

Time limit for Claiming Income Tax Refund in India

Income Tax Refund

Section 237 of the Income-Tax Act, specifies that if any person satisfies the Assessing Officer that the amount of tax paid by him or on his behalf, or treated as paid by him or on his behalf for any assessment year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of the excess amount paid.

Person entitled to claim refund in certain special cases: Section 238

1. Where the income of one person is included under any provision of this Act in the total income of any other person, the latter alone shall be entitled to a refund under this chapter in respect of such income.
2. Where through death, incapacity, insolvency, liquidation or other cause, a person is unable to claim or receive any refund due to him, his legal representative or the trustee or guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

Time Limit to Claim Refund: Section 239

Every Claim for refund of income tax shall be made in the prescribed Form no. 30 and within one year from the last day of the relevant assessment year, i.e. for the tax paid or deducted during the Financial Year 2012-13, the relevant assessment year is 2013-14, Accordingly the claim for income-tax refund in this regard must be filed along with the Income-tax Return latest by 31st March 2015.

Refund on Appeal, etc: Section 240

When, as a result of any order passed in appeal or other proceeding refund of any amount becomes due to the assessee, the AO shall refund the amount to the assessee without his having to make any claim in that behalf.

Though this provision contemplates automatic refund, the following limitations exist in such cases:

- In a case where an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund shall become due only on the making of the fresh assessment.
- In a case where an assessment is annulled, the quantum of refund will be the amount paid in excess of the tax chargeable on the total income returner by the assessee.

Remedy for Belated Refund Claims

The Central Board of Direct Taxes (CBDT) has issued a number of Circulars from time to time, by invoking its powers under Section 119(2)(b), granting remedy and relief in cases of belated claims of refunds.

CBDT Circular No.670 dated 26-10.1993 as modified by Circular No. 8/2001, dated 16-5-2001 authorizes the Assessing Officers to admit belated refund claims under section 237 of the Income-Tax Act provided the following conditions are satisfied:

- the refund arises on the account of TDS or TDS or Advance Tax and the amount of refund does not exceed Rs.1,00,000 for any assessment year;
- the refund claimed is not supplementary in nature, that is the claim for additional amount of refund is not made after the completion of the original assessment for that year; and
- the income of the assessee is not assessable in the hands of any other person under any provisions of the Income-tax Act.

Under the above Circular, the CBDT has also clarified that a belated claim for refund can also be entertained in a case where the returned income is a loss.

The Assessing Officer is required to dispose of the refund claim on merits and upto Rs.10,000 for any assessment year he shall obtain the approval of the Commissioner of the Income Tax and where refund exceeds Rs.10,000 but does not exceeds Rs.1,00,000 for any assessment year he shall obtain the approval of Chief Commissioner of Income Tax or Director General of Income Tax.

Beyond the limit of Rs.1,00,000 for each assessment year, the Board has to be approached for condonation of delay.

Relief for Supplementary Claims

It may often happen that a taxpayer is not able to claim credit for TDS at the time of filing his Income-tax Return, since the relevant TDS Certificates may not have been received in time or he misses to claim credit for the same through oversight. In such cases, credit for the relevant TDS would not be granted by the Assessing Officer while passing the intimation under Section 143(1) in the case of the taxpayer. No remedy was earlier available in such situations.

Fortunately, the Finance Act 2002 introduced a new provision through Section 155(14), which allows the taxpayer an opportunity to file a supplementary claim for refund in such situations. However, the following two conditions would be required to be fulfilled in this regard:

- The application for rectification supporting the claim for such TDS credit must be made within two years from the end of the relevant Assessment Year to which the TDS pertains, along with the attachment of the relevant TDS Certificates.

- The income from which such TDS has been made should have been disclosed in the Return of Income for the relevant Assessment Year.

Interest Payable to Assessee: Section 244A

Interest on excess payment of advance tax, tax deducted or collected at source and other tax or penalty becoming refundable will be paid under section 244A at the rate of 0.5% (6% per annum) for every month or part of a month.

The period for which the interest is payable will be:

- For advance tax and tax deducted or collected at source, from 1st April of the relevant assessment year to the date on which the refund is granted. However, no interest will be payable, if the amount of refund is less than 10% of the tax determined under section 143(1) or on regular assessment; and
- For all other taxes/penalties, from the date of payment of tax/penalty to the date on which the refund is granted.

Delay in granting refund, if any, attributable to the assessee will be excluded from the period for which interest is payable.

If the amount on which interest was payable is increased or reduced due to regular assessment order, reassessment, rectification, appeals, revision or Settlement Commission's order, interest also will be increased or reduced.

It may be noted that interest allowed under section 244A is to be treated as income of the previous year in which it is allowed and is, therefore, required to be declared in the return of income for the corresponding assessment year.