Sen. David S. Luechtefeld

Filed: 3/31/2011

1   AMENDMENT TO SENATE BILL 1741

2   AMENDMENT NO. _____. Amend Senate Bill 1741 by replacing

3   everything after the enacting clause with the following:

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 may credit the amount of such overpayment, including

10   any interest allowed thereon, against any liability in respect

11   of the tax imposed by this Act, regardless of whether other

12   collection remedies are closed to the Department on the part of

13   the person who made the overpayment and shall refund any

14   balance to such person or credit any balance to that person

15   pursuant to an election in subparagraph (b) of this Section.

16   (b) Credits against taxes imposed by this Act estimated

1 ~~tax~~. The Department <u>shall</u> ~~may~~ prescribe regulations providing

2 for <u>(i)</u> the crediting against the estimated tax for any taxable

3 year of the amount determined by the taxpayer or the Department

4 to be an overpayment of the tax imposed by this Act for a

5 preceding taxable year <u>and (ii) a taxpayer election allowing</u>

6 <u>for the crediting against any liability in respect of the tax</u>

7 <u>imposed by this Act for any taxable year of a refund or</u>

8 <u>overpayment of the tax imposed by this Act for any taxable</u>

9 <u>year</u>.

10 (c) Interest on overpayment. Interest shall be allowed and

11 paid at the rate and in the manner prescribed in Section 3-2 of

12 the Uniform Penalty and Interest Act upon any overpayment in

13 respect of the tax imposed by this Act. For purposes of this

14 subsection, no amount of tax, for any taxable year, shall be

15 treated as having been paid before the date on which the tax

16 return for such year was due under Section 505, without regard

17 to any extension of the time for filing such return.

18 (d) Refund claim. Every claim for refund shall be filed

19 with the Department in writing in such form as the Department

20 may by regulations prescribe, and shall state the specific

21 grounds upon which it is founded.

22 (e) Notice of denial. As soon as practicable after a claim

23 for refund is filed, the Department shall examine it and either

24 issue a notice of refund, abatement or credit to the claimant

25 or issue a notice of denial. If the Department has failed to

26 approve or deny the claim before the expiration of 6 months

1   from the date the claim was filed, the claimant may
2   nevertheless thereafter file with the Department a written
3   protest in such form as the Department may by regulation
4   prescribe. If a protest is filed, the Department shall consider
5   the claim and, if the taxpayer has so requested, shall grant
6   the taxpayer or the taxpayer's authorized representative a
7   hearing within 6 months after the date such request is filed.

8   (f) Effect of denial. A denial of a claim for refund
9   becomes final 60 days after the date of issuance of the notice
10   of such denial except for such amounts denied as to which the
11   claimant has filed a protest with the Department, as provided
12   by Section 910.

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

26   (h) This amendatory Act of 1983 applies to returns and

1   claims for refunds filed with the Department on and after July

2   1, 1983.

3   (Source: P.A. 89-399, eff. 8-20-95.)".