

SB2140



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2140

Introduced 2/7/2025, by Sen. Chapin Rose

SYNOPSIS AS INTRODUCED:

35 ILCS 5/911

from Ch. 120, par. 9-911

Amends the Illinois Income Tax Act. Provides that, if the claimant is entitled to a refund as a result of an audit by the Department of Revenue, and the time prescribed for the filing of a claim for refund has expired, the claimant may apply to the Director of Revenue in writing, in the form and manner prescribed by the Department of Revenue by rule, for an extension of the time for filing of a claim for refund, which shall not exceed 3 years from the conclusion of the Department's audit. The Director shall notify the claimant in writing of the approval or rejection of the claimant's request for an extension.

LRB104 08571 HLH 19957 b

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 911 as follows:

6 (35 ILCS 5/911) (from Ch. 120, par. 9-911)

7 Sec. 911. Limitations on claims for refund.

8 (a) In general. Except as otherwise provided in this Act:

9 (1) A claim for refund shall be filed not later than 3
10 years after the date the return was filed (in the case of
11 returns required under Article 7 of this Act respecting
12 any amounts withheld as tax, not later than 3 years after
13 the 15th day of the 4th month following the close of the
14 calendar year in which such withholding was made), or one
15 year after the date the tax was paid, whichever is the
16 later; and

17 (2) No credit or refund shall be allowed or made with
18 respect to the year for which the claim was filed unless
19 such claim is filed within such period.

20 (b) Federal changes.

21 (1) In general. In any case where notification of an
22 alteration is required by Section 506(b), a claim for
23 refund may be filed within 2 years after the date on which

1 such notification was due (regardless of whether such
2 notice was given), but the amount recoverable pursuant to
3 a claim filed under this Section shall be limited to the
4 amount of any overpayment resulting under this Act from
5 recomputation of the taxpayer's net income, net loss, or
6 Article 2 credits for the taxable year after giving effect
7 to the item or items reflected in the alteration required
8 to be reported.

9 (2) Tentative carryback adjustments paid before
10 January 1, 1974. If, as the result of the payment before
11 January 1, 1974 of a federal tentative carryback
12 adjustment, a notification of an alteration is required
13 under Section 506(b), a claim for refund may be filed at
14 any time before January 1, 1976, but the amount
15 recoverable pursuant to a claim filed under this Section
16 shall be limited to the amount of any overpayment
17 resulting under this Act from recomputation of the
18 taxpayer's base income for the taxable year after giving
19 effect to the federal alteration resulting from the
20 tentative carryback adjustment irrespective of any
21 limitation imposed in paragraph (1) of this subsection.

22 (c) Extension by agreement. Where, before the expiration
23 of the time prescribed in this section for the filing of a
24 claim for refund, both the Department and the claimant shall
25 have consented in writing to its filing after such time, such
26 claim may be filed at any time prior to the expiration of the

1 period agreed upon. The period so agreed upon may be extended
2 by subsequent agreements in writing made before the expiration
3 of the period previously agreed upon. In the case of a taxpayer
4 who is a partnership, Subchapter S corporation, or trust and
5 who enters into an agreement with the Department pursuant to
6 this subsection on or after January 1, 2003, a claim for refund
7 may be filed by the partners, shareholders, or beneficiaries
8 of the taxpayer at any time prior to the expiration of the
9 period agreed upon. Any refund allowed pursuant to the claim,
10 however, shall be limited to the amount of any overpayment of
11 tax due under this Act that results from recomputation of
12 items of income, deduction, credits, or other amounts of the
13 taxpayer that are taken into account by the partner,
14 shareholder, or beneficiary in computing its liability under
15 this Act.

16 (c-5) Extension after audit. If the claimant is entitled
17 to a refund as a result of an audit by the Department, and the
18 time prescribed in this Section for the filing of a claim for
19 refund has expired, the claimant may apply to the Director in
20 writing, in the form and manner prescribed by the Department
21 by rule, for an extension of the time for filing of a claim for
22 refund, which shall not exceed 3 years from the conclusion of
23 the Department's audit. The Director shall notify the claimant
24 in writing of the approval or rejection of the claimant's
25 request for an extension.

26 (d) Limit on amount of credit or refund.

1 (1) Limit where claim filed within 3-year period. If
2 the claim was filed by the claimant during the 3-year
3 period prescribed in subsection (a), the amount of the
4 credit or refund shall not exceed the portion of the tax
5 paid within the period, immediately preceding the filing
6 of the claim, equal to 3 years plus the period of any
7 extension of time for filing the return.

8 (2) Limit where claim not filed within 3-year period.
9 If the claim was not filed within such 3-year period, the
10 amount of the credit or refund shall not exceed the
11 portion of the tax paid during the one year immediately
12 preceding the filing of the claim.

13 (e) Time return deemed filed. For purposes of this section
14 a tax return filed before the last day prescribed by law for
15 the filing of such return (including any extensions thereof)
16 shall be deemed to have been filed on such last day.

17 (f) No claim for refund or credit based on the taxpayer's
18 taking a credit for estimated tax payments as provided by
19 Section 601(b)(2) or for any amount paid by a taxpayer
20 pursuant to Section 602(a) or for any amount of credit for tax
21 withheld pursuant to Article 7 may be filed unless a return was
22 filed for the tax year not more than 3 years after the due
23 date, as provided by Section 505, of the return which was
24 required to be filed relative to the taxable year for which the
25 payments were made or for which the tax was withheld. The
26 changes in this subsection (f) made by this amendatory Act of

1 1987 shall apply to all taxable years ending on or after
2 December 31, 1969.

3 (g) Special Period of Limitation with Respect to Net Loss
4 Carrybacks. If the claim for refund relates to an overpayment
5 attributable to a net loss carryback as provided by Section
6 207, in lieu of the 3 year period of limitation prescribed in
7 subsection (a), the period shall be that period which ends 3
8 years after the time prescribed by law for filing the return
9 (including extensions thereof) for the taxable year of the net
10 loss which results in such carryback (or, on and after August
11 13, 1999, with respect to a change in the carryover of an
12 Article 2 credit to a taxable year resulting from the
13 carryback of a Section 207 loss incurred in a taxable year
14 beginning on or after January 1, 2000, the period shall be that
15 period that ends 3 years after the time prescribed by law for
16 filing the return (including extensions of that time) for that
17 subsequent taxable year), or the period prescribed in
18 subsection (c) in respect of such taxable year, whichever
19 expires later. In the case of such a claim, the amount of the
20 refund may exceed the portion of the tax paid within the period
21 provided in subsection (d) to the extent of the amount of the
22 overpayment attributable to such carryback. On and after
23 August 13, 1999, if the claim for refund relates to an
24 overpayment attributable to the carryover of an Article 2
25 credit, or of a Section 207 loss, earned, incurred (in a
26 taxable year beginning on or after January 1, 2000), or used in

1 a year for which a notification of a change affecting federal
2 taxable income must be filed under subsection (b) of Section
3 506, the claim may be filed within the period prescribed in
4 paragraph (1) of subsection (b) in respect of the year for
5 which the notification is required. In the case of such a
6 claim, the amount of the refund may exceed the portion of the
7 tax paid within the period provided in subsection (d) to the
8 extent of the amount of the overpayment attributable to the
9 recomputation of the taxpayer's Article 2 credits, or Section
10 207 loss, earned, incurred, or used in the taxable year for
11 which the notification is given.

12 (h) Claim for refund based on net loss. On and after August
13 23, 2002, no claim for refund shall be allowed to the extent
14 the refund is the result of an amount of net loss incurred in
15 any taxable year ending prior to December 31, 2002 under
16 Section 207 of this Act that was not reported to the Department
17 within 3 years of the due date (including extensions) of the
18 return for the loss year on either the original return filed by
19 the taxpayer or on amended return or to the extent that the
20 refund is the result of an amount of net loss incurred in any
21 taxable year under Section 207 for which no return was filed
22 within 3 years of the due date (including extensions) of the
23 return for the loss year.

24 (i) Periods of limitation suspended while taxpayer is
25 unable to manage financial affairs due to disability. In the
26 case of an individual, the running of the periods specified in

1 this Section shall be suspended during any period when that
2 individual is financially disabled.

3 For purposes of this subsection (i), an individual is
4 financially disabled if that individual is unable to manage
5 his or her financial affairs by reason of a medically
6 determinable physical or mental impairment of the individual
7 that can be expected to result in death, or which has lasted or
8 can be expected to last for a continuous period of not less
9 than 12 months.

10 An individual shall not be treated as financially disabled
11 during any period when that individual's spouse or any other
12 person is authorized to act on behalf of that individual with
13 respect to financial matters.

14 (Source: P.A. 97-507, eff. 8-23-11; 98-970, eff. 8-15-14.)