

701—60.3 (422) Refund of overpaid tax. The following are provisions for refunding or crediting to the taxpayer deposits or payments for tax in excess of amounts legally due.

60.3(1) A claim for refund of franchise tax may be made on a form obtainable from the department. Claims for refund should not be mailed in the same envelope or attached to the return. In the case of a claim filed by an agent of the taxpayer, a power of attorney must accompany the claim.

60.3(2) A franchise taxpayer shall not offset a refund or overpayment of tax for one year as a prior payment of tax of a subsequent year on the return of a subsequent year without authorization in writing by the department. The department may, however, apply an overpayment, or a refund otherwise due the taxpayer, to any tax due or to become due from the taxpayer.

60.3(3) When an overpayment of estimated tax is indicated on the face of the return, the overpayment will ordinarily be refunded to the taxpayer by the department without the filing of a formal claim for refund. If a refund of the indicated overpayment is not received within a reasonable period of time, a claim for refund may be filed by the taxpayer on an official form obtainable from the Taxpayer Services Section, Iowa Department of Revenue, P.O. Box 10457, Des Moines, Iowa 50306.

If an overpayment of income tax is claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year and no claim for credit or refund shall be allowed.

When a taxpayer elects to have an overpayment credited to estimated tax for the succeeding year, interest may be properly assessed on a deficiency of income tax for the year in which the overpayment arose. If a taxpayer elects to have all or part of an overpayment shown on the return applied to the estimated income tax for the succeeding taxable year or refunded, the election is binding to the taxpayer.

An overpayment of tax may be used to offset any outstanding tax liability owed by the taxpayer, but once an elected amount is credited as a payment of estimated tax for the succeeding year, it loses its character as an overpayment for the year in which it arose and thereafter cannot offset any subsequently determined tax liability.

60.3(4) Rescinded IAB 11/24/04, effective 12/29/04.

60.3(5) Refunds—statute of limitations for tax years ending after January 1, 1979. The statute of limitations with respect to which refunds or credits may be claimed is:

a. The later of:

- (1) Three years after the due date of payment upon which refund or credit is claimed; or
- (2) One year after which such payment was actually made.

b. Six months from the date of final disposition of any federal income tax matter with respect to the particular tax year. The taxpayer, however, must have notified the department of the matter within six months after the specified three-year period. The term “matter” includes, but is not limited to, the execution of waivers and commencement of audits. The refund is limited to those matters between the taxpayer and the Internal Revenue Service which affect Iowa taxable income. *Kelly-Springfield Tire Co. v. Iowa State Board of Tax Review*, 414 N.W.2d 113 (Iowa 1987).

c. For federal audits finalized on or after July 1, 1991, the taxpayer must claim a refund or credit within six months of final disposition of any federal income tax matter with respect to the particular tax year regardless when the tax year ended. It is not necessary for the taxpayer to have previously notified the department within the period of limitations specified in 60.3(5) “a”(1) of a matter between the taxpayer and the Internal Revenue Service in order to receive a refund or credit. The term “matter” includes, but is not limited to, the execution of waivers and commencement of audits. The refund or credit is limited to those matters between the taxpayer and the Internal Revenue Service which affect Iowa taxable income. *Kelly-Springfield Tire Co. v. Iowa State Board of Tax Review*, 414 N.W.2d 113 (Iowa 1987).

d. Three years after the due date of the return for the year in which a net operating loss or capital loss occurs, which if carried back results in a reduction of tax in a prior period and an overpayment results.

60.3(6) Rescinded IAB 9/19/12, effective 10/24/12.

60.3(7) Refunds—statute of limitations for taxpayers who paid 90 percent of the tax by the due date and filed the original return in the six-month extended period. If a taxpayer has paid 90 percent of the income tax required to be shown due by the original due date of the return and has filed the original income tax return sometime in the six-month extended period after the original due date, the taxpayer may file an amended return within three years of the extended due date of the return and shall be within the statute of limitations for refund. This position is supported by the Iowa Supreme Court in *Conoco, Inc. v. Iowa Department of Revenue and Finance*, 477 N.W.2d 377 (Iowa 1991). See also 701—subrule 39.2(4) which pertains to the extended period for filing the Iowa income tax return when 90 percent of the tax is paid by the original due date of the Iowa income tax return.

See 701—subrule 55.3(7) for examples illustrating how this rule is applied.

This rule is intended to implement Iowa Code section 422.66 and section 422.73 as amended by 2012 Iowa Acts, Senate File 2328.

[ARC 0337C, IAB 9/19/12, effective 10/24/12]