

## Maine Revised Statutes

### Title 36: TAXATION

#### Chapter 831: PROCEDURE AND ADMINISTRATION

##### §5278. LIMITATIONS ON CREDIT OR REFUND

**1. General.** A claim for credit or refund of an overpayment of any tax imposed by this Part must be filed by the taxpayer within 3 years from the date the return was filed, whether or not the return was timely filed, or 3 years from the date the tax was paid, whichever period expires later. A credit or refund may not be allowed after the expiration of the period prescribed in this subsection unless a claim for credit or refund is filed by the taxpayer within that period. For purposes of this subsection, a return filed before the last day prescribed for the filing of a return is deemed to be filed on that last day.

[ 2011, c. 1, Pt. DD, §3 (AMD); 2011, c. 1, Pt. DD, §4 (AFF) .]

**2. Limit on amount of claim or refund.** If the claim is filed by the taxpayer during the period prescribed in subsection 1, the amount of the credit or refund may not exceed the portion of the tax that was paid within the 3 years immediately preceding the filing of the claim plus the period of any extension of time for filing the return. If a claim is not filed, any credit or refund allowed upon an audit of the taxpayer may not exceed the amount that would be allowable under this subsection if a claim had been filed by the taxpayer on the date the credit or refund is allowed.

[ 2011, c. 1, Pt. DD, §3 (AMD); 2011, c. 1, Pt. DD, §4 (AFF) .]

**3. Extension of time by agreement.** If an agreement for an extension of the period for assessment of income taxes is made within the period prescribed in subsection 1, the period for filing a claim for credit or refund or for allowing a credit or refund if a claim is not filed may not expire earlier than 6 months after the expiration of the period during which an assessment may be made pursuant to the agreement or any extension of the agreement. The amount of the credit or refund may not exceed the sum of the portion of the tax paid after the execution of the agreement and before the filing of the claim or the making of the credit or refund and the portion of the tax paid within the period that would be applicable under subsection 1 if a claim had been filed on the date the agreement was executed.

[ 2011, c. 1, Pt. DD, §3 (AMD); 2011, c. 1, Pt. DD, §4 (AFF) .]

**4. Notice of change or correction.** If a taxpayer is required by section 5227-A to file an amended Maine return, a claim for credit or refund of any resulting overpayment of the tax must be filed by the taxpayer within 3 years from the date the filing of the amended return was required. The claim for credit or refund is limited to issues included in the federal amendment or adjustment and the amount of the credit or refund may not exceed the amount of the reduction in tax attributable to the federal amendment or adjustment. This subsection does not affect the time within which or the amount for which a claim for credit or refund may be filed apart from this subsection.

[ 2011, c. 1, Pt. DD, §3 (AMD); 2011, c. 1, Pt. DD, §4 (AFF) .]

**5. Special rules.** The following rules apply to claims for credit or refund pursuant to this section:

A. If the claim for credit or refund relates to an overpayment of tax on account of the deductibility by the taxpayer of a debt as a debt that became worthless or a loss from worthlessness of a security or the effect that the deductibility of a debt or of a loss has on the application to the taxpayer of a carry-over, the claim may be made within 7 years from the date prescribed by law for filing the return for the year with respect to which the claim is made ; and [2011, c. 1, Pt. DD, §3 (AMD); 2011, c. 1, Pt. DD, §4 (AFF).]

B. If the claim for credit or refund relates to an overpayment attributable to a net operating loss carry-back arising from a tax year beginning before January 1, 2002 or a credit carry-back, the claim may be made, under rules adopted by the assessor, within the period that ends with the 15th day of the 40th month following the end of the taxable year of the net operating loss or the unused credit that resulted in the carry-back or the period prescribed in subsection 3 in respect of that taxable year, whichever expires later. With respect to any portion of a credit carry-back from a taxable year that is attributable to a net operating loss carry-back or a capital loss carry-back from a subsequent taxable year, the period within which the claim may be made ends with the 15th day of the 40th month following the end of the subsequent taxable year or the period prescribed in subsection 3 in respect of that taxable year, whichever expires later. [2005, c. 218, §57 (AMD); 2005, c. 218, §63 (AFF).]

[ 2011, c. 1, Pt. DD, §3 (AMD); 2011, c. 1, Pt. DD, §4 (AFF) .]

#### SECTION HISTORY

P&SL 1969, c. 154, §F1 (NEW). 1987, c. 772, §42 (AMD). 1989, c. 508, §24 (AMD). 1989, c. 530, §3 (AMD). 1999, c. 521, §B10 (AMD). 1999, c. 521, §B11 (AFF). 1999, c. 708, §49 (AMD). 2003, c. 588, §21 (AMD). 2005, c. 218, §57 (AMD). 2005, c. 218, §63 (AFF). 2009, c. 496, §26 (AMD). 2011, c. 1, Pt. DD, §3 (AMD). 2011, c. 1, Pt. DD, §4 (AFF).

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