

TAXPAYERS’ APPEAL RIGHTS OF OFFICE AUDIT ADJUSTMENTS

Procedures in Appealing Office
Audit Adjustments of Income,
Franchise, Sales and Use,
Withholding or Excise Tax Returns
or Homestead Credit or Farmland
Preservation Credit Claims

The purpose of this publication is to inform taxpayers of their appeal rights and refund claim procedures when their income, franchise, sales and use, excise, or withholding tax return, or homestead credit or farmland preservation claim, has been adjusted in an office audit by the Wisconsin Department of Revenue.

I. THE OFFICE AUDIT, ASSESSMENT, AND REFUND PROCESS

Following are the usual steps the Wisconsin Department of Revenue (department) follows in conducting an office audit and in making an assessment or refund adjustment:

1. The department examines tax returns and/or credit claims to check the correctness of the items reported.
2. The department may request more information or receipts to clarify or support some items.
3. The department may then decide that an adjustment to the returns is necessary, with the result that the taxpayer owes an additional amount or receives a refund.
4. The department then sends a notice of amount due to the taxpayer explaining the amount due or a notice of refund explaining the refund to be issued. The notice shows the amount of tax, interest, penalty (if any) and explains the taxpayer’s appeal rights.

II. YOUR OPTIONS AFTER RECEIVING A NOTICE OF REFUND OR NOTICE OF AMOUNT DUE

A. Notice of Refund

If you **agree** with the notice, you need do nothing. You will automatically be issued the refund.

If you **disagree** with the notice, you must file an appeal with the department within **60 days** of receiving the notice, as explained in Part IV.

If you do not file a timely appeal, the department’s action is final and conclusive. No further refund is available on any subsequent claim on the adjusted issue(s).

Note: For tax types other than excise and sales and use, if the net result of a multiple year office audit is a notice of refund, and there are one or more tax years beginning on or after January 1, 2000 that resulted in an assessment included in the notice, a claim for refund may be made for the assessment year(s) within four years from the date on the notice of refund. See Part VII for information on filing a claim for refund of a paid assessment.

B. Notice of Amount Due

If you **agree**, you need do nothing except pay the indicated amount by the due date.

If you **disagree**, you may do one of the following:

1. Pay the full amount without filing any appeal. You can then consider whether to file a claim for refund, as explained in Part VII.
2. File an appeal with the department within **60 days** of receiving the notice, as explained in Part IV.

If you do not file a timely appeal, the department’s action is final. Paying the notice of amount due and filing a claim for refund as explained in Part VII is the only option available to contest the assessment.

III. THE APPEAL PROCESS

You have five levels of appeal available to you. They must be taken in the following order:

1. Wisconsin Department of Revenue.
2. Wisconsin Tax Appeals Commission.
3. Circuit Court.
4. Court of Appeals.
5. Wisconsin Supreme Court.

IV. APPEAL TO DEPARTMENT OF REVENUE

Filing the appeal:

1. The appeal must be in writing (preferably typed). It must state facts and reasons for disagreeing with the adjustments and include supporting documents.
2. The appeal must be mailed, faxed, or submitted online at tap.revenue.wi.gov/services within 60 days after you received the notice of amount due, notice of refund, or notice of refund claim denial. Do not email your appeal. The address and fax number to which an appeal must be submitted are provided in the notice.

Note: An appeal that is mailed is considered timely if it is postmarked on or before the due date specified above and is received by the department within five days of the due date.

3. To stop the accumulation of interest on amounts owed, you may either:

- **Deposit** the full amount of an additional assessment, including interest and penalty, if any, with the department when filing the appeal or at any time while the appeal is pending.

You will be paid interest at 3% per year on any portion of the deposit which is later refunded to you.

- **Pay** any portion of an assessment with which you agree. Such payment shall be considered an admission of the validity of that portion of the assessment and may not be recovered through the appeal or any other action or proceedings.

Note: With regard to taxpayers who file joint individual income tax returns which the department adjusts, an appeal by one spouse is an appeal by both spouses. A spouse may not appeal an assessment or a denial of a claim for refund issued with respect to a separate return filed by the other spouse. Either spouse may appeal an action relating to a joint return.

The department will notify spouses jointly that they may deposit with the department the amount of an additional assessment being appealed to stop the further accrual of interest. If the spouses have different addresses and if either spouse notifies the department in writing of those addresses, the department will send a duplicate notice regarding the deposit procedure.

Your appeal may be handled:

- Through the mail.
- Through a conference (if you or we request it) in Madison, Milwaukee, Eau Claire, or Appleton.
- Through personal representation or through assistance from an attorney, accountant, or other representative.

The department's action on your appeal could result in one of the following:

- no change to the original notice,

- a decrease in the amount of the original notice, or
- an increase in the amount of the original notice.

The department will notify you in writing of its decision.

Note: If your appeal concerns a claim for refund for a year for which the department may no longer issue an assessment, the department has the right to reduce the refund for tax that should have been reported or assessed, but wasn't, up to the total amount of the refund. If your appeal concerns an assessment of tax, you may have the right to reduce the assessment by any refund that could have been reported or claimed, but wasn't, up to the total amount of the assessment. In both instances, the same year(s) or period(s) must be involved, as well as the same type of tax.

V. APPEAL TO THE WISCONSIN TAX APPEALS COMMISSION

If you disagree with the department's decision on your appeal, you may wish to appeal to the Wisconsin Tax Appeals Commission (WTAC), which is entirely separate from the department. Your appeal to the WTAC must be filed within **60 days** of receiving the department's decision.

Note: If you chose not to deposit the full amount due with the department to stop the accumulation of interest while your case was pending at the department, you may when appealing to the WTAC do one of the following:

1. **Offer to deposit** total taxes and interest with the department. The offer to deposit may be made at any time while the petition is pending before the WTAC or any court.
2. **Pay** the portion of the assessment not under appeal.

VI. APPEAL TO THE COURTS: CIRCUIT, APPEALS, AND SUPREME

If you wish to appeal to the Circuit court, you must do so within **30 days** of receiving the WTAC's decision.

You or the department may afterward go on to the Court of Appeals and to the Wisconsin Supreme Court.

VII. FILING A CLAIM FOR REFUND OF A PAID ASSESSMENT

How:

A claim for refund must be filed on an amended return. The amended return must include your name, address, and social security number, account number, or corporation identification number. It must also identify the tax year disputed and state the facts and reasons for requesting the refund.

When:

For tax types other than excise and sales and use, a claim for refund must be filed within four years from the notice date on the assessment.

For excise tax and sales and use tax assessments, a claim for refund must be filed on an amended return within two years of the notice date on the assessment, regardless of the tax year involved.

Any tax refunded will bear interest at 3% per year.

Note: A claim for refund may be made only if the assessment was paid and not protested by the filing of an appeal.

VIII. WHAT YOU CAN DO IF YOUR REFUND CLAIM IS DENIED

File an appeal with the department within **60 days** of receiving the denial notice, as explained in Part IV.

IX. NEED HELP?

For additional information or assistance, contact the department at (608) 266-2772 or by email as indicated below.

Sales and Use Tax: dorsalesanduse@revenue.wi.gov
Corporation Franchise and Income Tax: corp@revenue.wi.gov
Excise Tax: excise@revenue.wi.gov
All others: income@revenue.wi.gov