



# Indiana Department of Revenue

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General Tax Information Bulletin #100

Subject: Claim for Refund Procedures

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References: IC 6-3-4-8; IC 6-8.1-1-4; IC 6-8.1-9-1; IC 6-8.1-9-1.5; 45 IAC 15-9-2

Replaces Bulletin #100, dated December 2019, and Tax Policy Directive #1, dated September 2010

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## Summary of Changes

Aside from technical, nonsubstantive changes, this bulletin has been updated to include additional information on claim for refund procedures since the bulletin was last updated, as well as to include information on erroneous refunds. The bulletin also includes examples that were in Tax Policy Directive #1 ("Statutes of Limitations for Filing Claims for Refunds and for Assessing Taxes," last updated September 2010). Tax Policy Directive #1 was eliminated in December 2023.

## Introduction

This bulletin sets forth the procedures that are to be followed by all taxpayers who file a claim for refund pursuant to IC 6-8.1-9-1 and outlines the proper manner in which the Indiana Department of Revenue will discharge its duties under the statute.

## Authority

IC 6-8.1-9-1 establishes both the rights and the remedies for a taxpayer who determines that more tax has been paid than is legally due, except as provided under IC 6-8.1-9-3 for gasoline taxes, special fuel taxes, and motor vehicle taxes (other than interest and penalties). This section is in contrast to IC 6-8.1-9-2, where the department finds that a taxpayer has paid more tax than is legally due. Further, if a specific tax type has a statute of limitations for refunds other than

provided in IC 6-8.1-9-1, that statute of limitations supersedes the general provisions of IC 6-8.1-9-1.

For purposes of this bulletin, a "periodic tax" means a listed tax for which a return or report is required to be filed and the tax is required to be remitted four times or more in a calendar year. However, this does not include an estimated tax payment of the pass through entity tax, state income tax, or the financial institutions tax, or a nonresident withholding payment required to be remitted quarterly. Furthermore, if a provision of the law relating to a listed tax permits a taxpayer to file returns or reports or remit the tax less frequently than four times per calendar year, the listed tax is considered a periodic tax for a taxpayer who files or remits less frequently.

## Filing a Claim for Refund

### Timeliness of Claim

IC 6-8.1-9-1(a) provides the general statutory period within which a claim for refund may be filed. The prerequisite for obtaining a refund is that the taxpayer must file the claim with the department within three years after the later of the following:

- (1) The due date of the return;
- (2) The date of payment; or
- (3) In the case of a return filed for a periodic tax, it is 31 days after the end of the calendar year that contains the taxable period for which the return is filed.

*Example #1:* A taxpayer files sales tax returns on a monthly basis. If the January through November returns for tax year 2021 are filed and the taxes are paid on time, the statute of limitations for filing a claim for refund is three years from January 31, 2025. Prior to the 2024 changes to the law, the statute of limitations would have been December 31, 2024.

*Example #2:* For the same taxpayer in Example #1, the December return would be filed in January and any tax due paid at that time. Therefore, for purposes of that return only and the amount of taxes paid with that return, the statute of limitations for filing a claim for refund for that tax period (December 2021) would have been January 20, 2025. Under the new law effective July 1, 2024, the due date of the 2021 return is three years from January 31, 2025.

The statute of limitations for refunds for amounts withheld by employers is governed by the general statute of limitations found in IC 6-8.1-9-1(a).

**NOTE:** There are three exceptions to the general three-year time period in which a claim for refund must be filed:

1. Amended returns claiming a refund of adjusted gross income tax or financial institutions tax as the result of a modification of a taxpayer's federal income tax liability by the Internal Revenue Service (IRS) must be filed by the later of (1) the due date for the refund otherwise provided by IC 6-8.1-9-1(a) or (2) 180 days after a final determination regarding the modification. The statute of limitation is extended only to the extent of the federal modification and those changes directly resulting from the federal modification, e.g. a

change in federal gross income may also require a change in the taxpayer's apportionment factor.

a. A final determination means an action or decision by a taxpayer, the IRS, the United States Tax Court, or any other United States federal court concerning any disputed tax issue that is final and conclusive, and cannot be reopened or appealed by a taxpayer or the IRS as a matter of law. In the case of a refund requiring approval of the federal Joint Committee on Taxation, the date of approval by the Joint Committee on Taxation is considered the date on which the refund is approved by the IRS.

b. An amended federal return constitutes a modification by the IRS if the taxpayer files the amended return with leave of the IRS. This includes amended returns filed in lieu of the IRS issuing a Revenue Agent Report. These situations would include amended returns filed pursuant to the taxpayer and the IRS entering into an Advanced Pricing Agreement or similar arrangement.

c. Communications between the taxpayer and the IRS may be submitted to support the filing an amended AGIT return after filing an amended federal return with the leave of the IRS. The communication must definitively state that the IRS is agreeing to allow the filing of amended federal returns or directing the taxpayer to file such federal amended returns.

d. Pursuant to IC 6-8.1-9-1(j), the Indiana amended returns must be filed within 180 days of the date of the federal modification. For these purposes, the date of modification shall be considered the date of filing of the federal amended returns. Such leave to file an amended return does not include an amended return filed solely due to the existence of an agreement to extend the statute of limitation between the taxpayer and the IRS.

e. Any extended federal statute of limitations does not apply to a tax return (or amended tax return) filed by the taxpayer without any action by the IRS. This includes amended returns filed by a taxpayer to report adjustments made by the IRS if a federal tax refund is not available for that taxable year (e.g., the federal return reports a net operating loss but the Indiana return reports a gain) AND a federal tax refund could not have been obtained for that taxable year even if the federal return had reported tax due.

2. Refunds of adjusted gross income tax or financial institutions tax as the result of a modification of a partnership's federal partnership return by the IRS. Refer to [Income Tax Information Bulletin #72A](#) for additional information.
3. If an agreement to extend the statute of limitations for assessment is entered into under IC 6-8.1-5-2(h), the statute of limitations for filing a refund claim is extended to the same date to which the department may assess additional tax.

IC 6-8.1-1-4 defines “due date” to include the last day of an extension period. If an extension of time is applicable for the tax period for which the overpayment is claimed, the taxpayer must provide the department with information verifying the extension.

If the department determines that the claim for refund is barred by the statute of limitations, the taxpayer will receive a Refund Denial letter.

### Substance and Form of Claim

The manner in which a refund may be claimed depends on the tax type. Income tax or financial institutions tax refunds must be claimed by filing an original or amended return. For employer withholding tax refunds, the WH-3 reconciliation return must be filed to claim an overpayment of tax remitted. For other taxes, the claim for refund must be filed using Form GA-110L or may be requested through an INTIME account, where the account reflects a credit balance

IC 6-8.1-9-1(a) also mandates that the claim must set forth the amount of the refund claimed and the reasons that the taxpayer is entitled to the refund. 45 IAC 15-9-2(d) provides that the claim for refund must set forth:

- (1) The amount of refund claimed;
- (2) A sufficiently detailed explanation of the claim so that the department can determine its correctness;
- (3) The tax period for which the overpayment is claimed; and
- (4) The year and date the overpayment was made.

IC 6-8.1-9-1(b) requires the department to consider the claim for refund. Pursuant to this statute, the department, as part of its consideration of the claim, may request any additional information that might be necessary in making a determination regarding the validity of the refund claim. If the information requested is not provided within the timeframe requested, the claim will be either rejected and returned to the taxpayer or denied.

If a taxpayer requests a refund of any tax overpayment, the department will review the taxpayer’s complete account to determine overall compliance. If any required return has not been filed by the taxpayer, the department will require the taxpayer to file any missing returns prior to issuance of the claimed refund. Further, if there is any underpaid account period, the refund will be reduced to offset any amounts due.

The following three conclusions may occur after the department reviews a claim for refund:

- *Rejection.* A taxpayer who has failed to provide the department with the information required to constitute a valid claim for refund pursuant to 45 IAC 15-9-2(d) will receive a notice of the department’s determination. The decision made by the department to reject and return a claim for refund **does not** constitute a refund denial. For purposes of the applicable statute of limitations period in which the taxpayer may file a claim for refund, such statutory limitation is not suspended (or tolled) by the submission of an incomplete claim for refund. Additionally, in the event a subsequent claim for refund is submitted and granted, the period for refund payment without interest will begin from the date of the

submission of the accepted claim for refund, not the date of the original rejected claim. If the claim for refund meets the minimum requirements pursuant to 45 IAC 15-9-2(d), but the taxpayer has failed to provide supporting documentation after being requested, then the claim for refund will be denied in part or in full.

- *Denied in Part or in Full.* If the claim for refund is denied in part or in full, the taxpayer will receive a Refund Denial letter with an attached explanation stating the reason(s) for such denial. Payment of the portion of the claim that has been granted is sufficient notice of the department's decision regarding such portion. If the department grants the claim for refund in part and credits any of the amount granted to the taxpayer's future or current tax liabilities, the taxpayer will receive notice of the department's determination and resulting credit(s) allocated.
  - a. *Granted in Full.* If the department grants the claim for refund in full, payment of the claim is sufficient notice of the department's decision. If the department grants the claim for refund in full and credits any of the amount granted to the taxpayer's future or current tax liabilities, the taxpayer will receive notice of the department's determination and resulting credit(s) allocated.

If the taxpayer receiving a Refund Denial letter does nothing, then the letter becomes the department's final determination as to the refund requested. If the taxpayer receiving a Refund Denial letter requests an administrative hearing (as discussed below), then the letter is treated as a preliminary decision.

All Refund Denial letters will conclude with the following language:

If the taxpayer disagrees with any part of the department's decision, the taxpayer has 60 days from the date the Refund Denial letter is mailed to file a request with the department for an administrative hearing. The taxpayer can learn more about filing a request for administrative hearing by visiting the department's website at [www.in.gov/dor/](http://www.in.gov/dor/).

## **The Administrative Appeals Process—Filing a Protest to Request an Administrative Hearing**

If any part of a taxpayer's claim for refund has been denied, but the taxpayer disagrees with the department's determination, the taxpayer can file an administrative protest on the issue. The department shall, if requested by the taxpayer within 60 days of the mailing date of the department's Refund Denial letter, hold a hearing on the denial of the claim for refund for purposes of obtaining and considering additional evidence. The department will not initiate the hearing process. To request a hearing, the taxpayer should make the request clear in its protest and submit State Form 56317, Protest Submission Form, to the department.

*Example #3:* The department issues the taxpayer a Refund Denial letter dated June 1 indicating that the taxpayer's claim for refund has been denied. The taxpayer receives the Refund Denial letter on June 5. The taxpayer has 60 days, beginning June 1, to file a protest and choose to request an administrative hearing appealing the decision.

If the department decides to grant the claim for refund in full based on information provided after the Refund Denial letter but prior to a hearing, the hearing will not be conducted. The department's payment in full of the claim is sufficient notice of the department's decision.

If the department decides to grant the claim for refund in part based on information provided after the Refund Denial letter but prior to a hearing, the hearing will not be conducted. The taxpayer will receive a revised or supplemental Refund Denial letter with an attached explanation stating the reason(s) for such denial. Payment of the portion of the claim that has been granted is sufficient notice of the department's decision regarding such portion.

If the taxpayer disagrees with the department's revised or supplemental Refund Denial letter, the taxpayer can file a protest and request an administrative hearing on the issue. The department shall, if requested by the taxpayer within 60 days of the mailing date of the department's revised or supplemental Refund Denial letter, hold a hearing on the claim for refund protest for purposes of obtaining and considering additional evidence. The department will not initiate the hearing process. To request a hearing after a revised or supplemental Refund Denial letter, the taxpayer should attach a request to a copy of the claim for refund form originally submitted to the department.

If the department issues a Refund Denial letter, the taxpayer must file a protest and request an administrative hearing in order to preserve the taxpayer's rights to appeal to the Indiana Tax Court. However, if the department does not issue a Refund Denial letter within 180 days after the taxpayer submits a claim for refund protest, the taxpayer may appeal to the Indiana Tax Court prior to receipt of a Refund Denial letter without pursuing an administrative hearing.

Once a hearing date has been confirmed, failure to provide sufficient evidence to verify the claimed overpayment will result in a Final Order Denying Refund. Failure to appear at the administrative hearing will result in a Final Order Denying Refund noting such failure to appear with an attached explanation of the department's reason(s) for denial.

If, subsequent to the hearing, the department determines that the claim will be granted in full, the taxpayer will receive a Memorandum of Decision with an attached explanation stating the reason(s) for the decision.

If, subsequent to the hearing, the department denies a portion of the claim and grants a portion of the claim, the taxpayer will receive a Memorandum of Decision with an attached explanation stating the reason(s) for the decision. If the taxpayer does nothing, that portion of the Memorandum of Decision denying a portion of the refund is treated as the department's final determination.

If, subsequent to the hearing, the department denies the entire claim, the taxpayer will receive a Final Order Denying Refund with an attached explanation stating the reason(s) for denial.

If a taxpayer disagrees, in whole or in part, with the Final Order Denying Refund or Memorandum of Decision, the taxpayer may request a rehearing no more than thirty (30) days after the decision is issued. The department may grant or deny the rehearing in its discretion.

For further guidance on administrative protest procedures, refer to the department's Administrative Protest Guide, available online at [in.gov/dor/files/reference/dor-protest-guide.pdf](http://in.gov/dor/files/reference/dor-protest-guide.pdf).

## The Appeals Process—Filing an Appeal with the Tax Court

Subsequent to the administrative hearing process, any taxpayer in receipt of a Memorandum of Decision or a Final Order Denying Refund has a statutory remedy for appeal with the Indiana Tax Court as provided under IC 6-8.1-9-1(c). Each Memorandum of Decision and Final Order Denying Refund will be dated, and the date will correspond with the date the department mails the determination to the taxpayer. Unless a rehearing has been requested, the date the determination is mailed will begin the 90-day period within which an appeal must be filed with the Indiana Tax Court. If a rehearing is requested, the 90-day period is tolled until the department denies the rehearing request or issues a supplemental decision on the rehearing request.

In addition, if the department does not issue a Refund Denial letter within 180 days after the taxpayer submits a claim for refund, the taxpayer may appeal to the Indiana Tax Court without pursuing an administrative hearing.

IC 6-8.1-9-1(h) states:

If the person disagrees with any part of the department's decision, the person may appeal the decision, regardless of whether or not the person protested the tax payment or whether or not the person has accepted a refund. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a refund appeal if:

- (1) The appeal is filed more than 90 days after the later of the dates on which:
  - (A) The memorandum of decision or order denying a refund is issued by the department, if the person does not make a timely request for a rehearing under subsection (g) on the letter of findings; or
  - (B) The department issues a denial of the person's timely request for a rehearing under subsection (g) on the memorandum of decision or order denying a refund; or
- (2) The appeal is filed both before the decision is issued and before the 180<sup>th</sup> day after the date the person files the claim for a refund with the department.

The 90-day period may be extended according to the terms of a written agreement signed by both the department and the person. The agreement must specify a date upon which the extension will terminate and include a statement that the person agrees to preserve the person's records until that specified termination date. The specified termination date agreed upon under this subsection may not be more than 90 days after the expiration of the period otherwise specified by this subsection.

*Example #4:* The department issues the taxpayer a Refund Denial letter dated June 1 indicating the taxpayer's claim for refund has been denied. The Refund Denial letter is mailed on June 1. On June 15, the taxpayer appeals the decision to the Legal Division requesting an administrative hearing. The Legal Division conducts an administrative hearing and subsequently issues either a Final Order Denying Refund or a Memorandum of Decision dated September 1. The taxpayer does not request a rehearing. The document issued on September 1 constitutes the department's final determination of the matter. The taxpayer has 90 days, beginning September 1, in which to appeal the department's final determination to the Tax Court.

*Example #5:* The department issues the taxpayer a Refund Denial letter dated June 1 indicating the taxpayer's claim for refund has been denied. The Refund Denial letter is mailed on June 1. On June 15, the taxpayer appeals the decision to the Legal Division requesting an administrative hearing. The Legal Division conducts an administrative hearing and subsequently issues either a Final Order Denying Refund or a Memorandum of Decision dated September 1. The taxpayer requests a rehearing on September 30. The Legal Division denies the rehearing request on October 15.

The 90-day period to appeal the determination to the Tax Court is tolled because of the timely rehearing request. Upon the denial of the rehearing request, the taxpayer has 90 days, beginning October 15, in which to appeal the department's final determination to the Tax Court.

*Example #6:* The department issues the taxpayer a Refund Denial letter dated June 1 indicating the taxpayer's claim for refund has been denied. The Refund Denial letter is mailed on June 1. Subsequent to the Refund Denial letter, the taxpayer does not request an administrative hearing with the Legal Division. The taxpayer may not appeal the department's refund denial to the Tax Court.

*Example #7:* The taxpayer files a claim for refund on March 1. The department does not issue a Refund Denial letter on or before August 28 (180 days after March 1). At any time on or after August 29 and before the department issues a Refund Denial letter, the taxpayer may file an appeal with the Tax Court.

## Refunds by the Department Without a Claim for Refund

The department also has the legal authority to issue a refund in certain circumstances without a taxpayer having to file a Claim for Refund. These circumstances include:

- An error by the department;
- An error determined by the department; or
- A taxpayer's overpayment determined by the department under an audit or investigation.

The department may not issue a refund or credit if the period for filing a refund claim has expired before the issuance of the refund or credit. A taxpayer may not appeal a determination by the



department of a refund issued by the department pursuant to this authority. Furthermore, there is no requirement that the department issue a refund or credit for an overpayment. However, if the overpayment was caused by a department error and the taxpayer wishes to challenge the magnitude of that error, the taxpayer can file a claim for refund for any additional amount that they think is due, in which case the decision and appeal process would be based on the claim for refund rather than the department's self-initiated refund.

## Erroneous Refunds

An erroneous refund is deemed where the department issued money to a taxpayer to which that taxpayer was not entitled. The taxpayer may have been entitled to a certain amount, but the department issued the taxpayer more money than they were entitled; or the taxpayer was not entitled to any money. An erroneous refund may be a case where the error was the fault of the department (e.g., a system error) or the error was based on a misrepresentation or fraudulent information provided by the taxpayer. Whatever the circumstance, when there is an instance where the department issued a refund in error, the department has the opportunity to make an assessment to reclaim that money. The department may make assessments related to erroneous refunds within the later of either "the period for which an assessment could otherwise be issued" by the department, or specifically two years after the department issues the refund, or within five years after the department issues the refund if the refund was induced by fraud or misrepresentation.

The department will look to the standards used by the IRS pursuant to sections 6532 and 7405 of the Internal Revenue Code for guidance as to whether a refund was erroneous or induced by misrepresentation.

An erroneous refund includes any interest paid by the department on such erroneous refund if the base tax on the refund is erroneous or any interest paid over the amount required by law, even if the tax amount of the refund is not erroneous.

## Department Adjustments

The department may adjust a net operating loss, credit amount or application of a credit, or any similar item from any previous year, even if an assessment for that tax year is not permitted if the attribute can be carried over to a year that is in statute.



Robert J. Grennes, Jr.  
*Commissioner*  
Indiana Department of Revenue