

SECOND REGULAR SESSION

# HOUSE BILL NO. 1048

97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MILLER.

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D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 143.801, RSMo, and to enact in lieu thereof one new section relating to limitations on income tax credits or refunds.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 143.801, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.801, to read as follows:

143.801. 1. A claim for credit or refund of an overpayment of any tax imposed by sections 143.011 to 143.996 shall be filed by the taxpayer within three years from the time the return was filed or two years from the time the tax was paid, whichever of such periods expires the later; or if no return was filed by the taxpayer, within two years from the time the tax was paid. No credit or refund shall be allowed or made after the expiration of the period of limitation prescribed in this subsection for the filing of a claim for credit or refund, unless a claim for credit or refund is filed by the taxpayer within such period.

2. If the claim is filed by the taxpayer during the three-year period prescribed in subsection 1 **of this section**, the amount of the credit or refund shall not exceed the portion of the tax paid within the three years immediately preceding the filing of the claim plus the period of any extension of time for filing the return. If the claim is not filed within such three-year period, but is filed within the two-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the two years immediately preceding the filing of the claim. If no claim is filed, the credit or refund shall not exceed the amount which would be allowable under either of the preceding sentences, as the case may be, if a claim was filed on the date the credit or refund is allowed.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           3. If pursuant to subsection 6 of section 143.711 an agreement for an extension of the  
18 period for assessment of income taxes is made within the period prescribed in subsection 1 of  
19 this section for the filing of a claim for credit or refund, the period for filing a claim for credit  
20 or for making a credit or refund if no claim is filed, shall not expire prior to six months after the  
21 expiration of the period within which an assessment may be made pursuant to the agreement or  
22 any extension thereof. The amount of such credit or refund shall not exceed the portion of the  
23 tax paid after the execution of the agreement and before the filing of the claim or the making of  
24 the credit or refund, as the case may be, plus the portion of the tax paid within the period which  
25 would be applicable under subsection 1 of this section if a claim had been filed on the date the  
26 agreement was executed.

27           4. If a taxpayer is required by section 143.601 to report a change or correction in federal  
28 taxable income reported on his federal income tax return, or to report a change or correction  
29 which is treated in the same manner as if it were an overpayment for federal income tax  
30 purposes, an amended return or a claim for credit or refund of any resulting overpayment of tax  
31 shall be filed by the taxpayer within one year from the time the notice of such change or  
32 correction or such amended return was required to be filed with the director of revenue. If the  
33 report or amended return required by section 143.601 is not filed within the ninety-day period  
34 therein specified, interest on any resulting refund or credit shall cease to accrue after such  
35 ninetieth day. The amount of such credit or refund shall not exceed the amount of the reduction  
36 in tax attributable to:

37           (1) The issues on which such federal change or correction or the items amended on the  
38 taxpayer's amended federal income tax return are based, and

39           (2) Any change in the amount of [his] **the taxpayer's** federal income tax deduction  
40 under the provisions of subsection 1 of section 143.171. No effect shall be given in the  
41 preceding sentence to any federal change or correction or to any item on an amended return  
42 unless it is timely under the applicable federal period of limitations. The time and amount  
43 provisions of this subsection shall be in lieu of any other provisions of this section. This  
44 subsection shall not affect the time within which or the amount for which a claim for credit or  
45 refund may be filed apart from this subsection.

46           5. If the claim for credit or refund relates to an overpayment of tax on account of the  
47 deductibility by the taxpayer of a debt as a debt which became worthless or a loss from  
48 worthlessness of a security or the effect that the deductibility of a debt or of a loss has on the  
49 application to the taxpayer of a carryover, the claim may be made, under regulations prescribed  
50 by the director of revenue within seven years from the date prescribed by law for filing the return  
51 for the year with respect to which the claim is made.

52           6. If the claim for credit or refund relates to an overpayment attributable to a net  
53 operating loss carryback or a capital loss carryback, in lieu of the three-year period of limitations  
54 prescribed in subsection 1 of this section, the period shall be that period which ends with the  
55 expiration of the fifteenth day of the fortieth month (or the thirty-ninth month, in the case of a  
56 corporation) following the end of the taxable year of the net operating loss or net capital loss  
57 which results in such carryback, or the period prescribed in subsection 3 of this section in respect  
58 of such taxable year, whichever expires later. In the case of such a claim, the amount of the  
59 credit or refund may exceed the portion of the tax paid within the period provided in subsections  
60 2, 3 and 4 of this section, whichever is applicable, to the extent of the amount of the overpayment  
61 attributable to such carryback.

62           **7. (1) No period of limitations provided in subsections 1 to 6 of this section shall**  
63 **apply if the director of revenue examines or causes to have examined any return filed and**  
64 **retained as provided in section 143.971 and:**

65           **(a) Such examination is conducted after any period of limitations provided in**  
66 **subsections 1 to 6 of this section has expired;**

67           **(b) Such examination reveals that the taxpayer is eligible to claim a credit or refund**  
68 **of an overpayment of any tax imposed under this chapter; and**

69           **(c) A period of limitations provided in subsections 1 to 6 of this section prohibits**  
70 **the taxpayer from claiming such credit or refund.**

71           **(2) The director shall notify the taxpayer of any overpayment discovered under this**  
72 **subsection and inform the taxpayer of the procedure for filing a claim for a credit or**  
73 **refund of such overpayment. If the taxpayer files a claim for such credit or refund, the**  
74 **claim shall be filed in the manner provided in this chapter and shall be filed within one**  
75 **year from the time the director provided notice to the taxpayer.**

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