

SECOND REGULAR SESSION

SENATE BILL NO. 816

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Read 1st time January 25, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4581S.011

AN ACT

To repeal section 143.811, RSMo, and to enact in lieu thereof one new section relating to interest on overpayments of taxes.

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

Section A. Section 143.811, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 143.811, to read as follows:

143.811. 1. Under regulations prescribed by the director of revenue,
2 interest shall be allowed and paid at the rate determined by section 32.065,
3 RSMo, on any overpayment in respect of the tax imposed by sections 143.011 to
4 143.996; except that, where the overpayment resulted from the filing of an
5 amendment of the tax by the taxpayer after the last day prescribed for the filing
6 of the return, interest shall be allowed and paid at the rate of six percent per
7 annum. With respect to the part of an overpayment attributable to a deposit
8 made pursuant to subsection 2 of section 143.631, interest shall be paid thereon
9 at the rate in section 32.065, RSMo, from the date of the deposit to the date of
10 refund. No interest shall be allowed or paid if the amount thereof is less than
11 one dollar.

12 2. For purposes of this section:

13 (1) Any return filed before the last day prescribed for the filing thereof
14 shall be considered as filed on such last day determined without regard to any
15 extension of time granted the taxpayer;

16 (2) Any tax paid by the taxpayer before the last day prescribed for its
17 payment, any income tax withheld from the taxpayer during any calendar year,
18 and any amount paid by the taxpayer as estimated income tax for a taxable year
19 shall be deemed to have been paid by him on the fifteenth day of the fourth

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 month following the close of his taxable year to which such amount constitutes
21 a credit or payment.

22 3. For purposes of this section with respect to any withholding tax:

23 (1) If a return for any period ending with or within a calendar year is filed
24 before April fifteenth of the succeeding calendar year, such return shall be
25 considered filed April fifteenth of such succeeding calendar year; and

26 (2) If a tax with respect to remuneration paid during any period ending
27 with or within a calendar year is paid before April fifteenth of the succeeding
28 calendar year, such tax shall be considered paid on April fifteenth of such
29 succeeding calendar year.

30 4. If any overpayment of tax imposed by sections 143.011 to 143.996 is
31 refunded within [four months] **forty-five days** after the last date prescribed (or
32 permitted by extension of time) for filing the return of such tax or within [four
33 months] **forty-five days** after the return was filed, whichever is later, no
34 interest shall be allowed under this section on overpayment.

35 5. Any overpayment resulting from a carryback, including a net operating
36 loss and a corporate capital loss, shall be deemed not to have been made prior to
37 the close of the taxable year in which the loss arises.

38 6. Any overpayment resulting from a carryback of a tax credit, including
39 but not limited to the tax credits provided in sections 253.557 and 348.432, RSMo,
40 shall be deemed not to have been made prior to the close of the taxable year in
41 which the tax credit was authorized. In fiscal year 2003, the commissioner of
42 administration shall estimate the amount of any additional state revenue received
43 pursuant to the provisions of this subsection and shall transfer an equivalent
44 amount of general revenue to the schools of the future fund created in section
45 163.005, RSMo.

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