



General Assembly

February Session, 2012

Raised Bill No. 5471

LCO No. 2119

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Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

**AN ACT CONCERNING REFUND CLAIM PERIODS FOR SALES AND
USE TAXES AND PERSONAL INCOME TAX.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 12-425 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2012, and*
3 *applicable to claims for refunds filed on or after said date*):

4 [(1)] (a) No refund shall be allowed unless a claim therefor is filed
5 with the commissioner [within] not later than three years [from] after
6 the last day of the month succeeding the period for which the
7 overpayment was made, or [, with respect to assessments made under
8 sections 12-415 and 12-416, within six months after the assessments
9 become final] not later than two years after the date the tax was paid,
10 whichever date is later. No credit shall be allowed after the expiration
11 of the period specified for filing claims for refund unless a claim for
12 credit is filed with the commissioner within such period, or unless the
13 credit relates to a period for which a waiver is given pursuant to
14 subsection (g) of section 12-415.

15 [(2)] (b) No credit or refund of any amount paid pursuant to section

16 12-411 shall be allowed on the ground that the storage, acceptance,
17 consumption or other use of the services or property is exempted
18 under subdivision (1) of section 12-413, unless in addition to the
19 overpayment for which the claim is filed the claimant also has
20 reimbursed the claimant's vendor for the amount of the sales tax
21 imposed upon the claimant's vendor with respect to the sale of the
22 property and paid by the vendor to the state.

23 [(3)] (c) Every claim shall be in writing and shall state the specific
24 grounds upon which the claim is founded.

25 [(4)] (d) Failure to file a claim within the time prescribed in this
26 section constitutes a waiver of any demand against the state on
27 account of overpayment.

28 [(5)(A)] (e) (1) The commissioner, upon receipt of such claim for
29 refund, shall determine whether such claim is valid and, if so, shall
30 notify the State Comptroller of the amount of such refund and the
31 State Comptroller shall draw an order on the State Treasurer for
32 payment of such refund. If the commissioner determines that such
33 claim is not valid, either in whole or in part, he shall mail notice of the
34 proposed disallowance to the claimant in the manner prescribed for
35 service of notice of a deficiency assessment. Sixty days after the date on
36 which it is mailed, a notice of proposed disallowance shall constitute a
37 final disallowance except only for such amounts as to which the
38 claimant has filed, as provided in [subparagraph (B) of this]
39 subdivision (2) of this subsection, a written protest with the
40 commissioner.

41 [(B)] (2) On or before the sixtieth day after the mailing of the
42 proposed disallowance, the claimant may file with the commissioner a
43 written protest against the proposed disallowance in which the
44 claimant sets forth the grounds on which the protest is based. If a
45 protest is filed, the commissioner shall reconsider the proposed
46 disallowance and, if the claimant has so requested, may grant or deny
47 the claimant or the claimant's authorized representatives an oral

48 hearing.

49 [(C)] (3) The commissioner shall mail notice of his determination to
50 the claimant, which notice shall set forth briefly the commissioner's
51 findings of fact and the basis of decision in each case decided in whole
52 or in part adversely to the claimant.

53 [(D)] (4) The action of the commissioner on the claimant's protest
54 shall be final upon the expiration of one month from the date on which
55 he mails notice of his action to the claimant unless within such period
56 the claimant seeks judicial review of the commissioner's determination
57 pursuant to section 12-422.

58 Sec. 2. Subsection (a) of section 12-732 of the general statutes is
59 repealed and the following is substituted in lieu thereof (*Effective July*
60 *1, 2012, and applicable to claims for refund submitted on or after said date*):

61 (a) (1) If any tax has been overpaid, the taxpayer may file a claim for
62 refund in writing with the commissioner [within three years from the
63 due date for which such overpayment was made, stating] not later
64 than three years after the return was filed or two years after the date
65 the tax was paid, whichever date is later, or, if no return was filed, not
66 later than two years after the date the tax was paid. Such claim shall
67 state the specific grounds upon which the claim is founded, provided
68 if the commissioner has extended the time for the filing of an income
69 tax return by the taxpayer, the taxpayer may file a claim for refund
70 [within] not later than three years after the date on which the income
71 tax return is filed by the taxpayer or [within] not later than three years
72 after the extended due date of the income tax return, whichever is
73 earlier. If the claim was filed by the taxpayer during such three-year
74 period, the amount of the refund shall not exceed the portion of the tax
75 paid within the period immediately preceding the filing of the claim,
76 equal to three years plus the period of any extension of time for filing
77 the return. If the claim was filed within such two-year period, the
78 amount of the refund shall not exceed the portion of the tax paid
79 during the two years immediately preceding the filing of the claim.

80 Not later than ninety days following receipt of such claim for refund
81 the commissioner shall determine whether such claim is valid and, if
82 so, said commissioner shall notify the State Comptroller of the amount
83 of such refund and the State Comptroller shall draw an order on the
84 State Treasurer in the amount thereof for payment to the taxpayer. For
85 purposes of this section, a claim for refund that is filed before the last
86 day prescribed by law or by a regulation adopted pursuant to law for
87 the filing of an income tax return, determined without regard to any
88 extension of time for filing, shall be deemed to be filed on such last
89 day. To the amount of such refund, there shall be added interest at the
90 rate of two-thirds of one per cent for each month or fraction thereof
91 which elapses between (A) the ninetieth day following receipt by the
92 commissioner of such claim for refund on a permitted form, containing
93 the taxpayer's name, address and Social Security number or federal
94 employer identification number, the required signature, and sufficient
95 required information, whether on the return or on required
96 attachments, to permit the mathematical verification of tax liability
97 shown on the return, and (B) the date of notice by the commissioner
98 that such refund is due. Failure to file a claim within the time
99 prescribed in this section constitutes a waiver of any demand against
100 the state on account of overpayment. If the commissioner determines
101 that such claim is not valid, either in whole or in part, said
102 commissioner shall mail notice of the disallowance in whole or in part
103 of the claim to the claimant and such notice shall set forth briefly the
104 commissioner's findings of fact and the basis of disallowance in each
105 case decided in whole or in part adversely to the claimant. Sixty days
106 after the date on which it is mailed, a notice of proposed disallowance
107 shall constitute a final disallowance except only for such amounts as to
108 which the claimant has filed, as provided in subdivision (2) of this
109 subsection, a written protest with the commissioner.

110 (2) On or before the sixtieth day after the mailing of the proposed
111 disallowance, the claimant may file with the commissioner a written
112 protest against the proposed disallowance in which the claimant sets
113 forth the grounds on which the protest is based. If a protest is filed, the

114 commissioner shall reconsider the proposed disallowance and, if the
115 claimant has so requested, may grant or deny the claimant or the
116 claimant's authorized representatives an oral hearing.

117 (3) The commissioner shall mail notice of his determination to the
118 claimant, which notice shall set forth briefly the commissioner's
119 findings of fact and the basis of decision in each case decided in whole
120 or in part adversely to the claimant.

121 (4) The action of the commissioner on the claimant's protest shall be
122 final upon the expiration of one month from the date on which he
123 mails notice of his action to the claimant unless within such period the
124 claimant seeks judicial review of the commissioner's determination
125 pursuant to section 12-730.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2012, and applicable to claims for refunds filed on or after said date</i>	12-425
Sec. 2	<i>July 1, 2012, and applicable to claims for refund submitted on or after said date</i>	12-732(a)

Statement of Purpose:

To provide an opportunity for taxpayers to claim a refund for an overpayment of taxes by making the deadline for such claims either three years after the date of filing a return or two years after the date of paying the tax, whichever is later.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]