

1 AMENDMENT TO SENATE BILL 1176

2 AMENDMENT NO. _____. Amend Senate Bill 1176 on page 1,
3 line 6, after "2505-210", by inserting ", 2505-275,"; and
4 on page 2, immediately below line 17, by inserting the
5 following:

6 "(20 ILCS 2505/2505-275) (was 20 ILCS 2505/39e)
7 Sec. 2505-275. Tax overpayments. In the case of
8 overpayment of any tax liability arising from an Act
9 administered by the Department, the Department may credit the
10 amount of the overpayment and any interest thereon against
11 any final tax liability arising under that or any other Act
12 administered by the Department. The Department may enter into
13 agreements with the Secretary of the Treasury of the United
14 States (or his or her delegate) to offset all or part of an
15 overpayment of such a tax liability against any liability
16 arising from a tax imposed under Title 26 of the United
17 States Code. The Department may collect a fee from the
18 Secretary of the Treasury of the United States (or his or her
19 delegate) to cover the full cost of offsets taken, to the
20 extent allowed by federal law.

21 (Source: P.A. 91-239, eff. 1-1-00.); and

22 on page 3, immediately below line 4, by inserting the

1 following:

2 "(c) The Department may issue the Secretary of the
3 Treasury of the United States (or his or her delegate)
4 notice, as required by Section 6402(e) of the Internal
5 Revenue Code, of any past due, legally enforceable State
6 income tax obligation of a taxpayer. The Department must
7 notify the taxpayer that any fee charged to the State by the
8 Secretary of the Treasury of the United States (or his or her
9 delegate) under Internal Revenue Code Section 6402(e) is
10 considered additional State income tax of the taxpayer with
11 respect to whom the Department issued the notice, and is
12 deemed assessed upon issuance by the Department of notice to
13 the Secretary of the Treasury of the United States (or his or
14 her delegate) under Section 6402(e) of the Internal Revenue
15 Code; a notice of additional State income tax is not
16 considered a notice of deficiency, and the taxpayer has no
17 right of protest."; and

18 on page 3, line 7, after "601.1", by inserting "and adding
19 Section 911.2"; and

20 on page 5, immediately below line 5, by inserting the
21 following:

22 "(35 ILCS 5/911.2 new)
23 Sec. 911.2. Refunds withheld; tax claims of other
24 states.

25 (a) Definitions. In this Section the following terms
26 have the meanings indicated.

27 "Claimant state" means any state or the District of
28 Columbia that requests the withholding of a refund pursuant
29 to this Section and that extends a like comity for the
30 collection of taxes owed to this State.

31 "Income tax" means any amount of income tax imposed on
32 taxpayers under the laws of the State of Illinois or the

1 claimant state, including additions to tax for penalties and
2 interest.

3 "Refund" means a refund of overpaid income taxes imposed
4 by the State of Illinois or the claimant state.

5 "Tax officer" means a unit or official of the claimant
6 state, or the duly authorized agent of that unit or official,
7 charged with the imposition, assessment, or collection of
8 state income taxes.

9 "Taxpayer" means any person identified by a claimant
10 state under this Section as owing taxes to that claimant
11 state, and in the case of a refund arising from the filing of
12 a joint return, the taxpayer's spouse.

13 (b) In general. Except as provided in subsection (c) of
14 this Section, a tax officer may:

15 (1) certify to the Director the existence of a
16 taxpayer's delinquent income tax liability; and

17 (2) request the Director to withhold any refund to
18 which the taxpayer is entitled.

19 (c) Comity. A tax officer may not certify or request
20 the Director to withhold a refund unless the laws of the
21 claimant state:

22 (1) allow the Director to certify an income tax
23 liability;

24 (2) allow the Director to request the tax officer
25 to withhold the taxpayer's tax refund; and

26 (3) provide for the payment of the refund to the
27 State of Illinois.

28 (d) Certification. A certification by a tax officer to
29 the Director shall include:

30 (1) the full name and address of the taxpayer and
31 any other names known to be used by the taxpayer;

32 (2) the social security number or federal tax
33 identification number of the taxpayer;

34 (3) the amount of the income tax liability; and

1 (4) a statement that all administrative and
2 judicial remedies and appeals have been exhausted or have
3 lapsed and that the assessment of tax, interest, and
4 penalty has become final.

5 (e) Notification. As to any taxpayer due a refund, the
6 Director shall:

7 (1) notify the taxpayer that a claimant state has
8 provided certification of the existence of an income tax
9 liability;

10 (2) inform the taxpayer of the tax liability
11 certified, including a detailed statement for each
12 taxable year showing tax, interest, and penalty;

13 (3) inform the taxpayer that failure to file a
14 protest in accordance with subsection (f) of this Section
15 shall constitute a waiver of any demand against this
16 State for the amount certified and will result in payment
17 to the claimant state as provided in subsection (i) of
18 this Section;

19 (4) provide the taxpayer with notice of an
20 opportunity to request a hearing to challenge the
21 certification; and

22 (5) inform the taxpayer that the hearing may be
23 requested (i) pursuant to Section 910 of this Act, or
24 (ii) with the tax officer, in accordance with the laws of
25 the claimant state.

26 (f) Protest of withholding. A taxpayer may protest the
27 withholding of a refund pursuant to Section 910 of this Act
28 (except that the protest shall be filed within 30 days after
29 the date of the Director's notice of certification pursuant
30 to subsection (e) of this Section). If a taxpayer files a
31 timely protest, the Director shall:

32 (1) suspend the proposed withholding and impound
33 the claimed amount of the refund;

34 (2) pay to the taxpayer the unclaimed amount of the

1 refund, if any;

2 (3) send a copy of the protest to the claimant
3 state for determination of the protest on its merits in
4 accordance with the laws of that state; and

5 (4) pay over to the taxpayer the impounded amount
6 if the claimant state shall fail, within 45 days after
7 the date of the protest, to re-certify to the Director
8 (i) that the claimant state has reviewed the issues
9 raised by taxpayer, (ii) that all administrative and
10 judicial remedies provided under the laws of that state
11 have been exhausted, and (iii) the amount of the income
12 tax liability finally determined to be due.

13 (g) Certification as prima facie evidence. If the
14 taxpayer requests a hearing pursuant to Section 910 of this
15 Act, the certification of the tax officer shall be prima
16 facie evidence of the correctness of the taxpayer's
17 delinquent income tax liability to the certifying state.

18 (h) Rights of spouses to refunds from joint returns. If
19 a certification is based upon the tax debt of only one
20 taxpayer and if the refund is based upon a joint personal
21 income tax return, the nondebtor spouse shall have the right
22 to:

23 (1) notification, as provided in subsection (e) of
24 this Section;

25 (2) protest, as to the withholding of such spouse's
26 share of the refund, as provided in subsection (f) of
27 this Section; and

28 (3) payment of his or her share of the refund,
29 provided the amount of the overpayment refunded to the
30 spouse shall not exceed the amount of the joint
31 overpayment.

32 (i) Withholding and payment of refund. Subject to the
33 taxpayer's rights of notice and protest, upon receipt of a
34 request for withholding in accordance with subsection (b) of

1 this Section, the Director shall:

2 (1) withhold any refund that is certified by the
3 tax officer;

4 (2) pay to the claimant state the entire refund or
5 the amount certified, whichever is less;

6 (3) pay any refund in excess of the amount
7 certified to the taxpayer; and

8 (4) if a refund is less than the amount certified,
9 withhold amounts from subsequent refunds due the
10 taxpayer, if the laws of the claimant state provide that
11 the claimant state shall withhold subsequent refunds of
12 taxpayers certified to that state by the Director.

13 (j) Determination that withholding cannot be made.

14 After receiving a certification from a tax officer, the
15 Director shall notify the claimant state if the Director
16 determines that a withholding cannot be made.

17 (k) Director's authority. The Director shall have the
18 authority to enter into agreements with the tax officers of
19 claimant state relating to:

20 (1) procedures and methods to be employed by a
21 claimant state with respect to the operation of this
22 Section;

23 (2) safeguards against the disclosure or
24 inappropriate use of any information obtained or
25 maintained pursuant to this Section that identifies,
26 directly or indirectly, a particular taxpayer;

27 (3) a minimum tax debt, amounts below which, in
28 light of administrative expenses and efficiency, shall,
29 in the Director's discretion, not be subject to the
30 withholding procedures set forth in this Section.

31 (l) Remedy not exclusive. The collection procedures
32 prescribed by this Section are in addition to, and not in
33 substitution for, any other remedy available by law."