

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 811

98TH GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, May 4, 2015, with recommendation that the Senate Committee Substitute do pass.

1355S.04C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 32.069, 136.110, 143.801, and 143.811, RSMo, and to enact in lieu thereof five new sections relating to taxation.

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
2 repealed and five new sections enacted in lieu thereof, to be known as sections
3 32.069, 136.110, 143.801, 143.811, and 143.1028, to read as follows:

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

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

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

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

11 **2. Notwithstanding any other provision of law to the contrary,**
12 **interest shall be allowed and paid on any refund or overpayment at the**
13 **rate determined by section 32.068 only if the overpayment in the case**
14 **of taxes imposed by sections 143.011 and 143.041 is not refunded within**
15 **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

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

2 money collected or received by the director and shall immediately thereafter
3 deposit the same with the state treasurer, excluding all funds received and
4 disbursed by the state on behalf of counties and cities, towns and villages. The
5 state treasurer, upon receipt of any moneys from the director of revenue, shall
6 give his or her receipt therefor, executing the same in triplicate, and shall deliver
7 one copy of such receipt to the director of revenue, one copy to the commissioner
8 of administration, and shall retain the third copy thereof in the files of the state
9 treasurer. The books of the director of revenue shall be audited by the state
10 auditor at such times as may be required by law, and at such other times as may
11 be directed by the governor.

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

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
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 three-
61 year period of limitations prescribed in subsection 1 of this section, the period
62 shall be that period which ends with the expiration of the fifteenth day of the

63 fortieth month (or the thirty-ninth month, in the case of a corporation) following
64 the end of the taxable year of the net operating loss or net capital loss which
65 results in such carryback, or the period prescribed in subsection 3 of this section
66 in respect of such taxable year, whichever expires later. In the case of such a
67 claim, the amount of the credit or refund may exceed the portion of the tax paid
68 within the period provided in subsections 2, 3 and 4 of this section, whichever is
69 applicable, to the extent of the amount of the overpayment attributable to such
70 carryback.

71 **7. (1) No period of limitations provided in subsections 1 to 6 of**
72 **this section shall apply if a taxpayer amends, or the federal Internal**
73 **Revenue Service or its successor agency changes the taxpayer's federal**
74 **income tax return for the same tax period and:**

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

77 **(b) Such amendment or change reveals that the taxpayer is**
78 **eligible to claim a credit or refund of an overpayment of any tax**
79 **imposed under 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) If the taxpayer files a claim for such credit or refund, the**
83 **claim shall be filed in the manner provided in this chapter and shall be**
84 **filed within one year from the time the taxpayer amends or the federal**
85 **Internal Revenue Service changes the taxpayer's federal income tax**
86 **return.**

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

11 2. For purposes of this section:

12 (1) Any return filed before the last day prescribed for the filing thereof
13 shall be considered as filed on such last day determined without regard to any

14 extension of time granted the taxpayer;

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

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

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

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

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

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

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

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

**143.1028. 1. For all tax years beginning on or after January 1,
2 2016, each individual entitled to a tax refund in an amount sufficient
3 to make a designation under this section may designate all or a portion
4 of his or her refund be credited to specified Missouri higher education
5 savings plan accounts established under sections 166.400 to**

6 166.455. The contribution designation authorized by this section shall
7 be clearly and unambiguously printed on each income tax return form
8 provided by this state. If any individual that is not entitled to a tax
9 refund in an amount sufficient to make a designation under this section
10 wishes to make a contribution to specified accounts, such individual
11 may, by separate check, draft, or other negotiable instrument, send in
12 with the payment of taxes, or may send in separately, the amount the
13 individual wishes to contribute. Such amounts shall be clearly
14 designated for the specified accounts.

15 2. A contribution designated under this section shall only be
16 transferred and deposited into the specified savings accounts after all
17 other claims against the refund from which such contribution is to be
18 made have been satisfied. No contribution shall be allowed unless the
19 contribution is at least twenty-five dollars.

20 3. Any refund amount designated under this section shall be
21 subject to the provisions of section 143.721.

22 4. No contribution shall be made to a specified savings account
23 if it would cause the balance of all savings accounts of the beneficiary
24 to exceed the total contribution limit established under section 166.420.

25 5. The department of revenue shall establish the procedure by
26 which the taxpayer may designate an amount to one or more accounts
27 as provided in this section, and shall promulgate rules to implement
28 the provisions of this section. Any rule or portion of a rule, as that
29 term is defined in section 536.010 that is created under the authority
30 delegated in this section shall become effective only if it complies with
31 and is subject to all of the provisions of chapter 536, and, if applicable,
32 section 536.028. This section and chapter 536 are nonseverable and if
33 any of the powers vested with the general assembly pursuant to chapter
34 536, to review, to delay the effective date, or to disapprove and annul
35 a rule are subsequently held unconstitutional, then the grant of
36 rulemaking authority and any rule proposed or adopted after August
37 28, 2015, shall be invalid and void.

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