§ 105-241.7. Procedure for obtaining a refund.

(a) Initiated by Department. – The Department must refund an overpayment made by a taxpayer if the Department discovers the overpayment before the expiration of the statute of limitations for obtaining a refund. Discovery occurs in any of the following circumstances:

(1) The automated processing of a return indicates the return requires further review.

(2) A review of a return by an employee of the Department indicates an overpayment.

(3) An audit of a taxpayer by an employee of the Department indicates an overpayment.

(b) Initiated by Taxpayer. – A taxpayer may request a refund of an overpayment made by the taxpayer by taking one of the actions listed in this subsection within the statute of limitations for obtaining a refund. A taxpayer may not request a refund of an overpayment based on a contingent event as defined in G.S. 105-241.6(b)(5) until the event is finalized and an accurate and definite request for refund of an overpayment may be determined. The actions are:

(1) Filing an amended return reflecting an overpayment due the taxpayer.

(2) Filing a claim for refund. The claim must identify the taxpayer, the type and amount of tax overpaid, the filing period to which the overpayment applies, and the basis for the claim. The taxpayer's statement of the basis of the claim does not limit the taxpayer from changing the basis.

(c) Action on Request. – When a taxpayer files an amended return or a claim for refund, the Department must take one of the actions listed in this subsection within six months after the date the amended return or claim for refund is filed. If the Department does not take one of these actions within this time limit, the inaction is considered a proposed denial of the requested refund.

(1) Send the taxpayer a refund of the amount shown due on the amended return or claim for refund.

(2) Adjust the amount of the requested refund by increasing or decreasing the amount shown due on the amended return or claim for refund and send the taxpayer a refund of the adjusted amount. If the adjusted amount is less than the amount shown due on the amended return or claim for refund, the adjusted refund must include a reason for the adjustment. The adjusted refund is considered a notice of proposed denial for the amount of the requested refund that is not included in the adjusted refund.

(3) Deny the refund and send the taxpayer a notice of proposed denial.

(4) Send the taxpayer a letter requesting additional information concerning the requested refund. If a taxpayer does not respond to a request for information, the Department may deny the refund and send the taxpayer a notice of proposed denial. If a taxpayer provides the requested information, the Department must take one of the actions listed in this subsection within the later of the following:

a. The remainder of the six-month period.

b. 30 days after receiving the information.

c. A time period mutually agreed upon by the Department and the taxpayer.

(c1) Action on Request Regarding Statute of Limitations. – When the taxpayer files an amended return or a claim for refund which the Department determines to be outside the statute of limitations, the Department must deny the refund and send the taxpayer a notice of denial.

(d) Notice. – A notice of a proposed denial of a request for refund issued pursuant to subsection (c) of this section and a notice of denial of a request for a refund issued pursuant to subsection (c1) of this section must contain the following information:

(1) The basis for the denial or the proposed denial. The statement of the basis of the denial does not limit the Department from changing the basis.

(2) The circumstances under which a proposed denial will become final.

(e) Restrictions. – The Department may not refund any of the following:

(1) Until a taxpayer files a final return for a tax period, an amount paid before the final return is filed.

(2) An overpayment setoff under Chapter 105A, the Setoff Debt Collection Act, or under another setoff debt collection program authorized by law.

(3) An income tax overpayment the taxpayer has elected to apply to another purpose as provided in this Article.

(4) An individual income tax overpayment of less than one dollar ($1.00) or another tax overpayment of less than three dollars ($3.00), unless the taxpayer files a written claim for the refund.

(f) Effect of Denial or Refund. – A proposed denial of a refund and a denial of a refund by the Secretary are presumed to be correct. A refund does not absolve a taxpayer of a tax liability that may in fact exist. The Secretary may propose an assessment for any deficiency as provided in this Article. (2007-491, s. 1; 2011-4, s. 1; 2013-414, s. 47(b); 2016-76, s. 2(a); 2017-204, s. 4.1(a).)