

423.37 Failure to file sales or use tax returns — incorrect returns — limitations period.

1. *a.* As soon as practicable after a return is filed and within three years after the return is filed, the department may examine the return, assess and determine the tax due if the return is found to be incorrect, and give notice to the person liable for the tax of the assessment and determination as provided in paragraph “*b*”. If a return, when filed, is incorrect or insufficient, the department shall determine the amount of tax due from information or knowledge the department is able to obtain. The determination may be made using any generally recognized valid and reliable sampling technique, whether or not the person being audited has complete records, and if mutually agreed upon by the department and the person being audited. The period for the examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax.

b. The department shall issue a notice of assessment in accordance with [section 421.60](#). The notice shall be appealable pursuant to [sections 422.28](#) and [422.29](#). If the person fails to appeal the notice of assessment, the person may pay the tax, penalty, and interest and file a refund claim within the time period provided in [section 422.73](#), or may request relief under [section 421.5](#).

2. *a.* If a return required by [this subchapter](#) is not filed, the period for examination and determination of the correct amount of tax is unlimited. The department may, at any time, estimate the tax due from the information or knowledge the department is able to obtain.

b. If the department estimates an amount of tax under [this subsection](#), the following shall apply:

(1) The department shall issue a notice of assessment to the person for which the tax is estimated in accordance with [section 421.60](#). The notice of assessment shall not be appealable pursuant to [sections 422.28](#) and [422.29](#), except to appeal the determination that the person is required to file the return.

(2) The department shall include a statement with the notice that if the person files a return within three years from the date on the notice of assessment, the department may replace the assessment with the amount shown due on the person’s return, plus any applicable penalty and interest, and the department may examine that return and determine the tax, penalty, and interest within the period provided in [this section](#).

(3) If the person fails to file a return within three years from the date on the notice of assessment, the person may pay the tax, penalty, and interest and file a refund claim within the time period provided in [section 422.73](#), or may request relief under [section 421.5](#).

3. The three-year period of limitation provided in [subsection 1](#) may be extended by a taxpayer by signing a waiver agreement form to be provided by the department. The agreement shall stipulate the period of extension and the tax period to which the extension applies. The agreement shall also provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

4. The period of limitation on examination and determination is unlimited under [this title](#) in the case of any action by the department to recover or rescind any tax expenditure as defined by [section 2.48](#), [subsection 1](#), or any other incentive or assistance, due to a failure to meet or maintain the requirements of a program administered by the economic development authority.

[2003 Acts, 1st Ex, ch 2, §130, 205; 2006 Acts, ch 1158, §51; 2013 Acts, ch 110, §2; 2020 Acts, ch 1118, §21, 31; 2023 Acts, ch 115, §30, 31, 40](#)

Referred to in [§99G.30A, 321.105A, 421.10, 423.33, 423.45, 423.57, 423A.6, 423B.6, 423C.4, 423D.4, 423G.5, 452A.23, 453A.28, 453A.46](#)
2023 amendments to subsections 1 and 2 effective January 1, 2024; 2023 Acts, ch 115, §40

Subsection 1 amended

Subsection 2 stricken and rewritten