**Section 100.9410 Limitations on Claims for Refund (IITA Section 911)**

a) In general

With respect to a taxable year for which a claimant taxpayer has filed a return, or tax was paid, no claim shall be filed and no credit or refund shall be allowed or made, except as otherwise provided in the Act, if the claimant files a claim for refund after the later to occur of the expiration of the 3-year period after the date the return was filed (in the case of returns under Article 7 for amounts withheld as tax, not later than 3 years after the 15th day of the 4th month following the close of the calendar year in which the withholding was made effective for taxable years ending after December 30, 1973), or one year after the date the tax was paid.

b) Federal changes

Irrespective of whether notification of an alteration required by IITA Section 506(b) is given by a claimant-taxpayer, a claim for refund may be filed not later than two years after the date the notification was due. The recoverable amount of a claim filed under this Section is limited to any overpayment resulting from a change in the taxpayer's base income reflecting the items of adjustment in the alteration required to be reported. IITA Section 506(b) requires that a notification of the alteration, showing the taxpayer's address and signed by the taxpayer or his or her representative, be filed with the Department not later than 120 days (120 days for federal changes occurring on or after July 1, 1986) after the alteration has been agreed to or finally determined for federal income tax purposes or, if earlier, not later than 120 days (120 days for federal changes occurring on or after July 1, 1986) after any federal income tax deficiency or refund, tentative carryback adjustment, or abatement or credit resulting therefrom, has been assessed or paid. However, in the case of tentative carryback adjustments paid pursuant to IRC Section 6411 before January 1, 1974, a claim for refund of an overpayment may be filed any time prior to January 1, 1976.

c) Extension by agreement

1) When, before expiration of the time otherwise prescribed in this Section for the filing of a claim for refund pertinent to a particular taxable year (or years) for which there has been filed a return (or returns), the Department has obtained (on Form IL-872) the claimant-taxpayer's written consent to the filing after that time, then a claim may be filed at any time prior to the expiration of the period agreed upon. Similarly, prior to its expiration, the extended period may be successively further extended for any or all such taxable years by the obtaining of a further written consent (see 86 Ill. Adm. Code 100.9320(f)).

2) Under Section 100.9400(f)(1) of this Part, an original return is not a refund claim that preserves a taxpayer's right to a refund or credit for an overpayment of tax after the statute of limitations for filing of a refund claim has otherwise expired. However, a timely-filed original return showing an overpayment shall be treated as an extension of time for the filing of a claim for refund of that overpayment through the date that is 6 months after the date on which the Department issues a refund of a portion of the reported overpayment, notifies the taxpayer that it has allowed a credit for a portion of the reported overpayment, or notifies the taxpayer that no refund or credit of the reported overpayment will be allowed.

d) Limit on amount of credit or refund

1) Limit when claim is filed within a 3-year period

With respect to a taxable year for which a claimant-taxpayer has filed a return and during the 3-year period in subsection (a) has filed a claim for refund, the amount of the credit or refund shall not exceed the portion of the tax paid within the period immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return. For the purposes of this subsection (d)(1) and IITA Section 911(d)(1), any amount paid on account of withheld tax or estimated tax (see Articles 7 and 8 of the Illinois Income Tax Act) or any other payment paid as tax or in respect of tax imposed by the Act (for example tax paid with a return filed before the due date) shall be deemed to have been paid not earlier than the last day prescribed for filing the return (irrespective of extensions) for the taxable year for which the payments are applicable. If the claim is filed after expiration of the 3-year period in subsection (a) but prior to the expiration of an agreed to extended period for assessment of the tax, the recoverable amount is limited to that which could have been allowed if the claim were filed at the time of the execution of the extension agreement plus the tax paid thereafter up to the time the claim was timely filed.

2) Limit when claim is not filed within a 3-year period

Irrespective of whether a return was filed, if the claim was not filed within the 3-year period in subsection (a) or within an agreed-to extended period for assessment of tax, the amount of credit or refund shall not exceed the portion of the tax paid during the one year immediately preceding the filing of the claim.

e) Time return deemed filed

For purposes of this Section, a tax return filed before the last day prescribed by law for the filing of the return (including any extensions) shall be deemed to have been filed on the last day. The last day prescribed for filing returns shall include any automatic extensions of time for filing.

f) Special period of limitation with respect to net loss carrybacks from loss years ending on or after December 31, 1986

The 3-year period of limitation prescribed in subsection (a) does not apply if the claim for refund relates to an overpayment attributable to a net loss carryback provided by IITA Section 207. Instead, the period of limitation shall be that period which ends 3 years after the time for filing the return (including extensions) for the taxable year in which the net loss occurs, or the period prescribed in subsection (c) in respect of that taxable year, whichever expires later. The amount of the refund may exceed the portion of the tax paid within the period provided in subsection (d) to the extent of the amount of the overpayment attributable to the net loss carryback.

(Source: Amended at 35 Ill. Reg. 4223, effective February 25, 2011)