Refund

Only if Tax paid > Tax payable	By person himself and in absence of insolvency, incapacity, death, liquidation by guardian/receiver/legal representative/trustee
Form No.30	Within one year from the last day of assessment year
Set off only if 2 conditions are satisfied	1. Prior proper service of notice 2. Opportunity of being heard is given

Conditions for refund after due date

1	2	3	4	5
Case taken up for scrutiny.	Refund on account of TDS/ TCS and not exceeding Rs. 50 Lakhs in one A.Y.	Income is not accessible in other person income.	No belated interest will be given	Cases will not be entertained if period of 6 assessment year have been lapsed

Prior approval

Refund < 10 lakhs	Commissioner of Income tax
Refund > 10 Lakhs and < 50 Lakhs	CCIT / DGIT
Refund > 50 Lakhs	Board

Refund on appeal (Section 240)	No formal application

Refund Due

Assessment is set aside or cancelled	Refund become due only on making of fresh assessment
Assessment is annulled	Only if tax paid > tax payable

Case laws

State bank of Patiala V. CIT (1999)	Where no intimation in writing given by AO prior to proposed action of set off, the adjustment will be in violation of section 245
Pithambardas Dulichand V. Union of India (2000)	If an order is passed straightway intimating the taxpayer about the action for set off taken by the assessing authority, it is contrary to mandate of section 245 and liable to be quashed
Japson Estates (P.) Ltd V. CIT (2006)	Intimation under section 143(1) is not intimation for the purpose of section 245.
Bank of Tokyo Mitsubishi Ltd V. CIT (1999)	Adjustment of arrears of tax against refund due is not permissible on assessee's request

State bank of Patiala V. CIT (1999)	Amount of interest –tax found refundable to the assessee cannot be set off against the amount of income-tax outstanding against the assessee
S.S. Ahluwalia V. ITO (1996)	Where certain assessments had been held to be bad, the amount of tax recovered for such assessment years which became refundable can not be retained by the Department for being adjusted against tax due in respect of other assessment years
Archana Shukla V. CIT (2000)	Demand outstanding against any other person cannot be set off against refund due to the taxpayer
Glaxo Smith Kline Asia (P) Ltd V. CIT (2007)	A further implicit requirement is that revenue will have to be satisfied that the assessee will not be in a position to satisfy the demand of tax and that but for the set off, the outstanding tax amount cannot be recovered at all.
Chandra Mohan V. Union of India (2000) Saurashtra Cement and Chemical Industries Ltd V. ITD (1992) CIT V. Shelly Products (2003)	Section 240 shall apply only where refund becomes due as a result of an order passed in appeal or other proceeding under Income tax Act. In case no order of assessment has been passed within the period of limitation, the amount of tax paid cannot be refunded.