

Protective Refund Claim Pursuant to Kwong Case

Form 843 (Rev. December 2024) Department of the Treasury Internal Revenue Service

Claim for Refund and Request for Abatement

OMB No. 1545-0024

Go to www.irs.gov/Form843 for instructions and the latest information.

Check the box below that indicates your reason for filing Form 843.

Tax

- Abatement or refund of tax other than income, estate, or gift tax
Abatement or refund of tax that can't be claimed on any form except Form 843
Refund to employee of excess social security, Medicare, or RRTA tax withheld by any one employer, but only if your employer will not adjust the overcollection
Refund to employee of excess tier 2 RRTA tax when, for the year, you had more than one railroad employer and your total tier 2 RRTA tax withheld or paid exceeds the tier 2 limit
Refund to employee of social security, Medicare, or RRTA tax withheld in error, but only if your employer will not adjust the overcollection
Abatement or refund of tier 1 RRTA tax for an employee representative

Penalty

- Abatement or refund of a penalty or addition to tax due to reasonable cause or other reason allowed under the law
Abatement or refund of penalty imposed under section 6672 for failure to collect and pay over tax, or attempt to evade or defeat tax (Trust Fund Recovery Penalty)
Refund of penalty imposed under section 6695A for misstatements due to incorrect appraisals
Refund of penalty imposed under section 6715 for misuse of dyed fuel
Abatement or refund under section 6404(f) of a penalty or addition to tax attributable to erroneous written advice by the IRS

Interest

- Abatement or refund of interest due to IRS error or delay under section 6404(e)(1)
Request for net interest rate of zero under Rev. Proc. 2000-26

Other

- Abatement or refund of assessed penalties, interest, or additions to tax because you were unable to read and timely respond to a standard print notice from the IRS
Refund of branded prescription drug fee
Refund of annual fee on health insurance providers
Other (specify) IRC § 7508A(d); Kwong v. United States, 179 Fed. Cl. 382 (Nov. 25, 2025)

CAUTION: Do not use Form 843 when you must use a different tax form. For example, do not use Form 843 to claim a refund or abatement of an overpayment of income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding; a refund of excise taxes based on the nontaxable use or sale of fuels; or an overpayment of excise taxes reported on Form(s) 11-C, 720, 730, or 2290. Also, do not use Form 843 to claim a refund of tax return preparer or promoter penalties. See instructions for the forms to use.

Name of person requesting the refund or abatement (see instructions) Social security number (SSN)
John Smith XXX-XX-XXXX
Name of spouse if filing Form 843 relating to a joint return (see instructions) Spouse's social security number (SSN)
Address (number and street or P.O. box if mail is not delivered to street address) Apt., room, or suite no.
123 Any Street
City, town, or post office. If you have a foreign address, also complete spaces below. State ZIP code Employer ID number (EIN)
Any City US 12345
Foreign country name Foreign province/state/county Foreign postal code
Name and address shown on return if different from above Daytime telephone number

- 1 Enter the tax period or fee year. Prepare a separate Form 843 for each tax period or fee year. Beginning date (MM/DD/YYYY) Ending date (MM/DD/YYYY)
2 Amount to be refunded or abated. \$ [Enter amount from IRS Account transcript / CP Notice(s)]
3 Date(s) of payment(s) for which you are requesting a refund (MM/DD/YYYY). If you need more space, attach additional sheets. a [Enter date(s) from IRS Account transcript / CP Notice(s)] e f g h i j k l
4 Check the box(es) with the type of tax or fee for which you are asking a refund or abatement. Or check the box(es) with the type of tax or fee to which the interest, penalty, or addition to tax is related. Check only one box unless an exception applies (see Special Situations in the instructions for the exceptions).
a Employment b Estate c Gift d Excise e Income f Fee g Civil penalty

- 5** Indicate the type of fee or return, if any, filed to which the tax, interest, penalty, or addition to tax relates. Check only one box unless an exception applies (see *Special Situations* in the instructions for the exceptions)
- a**  706    **b**  709    **c**  940    **d**  941    **e**  943    **f**  944    **g**  945    **h**  990-PF  
**i**  1040    **j**  1120    **k**  4720    **l**  CT-2    **m**  Branded Prescription Drug (BPD) Fee  
**n**  Other (specify) \_\_\_\_\_
- 6** If the claim or request involves a penalty, enter the Internal Revenue Code section on which the penalty is based (see instructions). Internal Revenue Code section \_\_\_\_\_
- 7** Check the box that indicates your reason for the request for refund or abatement.
- a**  Interest was assessed as a result of IRS errors or delays.  
**b**  A penalty or addition to tax was the result of erroneous written advice from the IRS.  
**c**  Reasonable cause or other reason allowed under the law can be shown.  
**d**  None of the above reasons apply.
- 8** Explain why you believe this claim or request should be allowed and show how you computed the amount shown on line 2. If you need more space, attach additional sheets.

**Protective Claim - IRC § 7508A(d) / Kwong v. United States, 179 Fed. Cl. 382 (Nov. 25, 2025)**

**This is a protective refund claim is filed pursuant to Kwong v. United States, 179 Fed. Cl. 382 (Nov. 25, 2025), to preserve the taxpayer's right to a refund or abatement of [penalty/interest - specify] for the tax period ending [December 31, 20XX].**

**The U.S. Court of Federal Claims held in Kwong that the pre-November 2021 version of IRC § 7508A(d) created a mandatory postponement period running from January 20, 2020 through July 10, 2023 (May 11, 2023 + 60 days) and extended the two-year refund suit deadline under § 6532(a) accordingly. Consistent with that holding, [failure-to-file penalties / failure-to-pay penalties / underpayment interest - select applicable] assessed obligations within the January 20, 2020 - July 10, 2023 window may have been erroneously assessed and are subject to refund or abatement.**

**Taxpayer paid [describe: e.g., "failure-to-pay penalty of \$XXX on Form 1040 for tax year 20XX] on or about [date of payment]. That obligation fl IRC §7508A(d) mandated an automatic, mandatory suspension of federal tax filing and payment deadlines for the full duration of the COVID-19 federally declared disaster period — January 20, 2020 through July 10, 2023 (May 11, 2023 plus 60 days). Under that holding, [failure-to-file penalties / failure-to-pay penalties / underpayment interest] assessed against the taxpayer for obligations due within that window were improperly assessed and are subject to refund or abatement.**

**The taxpayer paid [describe penalty/interest, e.g., "a failure-to-pay penalty of \$XXX assessed on the Form 1040 for tax year 20XX"] on or about [date of payment]. That obligation fell within the postponement period as interpreted by Kwong.**

**The government filed a notice of appeal to the US Court of Appeals for the Federal Circuit on May 15, 2026; final resolution is pending. This claim is filed to preserve taxpayer's refunds rights under IRC § 6511 pending resolution of that appeal.**

**Taxpayer requests refund or abatement of amounts that may have been erroneously assessed and collected, in an amount to be determined upon IRS review of taxpayer's account for the period at issue.**

**Legal basis: IRC §7508A(d) (2019 version); IRC §7508A(f) (P.L. 119-64, Dec. 26, 2025): Kwong v. United States, 179 Fed. Cl. 832 (Nov. 25, 2025)**

**Signature.** If you are filing Form 843 to request a refund or abatement relating to a joint return, both you and your spouse must sign the Form 843. Forms 843 filed by corporations must be signed by a corporate officer authorized to sign, and the officer's title must be included with the signature. Forms 843 filed by an estate or trust must be signed by the fiduciary.

Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and, to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature (Title, if applicable. Claims by corporations must be signed by an officer. Claims by an estate or trust must be signed by the fiduciary.)	Date	If the IRS sent you an Identity Protection PIN, enter it here (see inst.) <input style="width: 100%;" type="text"/>
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Signature (spouse, if filing Form 843 relating to a joint return)	Date	If the IRS sent your spouse an Identity Protection PIN, enter it here (see inst.) <input style="width: 100%;" type="text"/>
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<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name			Firm's EIN	
	Firm's address			Phone no.	