



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB2557

Introduced 2/21/2013, by Rep. John E. Bradley

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/909

from Ch. 120, par. 9-909

Amends the Illinois Income Tax Act. Provides that no refund shall be paid to any corporation, trust, or estate except by direct deposit or electronic funds transfer. Provides that no interest shall be paid on any overpayment for any period during which the Department is not able to refund the overpayment because the taxpayer has not provided the Department with the information necessary to make direct deposit or electronic funds transfer to the taxpayer.

LRB098 03933 HLH 33952 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.

16 (b) Credits against estimated tax. The Department may  
17 prescribe regulations providing for the crediting against the  
18 estimated tax for any taxable year of the amount determined by  
19 the taxpayer or the Department to be an overpayment of the tax  
20 imposed by this Act for a preceding taxable year.

21 (c) Interest on overpayment. Interest shall be allowed and  
22 paid at the rate and in the manner prescribed in Section 3-2 of  
23 the Uniform Penalty and Interest Act upon any overpayment in

1 respect of the tax imposed by this Act. For purposes of this  
2 subsection, no amount of tax, for any taxable year, shall be  
3 treated as having been paid before the date on which the tax  
4 return for such year was due under Section 505, without regard  
5 to any extension of the time for filing such return.

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

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

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

7           (f) Effect of denial. A denial of a claim for refund  
8 becomes final 60 days after the date of issuance of the notice  
9 of such denial except for such amounts denied as to which the  
10 claimant has filed a protest with the Department or a petition  
11 with the Illinois Independent Tax Tribunal, as provided by  
12 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 (i) On and after January 1, 2014, no refund shall be paid  
4 to any taxpayer except by direct deposit or electronic funds  
5 transfer. Notwithstanding subsection (c) of this Section or any  
6 other provision of law, no interest shall be paid on any  
7 overpayment for any period during which the Department is not  
8 able to refund the overpayment under this subsection (i)  
9 because the taxpayer has not provided the Department with the  
10 information necessary to make direct deposit or electronic  
11 funds transfer to the taxpayer. This subsection (i) shall not  
12 apply to refunds due to individual taxpayers, and the  
13 Department may waive the requirements of this subsection (i) in  
14 the case of undue hardship to a taxpayer.

15 (Source: P.A. 97-507, eff. 8-23-11; 97-1129, eff. 8-28-12;  
16 revised 10-10-12.)