

HB2444



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB2444

Introduced 2/17/2015, 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.

LRB099 03797 HLH 23810 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 under subsection (b) of this
17 Section. A taxpayer may carry forward an amount refunded under
18 this Section to the following taxable year. The Department
19 shall print, on its income tax return forms, appropriate
20 explanations and spaces to enable the taxpayer to elect to
21 carry forward their refund to the following taxable year.

22 (b) Credits against estimated tax. The Department shall
23 prescribe regulations providing for a taxpayer election on an

1 original return, an amended return, or otherwise for the
2 crediting against the estimated tax for any taxable year of the
3 amount determined by the taxpayer or the Department to be an
4 overpayment of the tax imposed by this Act for a preceding
5 taxable year.

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

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

18 (e) Notice of denial. As soon as practicable after a claim
19 for refund is filed, the Department shall examine it and either
20 issue a notice of refund, abatement or credit to the claimant
21 or issue a notice of denial. If the Department has failed to
22 approve or deny the claim before the expiration of 6 months
23 from the date the claim was filed, the claimant may
24 nevertheless thereafter file with the Department a written
25 protest in such form as the Department may by regulation
26 prescribe, provided that, on or after July 1, 2013, protests

1 concerning matters that are subject to the jurisdiction of the
2 Illinois Independent Tax Tribunal shall be filed with the
3 Illinois Independent Tax Tribunal and not with the Department.
4 If the protest is subject to the jurisdiction of the
5 Department, the Department shall consider the claim and, if the
6 taxpayer has so requested, shall grant the taxpayer or the
7 taxpayer's authorized representative a hearing within 6 months
8 after the date such request is filed.

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

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

21 (g) An overpayment of tax shown on the face of an unsigned
22 return shall be considered forfeited to the State if after
23 notice and demand for signature by the Department the taxpayer
24 fails to provide a signature and 3 years have passed from the
25 date the return was filed. An overpayment of tax refunded to a
26 taxpayer whose return was filed electronically shall be

1 considered an erroneous refund under Section 912 of this Act
2 if, after proper notice and demand by the Department, the
3 taxpayer fails to provide a required signature document. A
4 notice and demand for signature in the case of a return
5 reflecting an overpayment may be made by first class mail. This
6 subsection (g) shall apply to all returns filed pursuant to
7 this Act since 1969.

8 (h) This amendatory Act of 1983 applies to returns and
9 claims for refunds filed with the Department on and after July
10 1, 1983.

11 (Source: P.A. 97-507, eff. 8-23-11; 97-1129, eff. 8-28-12;
12 98-463, eff. 8-16-13; 98-925, eff. 1-1-15.)