



Limitations—the Statute of Limitations on Refund Claims
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Limitations on Claims for Refund

In the case of *A. L. Katz & J. L. Miller v. United States* (2006 USTC ¶150,496) taxpayers discovered a limitation on the filing of a claim for refund when the original return is late filed—and, once again, found that reliance on bad advice from the IRS (this time on when the statute would expire on the claim for refund) does not grant them better treatment than those who failed to ask for such advice. The Court of Claim reiterated that, as a matter of law, even if the IRS employee had *intentionally misled* the taxpayers (which the Court did not find had happened, since it didn't have to consider that matter) the Court could not have granted relief.

Statute Rules

We often deal with the issue of when the statute of limitation expires on claims for refund, especially with new clients that we discover may have previously overpaid their taxes. The general rule is found in §6511(a) which provides:

Claim for credit or refund of an overpayment of any tax imposed by this title in respect of which tax the taxpayer is required to file a return shall be filed by the taxpayer within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within 2 years from the time the tax was paid. Claim for credit or refund of an overpayment of any tax imposed by this title which is required to be paid by means of a stamp shall be filed by the taxpayer within 3 years from the time the tax was paid.

Note that this provision doesn't deal with the issue of a late filed return—it only deals with the case of a filed return or one that wasn't filed. However, for returns that have been filed, there is a second limitation provision that needs to be considered if there is a claim for refund where the tax was paid not with the return itself, but rather was paid prior to the date the return was filed.

§6511(b)(2)(A) provides:

LIMIT WHERE CLAIM FILED WITHIN 3-YEAR PERIOD. --If the claim was filed by the taxpayer during the 3-year period prescribed in subsection (a), the amount of the credit or refund shall not exceed the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return. If the tax was required to be paid by means of a stamp, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

As the *Katz* court notes, taxes that are withheld are deemed paid on April 15 of the year following the year in question. From the case:

In *Baral v. United States*, 528 U.S. 431 (2000), the Supreme Court interpreted 26 U.S.C. §6513(b)(1)-(2) as requiring that taxes previously collected (via withholding or estimated tax payments) for a particular tax year are deemed paid on April 15 of the following year, when the tax return is due --and not at a later date, such as when the return is actually filed and the taxes actually assessed.

So the general rule is that you must file a claim for refund that is based on the original withholding within three years of the original due date, including any extensions that may have been granted. If a claim is filed after that date, that amount of the refund would be time barred even if the return itself was filed within three years of filing the return in question.

Call for Help

In the *Katz* case, the taxpayers had originally filed for a first extension of time to file their 1999 income tax return, making their extended due date August 17, 2000 (August 15 fell on a Saturday). However, they missed that filing deadline and finally filed their return on October 30, 2000. Their entire tax liability for 2000 was covered by their withholdings, application of an overpayment from a prior year and the amount they paid with their request for an extension.

In July of 2003, the taxpayers discovered they might be eligible to claim a refund of taxes paid on their 2000 return. They called the IRS help line on that date and asked the employee who answered the phone line what the deadline was for filing their claim for refund. They claimed they were told by the IRS employee that their claim had to be filed by December 18, 2003.

The IRS received the taxpayers' claim for refund on October 17, 2003 and denied the claim for refund indicating that it had been filed too late and the statute was closed.

The taxpayers are claiming that had the IRS employee given them the proper advice—that their refund claim needed to be filed by August 17, 2003—they would have complied. But because they had received erroneous advice from the IRS, they missed that deadline and instead filed in October, a date still well in advance of the date the IRS employee had told them was the deadline.

No Relief Available

The Court of Claims decided that regardless of whether the taxpayers had or had not received erroneous advice from the IRS, §6511 does not allow for an extension of the statute for equitable reasons. This would include, the Court pointed out, even intentionally misleading advice given by an IRS employee, advice that would, under other circumstances, be allowed to grant equitable tolling of a statute against the government under the provisions of the *Irwin* case (498 U.S. 89, 1991).

In that case, the court noted:

Plaintiffs' claim for equitable relief relies upon *Irwin v. Dep't of Veterans Affairs*, 498 U.S. 89 (1991). In *Irwin*, the Court took the "opportunity to adopt a more general rule to govern the applicability of equitable tolling in suits against the Government." *Id.* at 95. The Supreme Court held that "the same rebuttable presumption of equitable tolling applicable to suits against private defendants should also apply to suits against the United States. *Congress, of course, may provide otherwise if it wishes to do so.*" *Id.* at 95-96 (emphasis added). The Court explained that "[f]ederal courts have typically extended equitable relief only sparingly," *id.* at 96, and recognized two circumstances in which tolling is allowed: "where the claimant has actively pursued his judicial remedies by filing a defective pleading during the statutory period, or where the complainant has

been induced or tricked by his adversary's misconduct into allowing the filing deadline to pass." *Irwin*, 498 U.S. at 96.

The taxpayers in *Katz* argued that the second circumstance listed in *Irwin* applied to their case—that the IRS had mislead them into filing a late claim.

However, the Court of Claims noted the emphasized section of the *Irwin* opinion noted above—that Congress can override *Irwin* by statute if it chooses to do so. The Court of Claims goes on to cite the case of *United States v. Brockamp*, 519 U.S. 347 (1997) where the Supreme Court dealt with the case of equitable estoppel and §6511, finding that §6511 had no equitable estoppel provision. In *Brockamp* the taxpayers had sought to obtain equitable estoppel based on a mental disability.

As you may recall, Congress passed legislation to reverse the *Brockamp* result by adding §6511(h). The taxpayers argued this proved that Congress really did mean that there should be equitable estoppel of this provision.

However, the Court of Claims did not view it that way. To the Court of Claims, this provision actually made things worse for the *Katz* taxpayers. Congress drafted a very narrow exception to the statute of limitations of §6511, making a *statutory* exception for mental disability rather than writing in more general equitable relief. As such, the Court held, this upholds the Supreme Court's view that Congress generally did not mean for equitable relief to apply to this provision—rather, only the limited exceptions the Congress wrote into the law should apply.

Finally, the Court did not accept the taxpayers' view that their case could be distinguished because it could be viewed to involve equitable estoppel rather than equitable tolling. The Court notes:

Plaintiffs attempt to distinguish *Brockamp* by arguing that the decision involved equitable tolling, whereas they are raising an issue of equitable estoppel. Pls.' Opp. at 10-14. But the plaintiffs are asking this Court to equitably estop the Government from asserting a statute of limitations defense --regardless of the label they place on the request, it amounts to equitably tolling a statute of limitations. The Federal Circuit has already definitively addressed this issue in *RHI Holdings, Inc. v. United States*, 142 F.3d 1459, 1462 (Fed. Cir. 1998) (explaining that "if there is no implied equitable exception in the statute of limitations, then regardless of the facts presented, there can be no equitable tolling or estoppel"). The Circuit rejected any distinctions between estoppel and tolling, "since *Irwin* described one instance of allowing equitable tolling as 'where the complainant has been induced or tricked by his adversary's misconduct into allowing the filing deadline to pass.'" *Id.* at 1461 (quoting *Irwin*, 498 U.S. at 96).

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Lessons

Again, we note that clients who call the IRS for answers need to be cautioned that the IRS is simply not bound by that advice in most instances—and that they do assert that fact in court. So there is a point to paying for advice.

As well, it's important to remember this quirk in the statute of limitations for refund claims, especially when dealing with new clients. This provision in the statute of limitations can trip up professionals who too quickly skim over §6511 and stop after reading §6511(a) or their “quick answer” resource that cites the three year statute.