

SECOND REGULAR SESSION

HOUSE BILL NO. 1416

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DAVIS.

4179H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 143.801, RSMo, and to enact in lieu thereof one new section relating to income tax refund claims.

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Section A. Section 143.801, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.801, to read as follows: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

(2) A taxpayer who, during the tax year in issue, was seventy years of age or older and who, during the filing period under subdivision (1) of this subsection, experienced a major life event as defined by the department of revenue, may file a claim for a credit or refund of an overpayment of any tax imposed by sections 143.011 to 143.996 within five years from the date the return was filed or, if no return was filed by the taxpayer, within five years from the date the tax was paid.

12

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

17

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.

18 tax paid within the three years immediately preceding the filing of the claim plus the period of
19 any extension of time for filing the return. If the claim is not filed within such three-year period,
20 but is filed within the two-year period, the amount of the credit or refund shall not exceed the
21 portion of the tax paid during the two years immediately preceding the filing of the claim. **If the**
22 **claim is not filed within either such preceding period, but is filed within the five-year**
23 **period, the amount of the credit or refund shall not exceed the portion of the tax paid**
24 **during the five years immediately preceding the filing of the claim.** If no claim is filed, the
25 credit or refund shall not exceed the amount which would be allowable under ~~[either]~~ any of the
26 preceding sentences, as the case may be, if a claim was filed on the date the credit or refund is
27 allowed.

28 3. If pursuant to subsection 6 of section 143.711 an agreement for an extension of the
29 period for assessment of income taxes is made within the period prescribed in subsection 1 of
30 this section for the filing of a claim for credit or refund, the period for filing a claim for credit
31 or for making a credit or refund if no claim is filed, shall not expire prior to six months after the
32 expiration of the period within which an assessment may be made pursuant to the agreement or
33 any extension thereof. The amount of such credit or refund shall not exceed the portion of the
34 tax paid after the execution of the agreement and before the filing of the claim or the making of
35 the credit or refund, as the case may be, plus the portion of the tax paid within the period which
36 would be applicable under subsection 1 of this section if a claim had been filed on the date the
37 agreement was executed.

38 4. If a taxpayer is required by section 143.601 to report a change or correction in federal
39 taxable income reported on his federal income tax return, or to report a change or correction
40 which is treated in the same manner as if it were an overpayment for federal income tax
41 purposes, an amended return or a claim for credit or refund of any resulting overpayment of tax
42 shall be filed by the taxpayer within one year from the time the notice of such change or
43 correction or such amended return was required to be filed with the director of revenue. If the
44 report or amended return required by section 143.601 is not filed within the ninety-day period
45 therein specified, interest on any resulting refund or credit shall cease to accrue after such
46 ninetieth day. The amount of such credit or refund shall not exceed the amount of the reduction
47 in tax attributable to:

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

50 (2) Any change in the amount of the taxpayer's federal income tax deduction under the
51 provisions of subsection 1 of section 143.171. No effect shall be given in the preceding sentence
52 to any federal change or correction or to any item on an amended return unless it is timely under
53 the applicable federal period of limitations.

54 The time and amount provisions of this subsection shall be in lieu of any other provisions of this
55 section. This subsection shall not affect the time within which or the amount for which a claim
56 for credit or refund may be filed apart from this subsection.

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

63 6. If the claim for credit or refund relates to an overpayment attributable to a net
64 operating loss carryback or a capital loss carryback, in lieu of the three-year period of limitations
65 prescribed in subsection 1 of this section, the period shall be that period which ends with the
66 expiration of the fifteenth day of the fortieth month (or the thirty-ninth month, in the case of a
67 corporation) following the end of the taxable year of the net operating loss or net capital loss
68 which results in such carryback, or the period prescribed in subsection 3 of this section in respect
69 of such taxable year, whichever expires later. In the case of such a claim, the amount of the
70 credit or refund may exceed the portion of the tax paid within the period provided in subsections
71 2, 3 and 4 of this section, whichever is applicable, to the extent of the amount of the overpayment
72 attributable to such carryback.

73 7. (1) No period of limitations provided in subsections 1 to 6 of this section shall apply
74 if a taxpayer amends, or the federal Internal Revenue Service or its successor agency changes,
75 the taxpayer's federal income tax return for the same tax period and:

76 (a) Such amendment or change occurs after any period of limitations provided in
77 subsections 1 to 6 of this section has expired;

78 (b) Such amendment or change reveals that the taxpayer is eligible to claim a credit or
79 refund of an overpayment of any tax imposed under this chapter; and

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

82 (2) If the taxpayer files a claim for such credit or refund, the claim shall be filed in the
83 manner provided in this chapter and shall be filed within one year from the time the taxpayer
84 amends or the federal Internal Revenue Service changes the taxpayer's federal income tax return.

✓