STATE OF MICHIGAN

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DEPARTMENT OF TREASURY

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REVENUE ADMINISTRATIVE BULLETIN 1996 - 4

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CREDIT OR REFUND OF OVERPAYMENT OF TAXES OR CREDITS IN EXCESS OF TAX DUE AND APPLICABLE INTEREST

(Replaces Revenue Administrative Bulletin 1993-14)

RAB - 96 - 4. This bulletin updates Revenue Administrative Bulletin 1993-14 in accordance with the Michigan Court of Appeals decision, *Lindsay Anderson Sagar Trust v Department of Treasury,* 204 Mich App 128; 514 NW 2d 514 (1994), lv den 447 Mich 905 (1994). The decision held that interest on a refund claim accrues when a claim is filed. A claim for refund is filed when the taxpayer gives the Treasury Department adequate notice of the claim within the appropriate limitation period. This bulletin describes adequate notice and defines valid return. In all other respects, this bulletin restates the discussion contained in Revenue Administrative Bulletin 1993-14.

Limitation Period for Claiming Refund

Section 27a(2) of the revenue act, MCL 205.27a(2); MSA 7.657(27a)(2), provides that a taxpayer must file a return for a refund of taxes overpaid, or credits in excess of the tax due, within 4 years from the date set for filing the original return. An extension of time allowed to file a return later than the original due date extends the filing period of a refund claim.

Section 27a(3) permits the filing period of refund claims to be extended pending final determination of a tax from an audit, conference, hearing and litigation of a federal income tax liability or liability for a tax administered by the Treasury Department for 1 year after that period. This extension is allowed only for those items that were the subject of the audit, conference, hearing or litigation. The law also permits the filing period to be extended where the taxpayer and commissioner consent in writing that the period be extended.

A shorter limitation period of 90 days from the date set for filing a return applies if the refund claim is based upon the validity of a tax law based on the laws or constitution of the United States or the State constitution of 1963 [MCL 205.27a(6); MSA 7.657(27a)(6)]. The legislature has waived this 90-day limitation period for refund claims involving pension income received from the United States government for tax years 1984-1988. [See MCL 205.27a(7); MSA 7.657(27a)(7).]

Amount of Refund

The procedure by which the Department of Treasury determines the amount of a taxpayer's refund is defined by section 30 of the revenue act, MCL 205.30; MSA 7.657(30). The act states, in part, that:

> (1) The department shall credit or refund an overpayment of taxes, penalties, and interest erroneously assessed and collected; and taxes, penalties and interest that are found unjustly assessed, excessive in amount, or wrongfully collected with interest . . . .
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> (2) A taxpayer who paid a tax that the taxpayer claims is not due may petition the department for refund of the amount paid . . . . If a tax return reflects any overpayment or credits in excess of the tax, the declaration of that fact on the return constitutes a claim for refund. If the department agrees the claim is valid, the amount of overpayment, penalties and interest shall be first applied to any known liability and the excess, if any shall be refunded to the taxpayer . . . .
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> (3) . . . . Interest at the rate calculated under section 23 for deficiencies in the tax payments shall be added to the refund commencing 45 days after the claim is filed or 45 days after the date established by law for the filing of the return, whichever is later. Interest on refunds intercepted and applied as provided in section 30a shall cease as of the date of the interception . . . .

Notice of Refund Claim; Valid Return Defined

The Treasury Department must receive notice of valid refund claim. If a tax return reflects an overpayment, or credits in excess of the tax, the declaration of that fact on the return constitutes a valid claim for refund. A return is generally considered valid if it contains sufficient information for the Department to determine the amount of refund. In addition, the return must be filed on a form prescribed by the Department to determine the amount of refund. In addition, the return must be filed on a form prescribed by the Department and must contain the taxpayer's name, address, identification number and required signature(s).

Tax Refund Intercepted and Applied to Taxpayer Liability

If the Treasury Department determines that the taxpayer has a valid claim for a refund, and the Department identifies any liability of the taxpayer described in section 30a(2) of the revenue act, MCL 205.30a (2); MSA 7.657(30a)(2), then the Treasury Department will apply the refund amount in the manner provided in section 30a of the revenue act.

If there is any excess refund remaining, then the Department will refund that amount or credit it to any current or subsequent tax liability as directed by the taxpayer.

Rate of Interest

The Treasury Department will credit or refund an overpayment of taxes; penalties and interest erroneously assessed and collected; and taxes, penalties, and interest that are found unjustly assessed, excessive in amount, or wrongfully collected.

For refunds paid for tax periods occurring after March 31, 1993, interest at the rate of one percentage point above the adjusted prime rate as described in section 23 of the revenue act, MCL 205.23; MSA 7.657(23) shall apply to overpayments. For refunds paid for tax periods occurring before April 1, 1993, interest at the rate of 3/4 of one percent shall apply to overpayments.

The interest rate for underpayments and overpayments is announced semiannually, at the beginning of April and at the beginning of October, in Revenue Administrative Bulletins entitled “Interest Rate”. The bulletin announces both the annual and the daily interest rate to be applied to tax deficiencies, refunds and credits.

Date Interest Accrues and Ends

Under the provisions of section 30 of the revenue act, interest shall be added to the refund commencing 45 days after the claim is filed or 45 days after the date established by law for the filing of the return, whichever is later.

If a tax refund is intercepted and applied to another taxpayer liability, interest shall end as of the date of interception.