

701—43.3(422) Overpayments of tax. The following are provisions for refunding or crediting to the taxpayer's deposits or payments for tax in excess of amounts legally due.

43.3(1) Claims for refund. A claim for refund is a formal request made by the taxpayer or the taxpayer's personal representative to the department of revenue for repayment of state income tax that was paid with the taxpayer's previously filed individual income tax return. In order for a claim for refund to be considered to be a valid document, the taxpayer or the taxpayer's personal representative must file the claim on an IA 1040X Amended Return Form or on an IA 1040 Income Tax Return Form for the appropriate tax year, with the notation "Amended for Refund" clearly shown on the face of the return form. The taxpayer or the taxpayer's personal representative must file the claim for refund with the department under separate cover so the claim is not filed with another tax return or with other documents or forms submitted to the department.

In addition, the claim for refund must be filed within one of the time periods specified in Iowa Code section 422.73(2) in order for the refund claim to be timely so that the claim may be considered on its merits by the department.

If the department determines that the taxpayer's claim is without merit and the claim for refund should be rejected, the department will notify the taxpayer or the taxpayer's personal representative by mail that the claim for refund has been rejected and of the reason for rejection. In addition, the rejection letter will advise the taxpayer that the taxpayer has 60 days from the date of the letter to file a protest of the department's rejection of the claim for refund. The taxpayer's appeal of the rejection of the claim for refund must be filed in accordance with rule 701—7.41(17A).

43.3(2) Offsetting refunds. A 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.

43.3(3) Setoffs of qualifying debts administered by the department of administrative services. Before any refund or rebate from a taxpayer's individual income tax return is considered for purposes of setoff, the refund or rebate must be applied first to any outstanding tax liability of that taxpayer with the department of revenue. After all outstanding tax liabilities are satisfied, any remaining balance of refund or rebate will be set off against any debt of the taxpayer, setoff of which is overseen by the department of administrative services pursuant to 2003 Iowa Acts, House File 534, section 86.

43.3(4) College loan setoff. Rescinded IAB 11/12/03, effective 12/17/03.

43.3(5) District court debts setoff. Rescinded IAB 11/12/03, effective 12/17/03.

43.3(6) Overpayment credited to estimated tax. Any remaining balance of overpayment, at the election of the taxpayer, will be refunded to the taxpayer or credited as a first payment of the taxpayer's estimated tax for the following year. However, a taxpayer may elect to credit an overpayment from a return to the estimated tax for the following tax year only in cases when the return is filed in the same calendar year that the return is due. For example, a taxpayer's 1994 return is due on April 30, 1995. If the taxpayer files that return on or before December 31, 1995, the taxpayer can elect to credit an overpayment on that return to estimated tax for 1995, and this election will be honored by the department. See also rule 701—49.7(422).

If an overpayment of income tax is shown as a credit to estimated tax for the succeeding taxable year, the amount shall be considered as a payment of the income tax for the succeeding taxable year and no claim for credit or refund of the overpayment shall be allowed on the return where the overpayment arose.

When a taxpayer elects to have an overpayment credited to estimated tax for the succeeding year, interest may properly be 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, 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.

43.3(7) *Refunds—statute of limitations for years ending before January 1, 1979.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(8) *Refunds—statute of limitations for tax years ending on or after January 1, 1979.* The statute of limitations with respect to which refunds or credit may be claimed are:

a. The later of

(1) Three years after 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, contained in paragraph “a,” subparagraph (1), above. 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 43.3(8) “a”(1) above 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 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.

43.3(9) *Refunds—statute of limitations for individuals who died as a result of hostile action.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(10) *Refunds—statute of limitations for MIAs and spouses of MIAs.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(11) *Refunds—statute of limitations for insolvent farmers who received capital gains from farmland sold in 1982 and 1983.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(12) *Refunds—statute of limitations for individuals with certain charitable contributions.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(13) *Refunds—statute of limitations for taxpayers who paid state income tax on 1988 returns on certain supplemental assistance payments.* Rescinded IAB 11/24/04, effective 12/29/04.

43.3(14) *Refunds—statute of limitations for taxpayers who paid state income tax on returns for tax years where federal income tax was refunded due to a provision of the Taxpayer Relief Act of 1997.* Notwithstanding the three-year statute of limitations in Iowa Code section 422.73, claims for refund filed with the department on or before June 30, 1999, will be considered timely if the taxpayer’s federal income tax was refunded due to a provision in the Taxpayer Relief Act of 1997 which affected the federal adjusted gross income of an individual or an estate or a trust. This particular provision may affect Iowa returns for a tax year beginning on or after January 1, 1977, to the extent the federal adjusted gross incomes on federal returns for the tax year were affected by the Taxpayer Relief Act of 1997.

43.3(15) *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 by October 31 of the third year following the year the original return was due 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.

EXAMPLE 1. Joe Barnes had paid at least 90 percent of the tax shown due on his 1999 Iowa income tax return by the April 30 original due date and filed his original 1999 Iowa return on May 15, 2000. Mr. Barnes determined that he had failed to claim several deductions on the original 1999 Iowa return, so he filed an amended 1999 return on October 31, 2003. The amended return was filed within the three-year statute of limitations for refund since it was filed within three years of the extended due date of the return, October 31, 2000. The six-month extended due date applied in this case because the original return was filed within the six-month extended period.

EXAMPLE 2. Fred Jones paid 90 percent of the tax shown due on his 1999 return by the April 30 original due date and filed the original return on or before the April 30, 2000, original due date for this return. Mr. Jones determined that when he filed the original 1999 Iowa return, he failed to claim the Iowa income tax withheld from a part-time job he held in 1999. Mr. Jones filed an amended 1999 Iowa return on May 15, 2003, to claim the Iowa tax withheld that he had failed to claim on the original return. This amended return was rejected by the department because it was not filed within three years of the due date of the return. Although Mr. Jones had paid 90 percent of the tax by the due date, the due date was not extended because the original return had been filed by the due date of April 30, 2000.

This rule is intended to implement Iowa Code section 421.17 as amended by 2003 Iowa Acts, House File 534, and sections 422.2, 422.16, and 422.73.