

FIRST REGULAR SESSION

SENATE BILL NO. 115

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KRAUS.

Pre-filed December 3, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0137S.01I

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:

Section A. Section 143.801, RSMo, is repealed and one new section
2 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
2 imposed by sections 143.011 to 143.996 shall be filed by the taxpayer within three
3 years from the time the return was filed or two years from the time the tax was
4 paid, whichever of such periods expires the later; or if no return was filed by the
5 taxpayer, within two years from the time the tax was paid. No credit or refund
6 shall be allowed or made after the expiration of the period of limitation prescribed
7 in this subsection for the filing of a claim for credit or refund, unless a claim for
8 credit or refund is filed by the taxpayer within such period.

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

19 3. If pursuant to subsection 6 of section 143.711 an agreement for an

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

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

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

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

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

52 5. If the claim for credit or refund relates to an overpayment of tax on
53 account of the deductibility by the taxpayer of a debt as a debt which became
54 worthless or a loss from worthlessness of a security or the effect that the
55 deductibility of a debt or of a loss has on the application to the taxpayer of a

56 carryover, the claim may be made, under regulations prescribed by the director
57 of revenue within seven years from the date prescribed by law for filing the
58 return for the year with respect to which the claim is made.

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

71 **7. (1) No period of limitations provided in subsections 1 to 6 of**
72 **this section shall apply if the director of revenue examines or causes**
73 **to have examined any return filed and retained as provided in section**
74 **143.971 and:**

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

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

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

82 **(2) The director shall notify the taxpayer of any overpayment**
83 **discovered under this subsection and inform the taxpayer of the**
84 **procedure for filing a claim for a credit or refund of such overpayment.**
85 **If the taxpayer files a claim for such credit or refund, the claim shall**
86 **be filed in the manner provided in this chapter and shall be filed**
87 **within one year from the time the director provided notice to the**
88 **taxpayer.**