REFUNDS

ELIGIBILITY FOR CLAIMING REFUND

An assessee is eligible for refund if he has paid higher tax than what he is liable to pay.

Refund [Section 237] :

Amount paid by an assessee or on his behalf or treated as paid by him	xxx
Less : Tax payable on assessed income	xxx
Refund, if the assessee satisfied the Assessing Officer	xxx

PERSON OTHER THAN THE ASSESSES CAN CLAIM REFUND [SECTION 238]

1. Refund of Tax on Total Income : The assessee, whose total income includes income of another person under any provisions of the Act, shall be entitled to refund in respect of such income.

2. Refund of Tax on Fringe Benefits : The Assessee Employeer, whose value of Fringe Benefits provided or deemed to have been provided includes the value of Fringe Benefits provided or deemed to haw been provided by any other employer, shall be entitled to refund of such Fringe Benefits.

3. Entitlement to Legal Representative : If a person is unable to claim refund due to death, incapacity, insolvency, liquidation or other cause, then his legal representative or trustee or guardian or receiver shall be entitled to claim such refund.

TIME LIMIT FOR CLAIMING REFUND [SECTION 239]

- Prescribed Form for claiming Refund **[Section 239(1)] :** Form No. 30
- Time-limit **[Section 239 (2)] :** The claim of refund should be within 1 year from the last day of the relevant assessment year
- Time Limit for Refund of Fringe Benefit Tax **:** The claim of refund should be made within one year from the last day of the relevant assessment year

BELATED CLAIM OF REFUND :

[CBDT order u/s 119 (Instruction No. 13/2006 dated 22.12.2006]

The following Income Tax Authorities are vested with powers of acceptance or rejection of belated refund claims u/s 119(2)9b) —

1. Refund not exceeding Rs. 10,00,000 with the prior approval of Co mmissioner of Income Tax.
2. Refund excedding Rs. 10,00,000 but not exceeding Rs. 50,00,000, with the prior approval of the Chief Commissioner of the Income Tax.
3. Refund exceeding Rs. 50,00,000 will continue to be processed by CBOT.

Conditions for admission of claims by CCIT/CIT :

1. The refund arises as a result to tax deducted / collected at source and advance tax and the refund does not exceed Rs. 50,00,000 in respect of CCITs and Rs. 10,00,000 in respect of CITs for any one assessment year,
2. The income of the Assessee is not assessable in the hands of any other person under any other provisions of the Act.
3. Not interest wil lbe admissible on the belated refund claims.
4. The CCIT/CIT is empowered to direct the Assessing Officer to make necessary enquiries to ascertain the correctness of the claim and also that the case is of genuine hardship on merits.
5. No claim under this provision will be entertained where a period of more than six years from the end of the relevant assessment year.

Sec-240: CONSEQUENCE IF TAX INCOME IS REDUCED IN AN APPELLATE ORDER

1. **Refund on appeal [Section 240]:** If refund of any amount becomes due to the assessee as a result of any order passed in appeal or other proceedings under the Act, the Assessing Officer shall refund the amount to the assessee without his claim for refund.
2. **Eligibility for refund:**

Situation	When refund becomes due
Assessment is set aside or cancelled and an order of fresh assessment is directed to be made	On the making of such fresh assessment
Assessment is annulled	If the amount of tax paid exceeds the tax chargeable on the total income returned by the assessee

Section 242: CORRECTNESS OF ASSESSMENT

1. The correctness of any assessment or any other matter decided which has become final and conclusive or ask for review of the same cannot be questioned by the assessee.
2. The assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or excess tax paid.

Sec 244 A: PROVISIONS RELATING TO INTEREST AN REFUND DUE TO THE ASSESSES

1. **Applicability:** If the refund is out of any tax paid u/s 115WJ or by way of TDS or TCS u/s 206C or advance tax during the financial year, the assessee shall be entitled to interest on refund.
2. **Exception:** No interest shall be payable if the refund is less than 10% of the amount of tax determined u/s 143(1) / 115WE(1) or on regular assessment.
3. **Rate of Interest:** Interest @ 1/2 % per month or part of a month.
4. **Period of Interest:**
   (a) For advance tax and TDS / TCS/ FBT - For every month or part of a month from 1st April of the assessment year to the date on which refund is granted.
   (b) For all other taxes / penalties - From date of payment of tax/penalty to the date on which refund is granted.
5. **Period to be excluded:** If the delays in the refund proceedings are due to reasons attributable to the assessee, wholly or in part, such period of delay shall be excluded from the period of interest. The decision shall be made by the CCIT/ CIT and the decision shall be final.
6. **Increase or reduction in interest:** If the amount on which interest was payable is increased or reduced by an order u/s 115WE(3) / 115WF / 115WG / 143(3) /144 /147 /154/ 155 /250/ 254 /262 /263 /264 /245D(4), the interest shall also be increased or reduced accordingly.
7. **Income from Interest on** Refunds: The interest u/s 244A is to be treated as income of the previous year fin which it is allowed and is, therefore required to be declared in the return of income for the corresponding assessment year,

Sec.245: Set off of refunds against tax payable

The Assessing Officer, Deputy Commissioner (Appeals), Commissioner (Appeals), Chief Commissioner or Commissioner may set off the amount to be refunded against the sum remaining payable by the assessee to whom refund is due.

Intimation in writing shall be sent to the assessee stating the action proposed to be taken under this section.