

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 115

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.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Section 143.801, RSMo, is repealed and one new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

4 143.801. 1. A claim for credit or refund of an overpayment
5 of any tax imposed by sections 143.011 to 143.996 shall be filed
6 by the taxpayer within three years from the time the return was
7 filed or two years from the time the tax was paid, whichever of
8 such periods expires the later; or if no return was filed by the
9 taxpayer, within two years from the time the tax was paid. No
10 credit or refund shall be allowed or made after the expiration of
11 the period of limitation prescribed in this subsection for the
12 filing of a claim for credit or refund, unless a claim for credit
13 or refund is filed by the taxpayer within such period.

14 2. If the claim is filed by the taxpayer during the
15 three-year period prescribed in subsection 1 of this section, the
16 amount of the credit or refund shall not exceed the portion of
17 the tax paid within the three years immediately preceding the

1 filing of the claim plus the period of any extension of time for
2 filing the return. If the claim is not filed within such
3 three-year period, but is filed within the two-year period, the
4 amount of the credit or refund shall not exceed the portion of
5 the tax paid during the two years immediately preceding the
6 filing of the claim. If no claim is filed, the credit or refund
7 shall not exceed the amount which would be allowable under either
8 of the preceding sentences, as the case may be, if a claim was
9 filed on the date the credit or refund is allowed.

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

24 4. If a taxpayer is required by section 143.601 to report a
25 change or correction in federal taxable income reported on his
26 federal income tax return, or to report a change or correction
27 which is treated in the same manner as if it were an overpayment
28 for federal income tax purposes, an amended return or a claim for

1 credit or refund of any resulting overpayment of tax shall be
2 filed by the taxpayer within one year from the time the notice of
3 such change or correction or such amended return was required to
4 be filed with the director of revenue. If the report or amended
5 return required by section 143.601 is not filed within the
6 ninety-day period therein specified, interest on any resulting
7 refund or credit shall cease to accrue after such ninetieth day.
8 The amount of such credit or refund shall not exceed the amount
9 of the reduction in tax attributable to:

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

13 (2) Any change in the amount of ~~[his]~~ the taxpayer's
14 federal income tax deduction under the provisions of subsection 1
15 of section 143.171. No effect shall be given in the preceding
16 sentence to any federal change or correction or to any item on an
17 amended return unless it is timely under the applicable federal
18 period of limitations. The time and amount provisions of this
19 subsection shall be in lieu of any other provisions of this
20 section. This subsection shall not affect the time within which
21 or the amount for which a claim for credit or refund may be filed
22 apart from this subsection.

23 5. If the claim for credit or refund relates to an
24 overpayment of tax on account of the deductibility by the
25 taxpayer of a debt as a debt which became worthless or a loss
26 from worthlessness of a security or the effect that the
27 deductibility of a debt or of a loss has on the application to
28 the taxpayer of a carryover, the claim may be made, under

1 regulations prescribed by the director of revenue within seven
2 years from the date prescribed by law for filing the return for
3 the year with respect to which the claim is made.

4 6. If the claim for credit or refund relates to an
5 overpayment attributable to a net operating loss carryback or a
6 capital loss carryback, in lieu of the three-year period of
7 limitations prescribed in subsection 1 of this section, the
8 period shall be that period which ends with the expiration of the
9 fifteenth day of the fortieth month (or the thirty-ninth month,
10 in the case of a corporation) following the end of the taxable
11 year of the net operating loss or net capital loss which results
12 in such carryback, or the period prescribed in subsection 3 of
13 this section in respect of such taxable year, whichever expires
14 later. In the case of such a claim, the amount of the credit or
15 refund may exceed the portion of the tax paid within the period
16 provided in subsections 2, 3 and 4 of this section, whichever is
17 applicable, to the extent of the amount of the overpayment
18 attributable to such carryback.

19 7. (1) No period of limitations provided in subsections 1
20 to 6 of this section shall apply if a taxpayer amends, or the
21 federal Internal Revenue Service or its successor agency changes,
22 the taxpayer's federal income tax return for the same tax period
23 and:

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

27 (b) Such amendment or change reveals that the taxpayer is
28 eligible to claim a credit or refund of an overpayment of any tax

1 imposed under this chapter; and

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

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