

# HB1137



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB1137

Introduced 02/07/11, by Rep. Jim Watson

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/909

from Ch. 120, par. 9-909

Amends the Illinois Income Tax Act. Provides that a taxpayer may carry forward a tax refund to the following taxable year. Provides that income tax return forms shall contain appropriate explanations and spaces to enable the taxpayer to elect to carry forward their refund to the following taxable year.

LRB097 07055 HLH 47148 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 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. A taxpayer may carry forward an amount  
15 refunded under this Section to the following taxable year. The  
16 Department shall print, on its income tax return forms,  
17 appropriate explanations and spaces to enable the taxpayer to  
18 elect to carry forward their refund to the following taxable  
19 year.

20 (b) Credits against estimated tax. The Department may  
21 prescribe regulations providing for the crediting against the  
22 estimated tax for any taxable year of the amount determined by  
23 the taxpayer or the Department to be an overpayment of the tax

1 imposed by this Act for a preceding 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. If a protest is filed, the Department shall consider  
23 the claim and, if the taxpayer has so requested, shall grant  
24 the taxpayer or the taxpayer's authorized representative a  
25 hearing within 6 months after the date such request is filed.

26 (f) Effect of denial. A denial of a claim for refund

1 becomes final 60 days after the date of issuance of the notice  
2 of such denial except for such amounts denied as to which the  
3 claimant has filed a protest with the Department, as provided  
4 by Section 910.

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

18 (h) This amendatory Act of 1983 applies to returns and  
19 claims for refunds filed with the Department on and after July  
20 1, 1983.

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