

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.

18 (b) Credits against estimated tax. The Department shall ~~may~~
19 prescribe regulations providing for a taxpayer election on an
20 original return, an amended return, or otherwise for the
21 crediting against the estimated tax for any taxable year of the
22 amount determined by the taxpayer or the Department to be an
23 overpayment of the tax imposed by this Act for a preceding

1 taxable year.

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

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

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

1 Department, the Department shall consider the claim and, if the
2 taxpayer has so requested, shall grant the taxpayer or the
3 taxpayer's authorized representative a hearing within 6 months
4 after the date such request is filed.

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

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

17 (g) An overpayment of tax shown on the face of an unsigned
18 return shall be considered forfeited to the State if after
19 notice and demand for signature by the Department the taxpayer
20 fails to provide a signature and 3 years have passed from the
21 date the return was filed. An overpayment of tax refunded to a
22 taxpayer whose return was filed electronically shall be
23 considered an erroneous refund under Section 912 of this Act
24 if, after proper notice and demand by the Department, the
25 taxpayer fails to provide a required signature document. A
26 notice and demand for signature in the case of a return

1 reflecting an overpayment may be made by first class mail. This
2 subsection (g) shall apply to all returns filed pursuant to
3 this Act since 1969.

4 (h) This amendatory Act of 1983 applies to returns and
5 claims for refunds filed with the Department on and after July
6 1, 1983.

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