**Section 510.140 Claims to Recover Erroneously Paid Tax**

a) *If it appears, after a claim therefor filed with the Department, that an amount of tax or penalty or interest has been paid which was not due under* the *Act, whether as the result of a mistake of fact or an error of law, except as hereinafter provided, then the Department shall issue a credit memorandum or refund to the person who made the erroneous payment or, if that person has died or become a person under legal disability, to his or her legal representative, as such.*

b) *As to any claim for credit or refund filed with the Department on or after each January 1 and July 1, no amounts erroneously paid more than 3 years prior to such January 1 and July 1, respectively, shall be credited or refunded, except that if both the Department and the taxpayer have agreed to an extension of time to issue a notice of tax liability under* the *Act, the claim may be filed at any time prior to the expiration of the period agreed upon.*

c) Beginning June 25, 2021, *for any period included in a claim for credit or refund for which the statute of limitations for issuing a notice of tax liability under* the *Act will expire less than 6 months after the date a taxpayer files the claim for credit or refund, the statute of limitations is automatically extended for 6 months from the date it would have otherwise expired.*

d) *If it is determined that the Department should issue a credit or refund under* the *Act, the Department may first apply the amount thereof against any amount of tax or penalty or interest due* thereunder *from the person entitled to such credit or refund. Any credit memorandum issued under the Electricity Excise Tax Law may be applied against any liability incurred under the tax previously imposed by Section 2 of* the Act*. For this purpose, if proceedings are pending to determine whether or not any tax or penalty or interest is due under* theAct *from such person, the Department may withhold issuance of the credit or refund pending the final disposition of such proceedings and may apply such credit or refund against any amount found to be due to the Department as a result of such proceedings. The balance, if any, of the credit or refund shall be issued to the person entitled thereto.*

e) *If no tax or penalty or interest is due and no proceeding is pending to determine whether such person is indebted to the Department for tax or penalty or interest, the credit memorandum or refund shall be issued to the claimant; or (in the case of a credit memorandum) the credit memorandum may be assigned and set over by the lawful holder thereof, subject to reasonable rules of the Department, to any other person who is subject to* theAct*, and the amount thereof shall be applied by the Department against any tax or penalty or interest due or to become due under* the *Act from such assignee.*

f) *Claims for credit or refund shall be filed upon forms provided by the Department. As soon as practicable after any claim for credit or refund is filed, the Department shall examine the same and determine the amount of credit or refund to which the claimant is entitled and shall notify the claimant of such determination, which amount shall be prima facie correct.* Except as otherwise provided by Section 510.110(b)(3), *any credit or refund that is allowed under* the *Act shall bear interest at the rate and in the manner specified in the Uniform Penalty and Interest Act.* [35 ILCS 620/6]

g) In case the Department determines that the claimant is entitled to a refund, such refund shall be made only from such appropriation as may be available for that purpose. If it appears unlikely that the amount appropriated would permit everyone having a claim allowed during the period covered by such appropriation to elect to receive a cash refund, the Department will make such refunds only in hardship cases (i.e., in cases in which the claimant cannot use a credit memorandum). The two most likely situations where this would be the case are the situation in which the claimant has discontinued business and the situation in which the claimant will have a small volume of liability to the Department in the foreseeable future, but receives a large credit memorandum which it therefore might take the claimant a long time to liquidate by using it to pay current taxes. In these instances, the claimant probably would have to sell the credit memorandum at a loss in order to realize anything from it within any reasonable period of time.

(Source: Amended at 47 Ill. Reg. 18748, effective November 28, 2023)