

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 811

98TH GENERAL ASSEMBLY

1355H.03P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 32.069, 136.110, 143.801, and 143.811, RSMo, and to enact in lieu thereof four new sections relating to the department of revenue.

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

Section A. Sections 32.069, 136.110, 143.801, and 143.811, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 32.069, 136.110, 143.801, and  
3 143.811, to read as follows:

32.069. **1.** Notwithstanding any other provision of law to the contrary, interest shall be  
2 allowed and paid on any refund or overpayment at the rate determined by section 32.068 only  
3 if the overpayment is not refunded within one hundred twenty days[, or within ninety days in the  
4 case of taxes imposed by sections 143.011 and 143.041,] from the latest of the following dates:

5 (1) The last day prescribed for filing a tax return or refund claim, without regard to any  
6 extension of time granted;

7 (2) The date the return, payment, or claim is filed; or

8 (3) The date the taxpayer files for a credit or refund and provides accurate and complete  
9 documentation to support such claim.

10 **2. Notwithstanding any other provision of law to the contrary, interest shall be**  
11 **allowed and paid on any refund or overpayment at the rate determined by section 32.068**  
12 **only if the overpayment in the case of taxes imposed by sections 143.011 and 143.041 is not**  
13 **refunded within forty-five days from the date the return or claim is filed.**

136.110. **1.** The director of revenue shall promptly record all sums of money collected  
2 or received by the director and shall immediately thereafter deposit the same with the state  
3 treasurer, excluding all funds received and disbursed by the state on behalf of counties and cities,

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.

4 towns and villages. The state treasurer, upon receipt of any moneys from the director of revenue,  
5 shall give his or her receipt therefor, executing the same in triplicate, and shall deliver one copy  
6 of such receipt to the director of revenue, one copy to the commissioner of administration, and  
7 shall retain the third copy thereof in the files of the state treasurer. The books of the director of  
8 revenue shall be audited by the state auditor at such times as may be required by law, and at such  
9 other times as may be directed by the governor.

10 **2. For the purposes of this section, the term “promptly” shall mean within two**  
11 **business days.**

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

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

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 a taxpayer amends, or the federal Internal Revenue Service or its successor agency**  
64 **changes the taxpayer's federal income tax return for the same tax period and:**

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

67           **(b) Such amendment or change reveals that the taxpayer is eligible to claim a credit**  
68 **or refund 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) If the taxpayer files a claim for such credit or refund, the claim shall be filed in**  
72 **the manner provided in this chapter and shall be filed within one year from the time the**  
73 **taxpayer amends or the federal Internal Revenue Service changes the taxpayer's federal**  
74 **income tax return.**

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

10           2. For purposes of this section:

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

14           (2) Any tax paid by the taxpayer before the last day prescribed for its payment, any  
15 income tax withheld from the taxpayer during any calendar year, and any amount paid by the  
16 taxpayer as estimated income tax for a taxable year shall be deemed to have been paid by him  
17 on the fifteenth day of the fourth month following the close of his taxable year to which such  
18 amount constitutes a credit or payment.

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

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

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

26           4. If any overpayment of tax imposed by sections 143.061 and 143.071 is refunded  
27 within four months after the last date prescribed (or permitted by extension of time) for filing the  
28 return of such tax or within four months after the return was filed, whichever is later, no interest  
29 shall be allowed under this section on overpayment.

30           5. If any overpayment of tax imposed by sections 143.011 and 143.041 is refunded  
31 within [ninety] **forty-five** days after the [last date prescribed or permitted by extension of time  
32 for filing the return of such tax] **date the return or claim is filed**, no interest shall be allowed  
33 under this section on overpayment.

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

37           7. Any overpayment resulting from a carryback of a tax credit, including but not limited  
38 to the tax credits provided in sections 253.557 and 348.432, shall be deemed not to have been  
39 made prior to the close of the taxable year in which the tax credit was authorized.

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