

[CLIENT NAME]

[Street Address]

[City, State ZIP]

SSN/EIN: [xxx-xx-xxxx]

[Date]

Internal Revenue Service

[Applicable IRS Service Center Address]

Re: Protective Claim for Refund and Request for Abatement — COVID-Era Penalties and Interest

Tax Year: [ENTER SPECIFIC TAX YEAR]

Authority: IRC §§ 7508A(d) (2019), 7508A(f) (P.L. 119-64); *Kwong v. United States*, 179 Fed. Cl. 382 (Nov. 25, 2025)

PRACTITIONER NOTE: Complete an eligibility review before filing. Confirm: (1) the specific tax year and penalty type; (2) that the penalty or interest at issue accrued between January 20, 2020 and July 10, 2023; (3) that prior IRS COVID relief (Notices 2020-17, 2021-21, 2022-36) did not already resolve the issue; and (4) that the § 6511 statute of limitations has not expired based on the date the penalty was paid. Tax year 2023 returns with an April 15, 2024 due date fall outside the postponement window. File a separate letter and Form 843 for each tax year.

Dear Sir or Madam:

I am submitting the enclosed Form 843 to request a refund and/or abatement of [**failure-to-file penalty (§ 6651(a)(1)) / failure-to-pay penalty (§ 6651(a)(2)) / underpayment interest (§ 6601), or other applicable penalty**] assessed for the tax year above. This is a protective claim filed to preserve my rights under the statute of limitations pending the outcome of ongoing litigation.

Legal Basis

In *Kwong v. United States*, 179 Fed. Cl. 382 (Nov. 25, 2025), the U.S. Court of Federal Claims held that the 2019 version of IRC § 7508A(d) created a mandatory postponement period running from January 20, 2020 through July 10, 2023 (60 days after the COVID-19 disaster declaration closed on May 11, 2023), and extended the refund suit deadline under IRC § 6532(a) accordingly. Additionally, IRC § 7508A(f), enacted as part of P.L. 119-64 (Dec. 26, 2025), provides that the § 7508A(d) postponement is treated as a filing extension for purposes of the § 6511(b)(2)(A) refund lookback period.

The penalties and interest identified on the enclosed Form 843 accrued during the January 20, 2020 – July 10, 2023 postponement window. Consistent with the *Kwong* holding, the taxpayer submits that these amounts may have been erroneously assessed and requests that they be refunded or abated.

Why This Claim Is Filed Now

The Department of Justice filed a notice of appeal on May 15, 2026. Under the *Kwong* reasoning, the three-year limitation period under IRC § 6511(a) — measured from the extended deadline of July 10, 2023 — closes on July 10, 2026. The National Taxpayer Advocate has confirmed July 10, 2026 as the protective filing deadline for most affected taxpayers. This claim is filed now to preserve the taxpayer's rights regardless of the appellate outcome.

NOTICE: This claim is based on a pending judicial interpretation. The IRS has not acquiesced in *Kwong*, intends to appeal, and may deny or hold this claim in suspense. Filing preserves procedural rights — it does not guarantee a refund. If denied, the taxpayer will have two years from the disallowance notice to file suit under IRC § 6532(a).

Request

Please acknowledge receipt of this claim and the enclosed Form 843 (Tax Year: _____ / Amount: \$_____). Taxpayer respectfully requests that this claim be held in suspense pending a final decision in *Kwong v. United States* before the Federal Circuit. Please contact the taxpayer at the address above if additional information is needed.

Respectfully submitted,

[Client Name]

Date: _____

Enclosure: Form 843 (Rev. 12-2024)

Sent via: Certified Mail, Return Receipt Requested (Tracking No.: _____)