



Rep. Carol A. Sente

Filed: 4/1/2014

09800HB5564ham002

LRB098 17917 HLH 57787 a

1 AMENDMENT TO HOUSE BILL 5564

2 AMENDMENT NO. _____. Amend House Bill 5564 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, 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

1 Section.

2 (b) Credits against estimated tax. The Department shall ~~may~~
3 prescribe regulations providing for a taxpayer election on an
4 original return, an amended return, or otherwise for the
5 crediting against the estimated tax for any taxable year of the
6 amount determined by the taxpayer or the Department to be an
7 overpayment of the tax imposed by this Act for a preceding
8 taxable year.

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

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

21 (e) Notice of denial. As soon as practicable after a claim
22 for refund is filed, the Department shall examine it and either
23 issue a notice of refund, abatement or credit to the claimant
24 or issue a notice of denial. If the Department has failed to
25 approve or deny the claim before the expiration of 6 months
26 from the date the claim was filed, the claimant may

1 nevertheless thereafter file with the Department a written
2 protest in such form as the Department may by regulation
3 prescribe, provided that, on or after July 1, 2013, protests
4 concerning matters that are subject to the jurisdiction of the
5 Illinois Independent Tax Tribunal shall be filed with the
6 Illinois Independent Tax Tribunal and not with the Department.
7 If the protest is subject to the jurisdiction of the
8 Department, the Department shall consider the claim and, if the
9 taxpayer has so requested, shall grant the taxpayer or the
10 taxpayer's authorized representative a hearing within 6 months
11 after the date such request is filed.

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

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

24 (g) An overpayment of tax shown on the face of an unsigned
25 return shall be considered forfeited to the State if after
26 notice and demand for signature by the Department the taxpayer

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

11 (h) This amendatory Act of 1983 applies to returns and
12 claims for refunds filed with the Department on and after July
13 1, 1983.

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