



# Instructions for Form 843

(Rev. November 2002)

## Claim for Refund and Request for Abatement

Section references are to the Internal Revenue Code.

### General Instructions

#### Purpose of Form

Use Form 843 to file a claim for refund of certain overpaid taxes, interest, penalties, and additions to tax. For example, if on your employment tax return you reported and paid more Federal income tax than you actually withheld from an employee, use this form to claim a refund. Also, use Form 843 to claim a refund of excess tier 2 RRTA tax withheld and to request a refund under section 6715 for misuse of dyed fuel.

Also use Form 843 to request abatement of an overassessment (or the unpaid portion of an overassessment) if more than the correct amount of tax (except income, estate, and gift tax), interest, additions to tax, or penalties have been assessed.

**Excess tier 2 RRTA tax.** If you had more than one railroad employer for the year and your total tier 2 RRTA tax withheld or paid for the year was over the tier 2 limit, use Form 843 to claim a refund of your excess amount. See the instructions for **line 3a**. Do not use Form 843 to claim a refund of excess tier 1 RRTA tax. Instead, use Form 1040 or 1040A.

Generally, you must file a separate Form 843 for each tax period and each type of tax. Exceptions are provided for certain claims in the **Line 4** instructions on this page.

**Do not** use Form 843 to claim:

- A refund or to request an abatement of your income tax. Individuals must use **Form 1040X**, Amended U.S. Individual Income Tax Return. Corporations that filed Form 1120 or 1120-A must use **Form 1120X**, Amended U.S. Corporation Income Tax Return. Other income tax filers should file a claim on the appropriate amended tax return.

- A refund relating to excise taxes reported on Forms 11-C, 720, 730, or 2290. See **Form 720X**, Amended Quarterly Federal Excise Tax Return; **Form 4136**, Credit for Federal Tax Paid on Fuels; **Form 8849**, Claim for Refund of Excise Taxes; **Schedule C** of **Form 720**, Quarterly Federal Excise Tax Return; **Pub. 378**, Fuel Tax Credits and

Refunds; and **Pub. 510**, Excise Taxes, for information on the appropriate forms to use to claim the various excise tax refunds. However, use Form 843 to request refund of the penalty under section 6715 for misuse of dyed fuel and to request abatement or refund of interest or penalties under section 6404(e) or 6404(f) relating to excise taxes.

- A refund of the required payment under section 7519. Instead, file **Form 8752**, Required Payment or Refund Under Section 7519.

#### Who May File

You may file Form 843 or your agent may file it for you. If your agent files, the original or a copy of **Form 2848**, Power of Attorney and Declaration of Representative, must be attached. If you are requesting abatement or refund under section 6404(f), your representative must be eligible to practice before the Internal Revenue Service (IRS). You must sign Form 2848 and authorize the representative to act on your behalf for the purposes of the request. See the **Instructions for Form 2848** for more information.

If you are filing as a legal representative for a decedent whose return you filed, attach to Form 843 a statement that you filed the return and you are still acting as the representative. If you did not file the decedent's return, attach certified copies of letters testamentary, letters of administration, or similar evidence to show your authority. File **Form 1310**, Statement of Person Claiming Refund Due a Deceased Taxpayer, with Form 843 if you are the legal representative of a decedent.

### Specific Instructions

**SSN or ITIN.** Enter your social security number (SSN) or IRS individual taxpayer identification number (ITIN). If you are filing Form 843 relating to a joint return, enter SSNs or ITINs for both you and your spouse.

#### Line 3

**Line 3a.** Check the appropriate box to show the type of tax, penalty, or addition to tax. If you are filing a claim

for refund or request for abatement of an assessed penalty, check the box and enter the applicable Internal Revenue Code (IRC) section. Generally, you can find the IRC section on the Notice of Assessment you receive from the service center.

**Excess tier 2 RRTA tax.** Complete lines 1 and 2. On line 3a, check the box for Employment tax. Skip lines 3b, 4a, and 4b. In the space for line 5, identify the claim as "Excess Tier 2 RRTA" and show your computation of the refund. You must also attach copies of your Forms W-2 for the year to Form 843. See the worksheet in **Pub. 505**, Tax Withholding and Estimated Tax, to help you figure the excess amount.

**Line 3b.** Check the appropriate box to show the type of return, if any, that you filed.



**You must attach Form 941c, Supporting Statement to Correct Information, or an equivalent statement, if you are claiming a refund of taxes reported on Form 941, 941-M, 941-SS, 943, or 945.**

#### Line 4

#### Requesting Abatement or Refund of Interest Under Section 6404(e)

Section 6404(e) gives the IRS the authority to abate interest when the additional interest is attributable to IRS errors or delays.

Section 6404(e) applies only if there was an unreasonable error or delay in performing a managerial or ministerial act (defined below) and only relates to taxes for which a notice of deficiency is required by section 6212(a) and in which no significant aspect of the error or delay was caused by the taxpayer. This includes income taxes, generation-skipping transfer taxes, estate and gift taxes, and certain excise taxes imposed by chapter 41, 42, 43, 44, or 45. Section 6404(e) does not allow abatement of interest for employment taxes or other excise taxes. See **Pub. 556**, Examination of Returns, Appeal Rights, and Claims of Refund, for more information.

**Managerial act.** The term "managerial act" means an administrative act that occurs during the processing of your

claim involving the temporary or permanent loss of records or the exercise of judgment or discretion relating to management of personnel. A decision regarding the proper application of Federal tax law is **not** a managerial act. See Regulations section 301.6404-2 for more information.

**Ministerial act.** The term “ministerial act” means a procedural or mechanical act that **does not** involve the exercise of judgment or discretion and that occurs during the processing of your case after all prerequisites of the act, such as conferences and review by supervisors, have taken place. A decision regarding the proper application of Federal tax law is **not** a ministerial act. See Regulations section 301.6404-2 for more information.

### How To Request an Abatement of Interest

Request an abatement of interest by writing “Request for Abatement of Interest Under Section 6404(e)” at the top of Form 843.

Complete lines 1 through 3. Check the first box on line 4a. On line 4b, show the dates of any payment of interest or tax liability for the tax period involved.

On line 5 state:

- The type of tax involved,
- When you were first notified by the IRS in writing about the deficiency or payment,
- The specific period for which you are requesting abatement of interest,
- The circumstances of your case, and
- The reasons why you believe that failure to abate the interest would result in grossly unfair treatment.

**Multiple tax years.** File only one Form 843 if the interest assessment resulted from the IRS’s error or delay in performing a single managerial or ministerial act affecting a tax assessment for multiple tax years or types of tax (for example, where 2 or more tax years were under examination).

**Where to file.** File Form 843 with the Internal Revenue Service Center where you filed your return.

### Requesting Abatement or Refund of a Penalty or Addition to Tax as a Result of Written Advice

Section 6404(f) gives the IRS the authority to abate any portion of a penalty or addition to tax attributable to erroneous advice furnished to you in writing by an officer or employee of the IRS, acting in his or her official capacity.

The IRS will abate the penalty or addition to tax only if:

1. You reasonably relied on the written advice,
2. The written advice was in response to a specific written request you made for advice, and
3. The penalty or addition to tax did not result from your failure to provide the IRS with adequate or accurate information.

### How To Request an Abatement or Refund of a Penalty or an Addition to Tax

Request an abatement or refund of a penalty or addition to tax because of erroneous written advice by writing “Request for Abatement of Penalty or Addition to Tax Under Section 6404(f)” at the top of Form 843.

Complete lines 1 through 3. Check the appropriate box on line 4a. On line 4b, enter the date of payment if the penalty or addition to tax has been paid.

You must attach copies of the following information to Form 843:

1. Your written request for advice;
2. The erroneous written advice you relied on that was furnished to you by the IRS; and
3. The report, if any, of tax adjustments identifying the penalty or addition to tax, and the item(s) relating to the erroneous advice.

**When to file.** An abatement of any penalty or addition to tax under this section will be allowed only if you submit the request for abatement within the period allowed for collection of the penalty or addition to tax or, if you paid the penalty or addition to tax, within the period allowed for claiming a credit or refund of such penalty or addition to tax.

**Where to file.** If the erroneous advice received relates to an item on a Federal tax return, send Form 843 to the Internal Revenue Service Center where your return was filed. If the erroneous advice does not relate to an item on a tax return, Form 843 should be sent to the service center where your return was filed for the tax year you relied on the advice.

### Line 5

Explain in detail your reasons for filing this claim and show your computation for the credit, refund, or abatement. If you attach an additional sheet(s), include your name and SSN, ITIN, or EIN on it. Also, attach appropriate supporting evidence.

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### Privacy Act and Paperwork

**Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. Internal Revenue Code sections 6402 and 6404 state the conditions under which you may file a claim for refund and request for abatement of certain taxes, penalties, and interest. Form 843 may be used to file your claim. Section 6109 requires that you disclose your taxpayer identification number (TIN). Routine uses of this information include providing it to the Department of Justice for civil and criminal litigation and to cities, states, and the District of Columbia for use in administering their tax laws. We may also give this information to Federal and state agencies to enforce Federal nontax criminal laws and to combat terrorism. You are not required to claim a refund or request an abatement; however, if you choose to do so you are required to provide the information requested on this form. Failure to provide all of the requested information may delay or prevent processing your claim or request; providing false or fraudulent information may subject you to civil or criminal penalties.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

|   |         |
|---|---------|
| <b>Recordkeeping</b> . . . . .  | 26 min. |
| <b>Learning about the law or the form</b> . . . . .                   | 7 min.  |
| <b>Preparing the form</b> . . . . .                                   | 20 min. |
| <b>Copying, assembling, and sending the form to the IRS</b> . . . . . | 28 min. |

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send the form to this address. Instead, see **Where to file** on this page.

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