affecting federal taxable income must be filed under  
16 subsection (b) of Section 506, the claim may be filed within  
17 the period prescribed in paragraph (1) of subsection (b) in  
18 respect of the year for which the notification is required. In  
19 the case of such a claim, the amount of the refund may exceed  
20 the portion of the tax paid within the period provided in  
21 subsection (d) to the extent of the amount of the overpayment  
22 attributable to the recomputation of the taxpayer's Article 2  
23 credits, or Section 207 loss, earned, incurred, or used in the  
24 taxable year for which the notification is given.

25 (h) Claim for refund based on net loss. On and after August  
26 23, 2002, no claim for refund shall be allowed to the extent

1 the refund is the result of an amount of net loss incurred in  
2 any taxable year ending prior to December 31, 2002 under  
3 Section 207 of this Act that was not reported to the Department  
4 within 3 years of the due date (including extensions) of the  
5 return for the loss year on either the original return filed by  
6 the taxpayer or on amended return or to the extent that the  
7 refund is the result of an amount of net loss incurred in any  
8 taxable year under Section 207 for which no return was filed  
9 within 3 years of the due date (including extensions) of the  
10 return for the loss year.

11 (i) Periods of limitation suspended while taxpayer is  
12 unable to manage financial affairs due to disability. In the  
13 case of an individual, the running of the periods specified in  
14 this Section shall be suspended during any period when that  
15 individual is financially disabled.

16 For purposes of this subsection (i), an individual is  
17 financially disabled if that individual is unable to manage his  
18 or her financial affairs by reason of a medically determinable  
19 physical or mental impairment of the individual that can be  
20 expected to result in death, or which has lasted or can be  
21 expected to last for a continuous period of not less than 12  
22 months.

23 An individual shall not be treated as financially disabled  
24 during any period when that individual's spouse or any other  
25 person is authorized to act on behalf of that individual with  
26 respect to financial matters.

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

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.