

701—202.11(423) Claim for refund of tax.

202.11(1) *Eligibility for refund; filing claims.* Refunds of tax shall be made only to those who have actually paid the tax. A person or persons may designate the retailer who collects the tax as an agent for purposes of receiving a refund of tax. A person or persons who claim a refund shall prepare and file the claim on Form IA 843, Refund Return, with the department, stating in detail the reasons and facts and, if necessary, provide supporting documents for which the claim for refund is based.

202.11(2) *Denial of refund claim—appeal.* If the claim for refund is denied, and the person wishes to appeal the denial, the department will consider an appeal to be timely if filed no later than 60 days following the date of denial. Rule 701—7.9(17A) contains more information on appeals.

202.11(3) *Request for abeyance.* When a person is in a position of believing that the tax, penalty, or interest paid or to be paid will be found not to be due at some later date, then in order to prevent the statute of limitations from running out, a claim for refund or credit must be filed with the department within the statutory period provided for in Iowa Code section 423.47. The claim must be filed requesting that it be held in abeyance pending the outcome of any action that will have a direct effect on the tax, penalty, or interest involved. Nonexclusive examples of such action are court decisions, departmental orders and rulings, and commerce commission decisions.

EXAMPLE 1: X, an Iowa sales tax permit holder, is audited by the department for the period from July 1, 2014, to June 30, 2017. A \$10,000 tax, penalty, and interest liability is assessed on materials the department determines are not used in processing. X does not agree with the department's position but still pays the full liability even though X is aware of pending litigation involving the materials taxed in the audit.

Y is audited for the same period involving identical materials used to those taxed in the audit of X. However, Y, rather than paying the assessment, takes the department through litigation and wins. The final litigation is not completed until September 30, 2023.

X, on October 1, 2023, upon finding out about the decision of Y's case, files a claim for refund relating to its audit completed in June 2017. The claim will be totally denied as beyond the three-year statute of limitations. However, if X had filed a claim along with payment of its audit in June 2017, and requested that the claim be held in abeyance pending Y's litigation, then X would have received a full refund of its audit liability if the decision in Y's case was also applicable to X.

EXAMPLE 2: X is audited by the department for the period from July 1, 2015, to June 30, 2018, and assessed July 31, 2018. X pays the assessment on December 31, 2018. No protest was filed, and no claim for refund or credit was filed requesting it be held in abeyance. On January 31, 2020, X files a claim for refund relating to the entire audit. The claim is based on a recent court decision that makes the tax liability paid by X now refundable. However, only the tax paid from January 1, 2017, through June 30, 2018, will be allowed since this is the only portion within the three-year statute of limitations set forth in Iowa Code section 423.47. If the claim had been filed on or before December 31, 2019, then the entire audit period could have been considered for refund since the claim would have been filed within one year of payment.

202.11(4) *Refund of use tax.* A taxpayer will need to file an amended return in order to claim a refund of use tax. A taxpayer cannot use Form IA 843, Refund Return, to claim this refund.

This rule is intended to implement Iowa Code sections 423.45 and 423.47.

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