

Claims Chapter Index**Purpose**

A taxpayer who believes they paid an amount of tax, penalty, or interest to the Department that was not actually due can file a claim for credit. This chapter addresses the types of claims encountered in the Audit Bureau ("Audit").

The chapter is primarily written to address claims covered by the Retailers' Occupation Tax Act since most tax acts either have provisions which explicitly incorporate the rules of that act or are based on those rules.

Disclaimer

This audit manual is designed for internal staff-use only and is intended to provide general information on selected topics to assist Illinois Department of Revenue ("Department" or "IDOR") auditors in the completion of their audits. The contents of this audit manual must not be relied upon for decision making or as a substitute for the official text of statutes, administrative rules, and case law. This manual does not carry the weight or effect of law and is only informational in nature. Auditors must conduct audits in accordance with the pertinent statutes, administrative rules, and case law.

Citations to statutes, regulations, or case law are included to assist the auditors in locating the relevant legal authority as a basis for conducting audits. The manual may be amended at any time without notice by the Department. Nothing in this manual shall contradict the official text of statutes, administrative rules, or case law. In case of any unintended inconsistency, the official text of statutes, administrative rules, and case law controls and must be followed. The Department's Director, General Counsel, and Legal Services Bureau do not sanction any deviation by the Department staff from the official text of statutes, administrative rules, or case law in the performance of job functions.

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There are three types of claims generally addressed by Audit. For the most part, the type of claim does not materially impact the way it is verified, but it can affect the steps needed to process the claim. Below is a quick overview of the different claim types.

8.1.1 Claims Against Original Returns

If a taxpayer believes they have paid an amount to the Department which they did not actually owe, they may file a claim for credit with the Department. Claims are submitted to the Department by filing an amended return for the period for which the alleged overpayment occurred. Amended returns generally are denoted by an “-X” after the original return name (i.e., the ST-1-X is the amended form for the ST-1).

Claims against original returns are initially sent to Sales Tax Processing. If they meet specific criteria (which are discussed later in this document), they are sent to the Audit for review.

8.1.2 Claims Against Audits

If a taxpayer believes they overpaid an amount in an audit, they may file a claim against the audit. They do not use the same form they used to file a claim against an original return. Instead, they must file one of the following audit specific forms:

EDA-98, Claim for Credit

This form is used to file claims against payments for periods covered by sales and use tax audit returns including the following:

- **EDA-94**, Auditor-prepared Use Tax Report (ST-44)
- **EDA-95**, Auditor-prepared Vehicle Use Tax Transaction Report (RUT-25)
- **EDA-95-LSE**, Auditor-prepared Use Tax Report for Lease Transactions (RUT-25-LSE)
- **EDA-101**, County Motor Fuel Tax Audit Report
- **EDA-105-A**, ART Audit Report
- **EDA-8-ARO**, Chicago Soft Drink Tax Auditor’s Report
- **EDA-8-ARO**, Metropolitan Pier and Exposition Authority Food and Beverage Tax Auditor’s Report
- **EDA-105-P**, PST Audit Report
- **EDA-8-ARO**, Sales and Use Tax and E911 Surcharge Auditor’s Report
- **EDA-8-ARO**, Tire User Fee Auditor’s Report
- **EDA-556**, Sales Tax Transaction Audit Report

EDA-98-U, Claim for Credit

This form is used to file claims against payments for transactions covered by the following private party vehicle and aircraft/watercraft returns:

- **EDA-128**, Auditor-prepared Aircraft/Watercraft Use Tax Transaction Report (RUT-75)

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- **EDA-146**, Auditor-prepared Private Party Vehicle Use Tax Transaction Report (RUT-50)

EDA-98-E, Claim for Credit

This form is used to file claims against payments for periods covered by excise tax and fee audits, such as:

- **DS-1-A**, Dry-Cleaning Solvent Tax Audit Return
- **EDA-111**, IFTA Motor Fuel Use Tax Audit Report
- **EDA-8-ARO**, Hotel Operators' Occupation Tax Auditor's Report
- **EDA-8-ARO**, Telecommunications Tax Auditor's Report
- **EDA-8-ARO**, Telecommunications Infrastructure Maintenance Fee (TIMF) Auditor's Report
- **TP-1A**, Tobacco Products Tax Audit Return

EDA-117, Multiple Location Schedule

This is the multiple location schedule for most tax types which is attached to the EDA-98 when needed.

EDA-117-B, Multiple Location Schedule for E911 Surcharge

This multiple location schedule only applies to the E911 & ITAC Surcharge and is attached to the EDA-98 when needed.

EDA-117-E, Multiple Location Schedule

This is the multiple location schedule which is attached to the EDA-98-E when needed for excise taxes and fees.

8.1.3 Claims Discovered in Audit

The third type of claim is a claim discovered during the audit by the auditor. This is an amount that will be credited to the taxpayer without the need for the taxpayer to file a formal claim form. Common reasons for claims discovered in audits include:

- 1) overpayments identified by the auditor as part of their review of a sample;
- 2) overpayments identified by the taxpayer and presented to the auditor to review; or
- 3) offsets used to correct tax allocations (e.g., tax locations or tax types).

There is no specific claim form the taxpayer needs to provide for an auditor to review or approve this type of claim, as it is not a formal claim for purposes of the statute of limitations and protest rights.

Most of the claims filed by taxpayers are reviewed and processed by the Sales Tax Processing Division, but the Department has identified certain types of claims which should be sent to Audit for a more thorough review. Below are the guidelines used to determine which claims should be assigned to Audit and within Audit. These guidelines are generally followed, but exceptions may be made if it is more efficient to process a claim in a different manner.

8.2.1 Department Guidelines for Claims Against Original Returns

Below are the guidelines used by Sales Tax Processing to determine whether an amended return or claim should be forwarded to Audit for review:

- 1) If an Audit was completed on past periods and the taxpayer files Amended Returns for a period that was covered by the previous audit, the Amended Returns will be forwarded to Audit.
- 2) Claims totaling up to [REDACTED] will be processed by Sales Tax Processing Division. Any claims received in Audit below this amount with no field audit in progress will be returned to Sales Tax Processing Division for completion.
- 3) Claims totaling [REDACTED] will be processed by Sales Tax Processing Division. Further evaluation will be made to determine if the claim should be sent to Audit for review.
- 4) Claims totaling [REDACTED] or higher will **not** be processed by Sales Tax Processing. They will be sent to Audit for verification.

8.2.2 Department Guidelines for Claims Against Audited Periods

After the completion of an audit, taxpayers may file a claim against any payments made on the audit. For example, during the course of an audit, the taxpayer is unable to locate a resale certificate which resulted in the auditor taxing the transaction. After the audit is finalized, the taxpayer is able to locate the missing resale certificate, therefore, potentially creating an overpayment. Since the audit is finalized, the taxpayer must file a claim for credit against the audit which created the overpayment. In these cases, the taxpayer will usually file an EDA-98, Claim for Credit (audited periods only) or equivalent audit claim form for the entire audit period. These claims are automatically forwarded to Audit for review. There are times, however, that taxpayers file amended returns such as the ST-1-X for all or some of the periods that were previously audited. As discussed above, these are also forwarded to Audit.

8.2.3 Claims sent back to Sales Tax Processing

Not all claims initially sent to Audit for review are assigned to an auditor. Below are some examples of situations where amended returns or claims may be sent back to Sales Tax Processing:

- Amended returns with underpayment amounts;
- Amended returns not in a current audit period;
- Amended returns stating corrections to line items with no additional tax due;
- Amended returns that have been discussed with Supervisors and/or Field Auditors; and
- Amended returns that are determined to be filed outside the statute of limitations.

8.2.4 Claim Assignments within Audits

After determining that a claim needs to be reviewed by Audit, the next step is to determine which area will review the audit, ROT Discovery or Field Audit. If an audit is currently pending for the taxpayer that filed the claim, the claim will be sent to the field auditor for verification. All other claims received by

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Audit will be reviewed to determine the most efficient disposition of the claim, either the ROT Discovery Section or the Field Compliance Division.

One of the first steps in reviewing a claim audit is to determine the actual amount of the claim filed by the taxpayer. The goal when determining the claim amount is to:

- 1) identify the amount the taxpayer claimed so that any reduction in that amount can be measured when processing documents; and
- 2) list an accurate total claim amount on the EDA-152, Claim Withdrawal letter.

In some situations, it is easy to calculate the amount of the claim, but it can be more challenging when the taxpayer's amended returns are incorrect or incomplete. Below are some different ways to calculate the Original Claim amount:

8.3.1 Stated Claim Method

The simplest method to determine the original claim amount is to use the amount(s) claimed by the taxpayer as an overpayment on their amended return(s).

Taxpayer Returns

The amount claimed by the taxpayer as an overpayment is found on Line 27 of the ST-1-X or Line 8 of the EDA-98.

ST-1-X

• If Line 26 is greater than Line 25, Column B, enter the difference on Line 27. • If Line 26 is less than Line 25, Column B, enter the difference on Line 28.			
27	Overpayment - This is the amount you have overpaid. Go to Step 5 and sign this return.	27	14,541
28	Underpayment - This is the amount you have underpaid. Please pay this amount. Enter this amount on Page 1.	28	
Go to Step 5 and sign this return. Make your check payable to "Illinois Department of Revenue."			

EDA-98

7	Amount paid on audit	7	153,245.00
8	Subtract Line 6 from Line 7. This is the amount overpaid.	8	22,458.00

The advantage of the stated claim method is that it is easy to calculate and easy to explain to the taxpayer when listed on the EDA-152, Claim Withdrawal letter. The disadvantage is that it is not always the most accurate amount. In addition, this amount will not be available if the taxpayer does not list an amount on Line 27 of their amended return.

8.3.2 Implied Claim Method

Using the amount of overpayment claimed by the taxpayer may not be possible if the taxpayer only adjusts a few lines on their return on the assumption that the Department will calculate the rest. If the taxpayer does not complete Line 27, or if the auditor thinks the Line 27 entries are unreliable, the auditor can instead use the "implied claim" of the amended return(s) for the original claim amount.

The implied claim is the difference between the after-discount tax due on the ST-1 return and the after-discount tax due on the ST-1-X filing. The difference is derived by subtracting Line 16 of the ST-1-X return from Line 16 of the ST-1 return. This method will work in all Retailers' Occupation Tax (ROT) / Use Tax (UT) audits.

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The advantage of using the implied claim method is that the auditor may have a more accurate reflection of the true amount claimed. The disadvantage is that it may be more difficult to explain how this amount was calculated when it is used on the EDA-152, Claim Withdrawal letter.

Explaining the Original Claim Amount

Since there are multiple ways to calculate a correct original claim amount, it is important that auditors explain to the taxpayer how the claim amount was determined and why it is accurate.

Previously Approved Claims

Anytime a claim is reviewed in an audit, auditors should check the taxpayer's account to see if the claim has already been approved and a credit memo issued.

Note: The presence of a credit memo on the return period does not necessarily mean that the claim an auditor is reviewing has already been approved; it could be related to a separate claim.

In general, the process for reviewing transactions that are part of a claim is no different than the process of reviewing transactions in a standard audit. In both cases, auditors ultimately must decide whether a transaction is subject to tax using the statutes, regulations, letter rulings, etc. There are, however, some issues that either only affect claims or are most typically encountered during a claim audit. Below is more information on some of those issues.

8.4.1 Statute of Limitations

There is a 3 – 3 ½ year statute of limitation on filing claims based on when the amount was **paid**. Like with liabilities, the statute expires on June 30th and December 31st:

Provided that as to any claim for credit filed with the Department on and after each January 1 and July 1 no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the Act) more than 3 years prior to such January 1 and July 1, respectively, shall be credited;...except that if both the Department and the taxpayer have agreed to an extension of time to issue a notice of tax liability as provided in Section 4 of the Act, such claim may be filed at any time prior to the expiration of the period agreed upon. 86 Ill. Adm. Code 130.1501(a)(4).

Once a taxpayer files a claim, their ability to receive a credit for the amount of the claim remains open until a final action is taken on the claim by the Department. The amount of a credit requested for a claim cannot be increased after it is filed, but taxpayers can file additional claims for the same period(s) if the statute of limitations for filing claims has not expired.

There is no statutory time limit by which the Department must review a claim. The ROT Act simply states, “As soon as practicable after a claim for credit or refund is filed, the Department shall examine the same and determine the amount of credit or refund...” [35 ILCS 120/6b].

While there is no explicit statutory time limit, Audit policy is to make claims a priority and to review them as quickly as possible.

Payment Date Determination

The date of a payment generally does not correspond to the liability period for that payment since returns and payments are mostly due the following month. For example, the statute of limitations for the June 2020 Retailers' Occupation Tax liability period expires in June 2023, but since a timely payment for the June 2020 ST-1 return would have been made in July 2020. The ability for the taxpayer to file a claim against this payment does not expire until December 2023.

The date of a payment can also be much later than the date the taxpayer sent the funds to the Department. In the case of applied credit memoranda, accelerated payments, or prior overpayments, the payment date is based on the date the payment was applied to the return period. Typically, this is the date the taxpayer filed the return for the period.

Example: A taxpayer files a claim and received a credit memo for the June 2019 return period on July 15, 2020. They then direct the Department to apply the credit memo to their February 2021 return when they file it on March 15, 2021. The statute of limitations for filing a claim on this amount runs from March 15, 2021, and would expire in June 2024.

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In addition, a single return period could have multiple claim statute of limitation dates if a taxpayer paid the liability over time.

Example: A taxpayer is unable to make their \$10,000 January 2020 ST-1 payment on February 20, 2020, so they enter into a payment plan with the Department to pay \$1,000 per month from February – November 2020. The statute of limitation on the February – June payments will expire on June 30, 2023. The statute of limitation on the July – November payments will expire on December 31, 2023.

Example: A taxpayer pays \$10,000 in tax for the August 2018 return period in September 2018. In October 2021, they pay an additional \$5,000 in tax for that same period because of an audit. In October 2022, the taxpayer files a \$15,000 claim against that period. Even if an auditor determines that the full \$15,000 was not actually due, the taxpayer can only receive a credit for the \$5,000 paid on the audit in October 2021. The ability to receive a credit for the \$10,000 paid with the original return in September 2018 expired on December 31, 2021.

Waivers

A waiver against the statute of limitation for filing a claim or issuing a Notice of Tax Liability, signed prior to the expiration date of the statute of limitations on filing a claim, extends the time in which a taxpayer has to file a claim until the waiver expires. Since the statute of limitations on claims is calculated based on the payment date, it is possible that the waiver will cover payments for periods that are out of statute for assessing additional liability.

Example: A taxpayer is under audit for January 2020 – December 2021. On February 1, 2023, they sign a waiver that extends the statute of limitations for assessing additional liability or filing a claim from June 30, 2023, to December 31, 2023. The waiver extends their ability to file a claim against any payments made during that time period, even if those payments are made from an earlier period. For example, the taxpayer could still file a claim against the December 2019 period if the payment was made in January 2020.

Once signed, a waiver remains in effect until the expiration date listed on the waiver. The taxpayer can continue to file claims for payments made during the covered dates up until the time the waiver expires, even if the audit closes before then.

Claim Effect on the Statute of Limitations

Prior to June 25, 2021, filing a claim did not change the statute of limitations for the Department to assess additional liability. If a taxpayer timely filed a claim against a payment for a period and the statute of limitations for assessing a liability on that period expired by the time the claim is reviewed, the Department could offset any allowable amount of the claim with other liability found during the audit but could not issue a Notice of Tax Liability for additional liability. Once the statute of limitations on filing a claim expired, the claimed amount could still be approved, but could no longer be increased in an audit. Likewise, filing a claim for a period did not prevent the Department from establishing additional liability for a period that was still in statute.

Effective June 25, 2021, Public Act (PA) 102-0040 automatically extended the statute of limitations by 6 months for credit and/or refund claims filed within 6 months or less of statute of limitations remaining

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at the time of filing. The purpose of the legislation was to provide the Department the opportunity to issue a Notice of Tax Liability for other issues with the return beyond the claim issue(s), as opposed to merely verifying or reducing the claim(s).

PA 102-0040 applies to claims filed on or after the June 25, 2021, effective date for periods with fewer than 6 months remaining in statute.

Citations

- **Income Tax:** 35 ILCS 5/905(a-5) or IITA § 905(a-5)
- **Miscellaneous Taxes:** 35 ILCS 128/1-55, 35 ILCS 130/9d, 35 ILCS 135/14a, 35 ILCS 615/6, and 35 ILCS 630/10
- **Sales and Use Tax:** 35 ILCS 105/21, 35 ILCS 115/19, and 35 ILCS 120/6

Erroneous Refunds

The Department typically has three years to recover an erroneously refunded amount of tax starting from the date the refund or credit was issued.

Example: A taxpayer timely files a claim for credit for \$2,000 against a payment made on July 20, 2020, for the June 2020 return period. The \$2,000 is credited to the taxpayer's account on April 14, 2023. The Department has until April 14, 2026, to recover this amount.

The Department has five years to recover an erroneously refunded amount of tax starting from the date the refund or credit was issued, if it appears any part of the refund was induced by fraud or a misrepresentation of a material fact.

Example: A taxpayer timely files a claim for credit for \$2,000 against a payment made on July 20, 2020, for the June 2020 return period. The \$2,000 is credited to the taxpayer's account on April 14, 2023. The Department has until April 14, 2028, to recover this amount, if any part of the credit was induced by fraud or a material misrepresentation of the facts.

See 35 ILCS 120/6b for more information on erroneous refunds.

8.4.2 Bad Debts

The applicable rules for claiming a bad debt deduction depend on the date the claim was filed.

Bad Debt Claims filed on or after July 31, 2015

For claims filed on or after July 31, 2015, taxpayers must meet the requirements of 86 Ill. Adm. Code 130.1960(d)(3). It allows for a bad debt deduction provided that the taxes are represented by amounts:

- that are found to be worthless or uncollectible;
- that have been charged off as bad debt on the retailer's books and records in accordance with generally accepted accounting principles; and
- that have been claimed as a deduction pursuant to Section 166 of the Internal Revenue Code on the income tax return filed by the retailer.

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For disregarded entities which report their federal income taxes on another company's consolidated return, the taxpayer must be able to demonstrate that the bad debt write-off would have been allowed on its own returns if it had filed separately. A bad debt which is due to a write-off by a related finance company does not qualify as a bad debt filed by the retailer even if both are filed on a consolidated federal income tax return.

Note: The taxpayer does not have to show the amount as a bad debt line on the Federal Return only in their books and records. They must be able to identify that same amount on the Federal return if not on the bad debt line.

Statute of Limitations – Bad Debt

The statute of limitations on bad debt related claims runs from the date when the federal income tax return is filed listing the bad debt deduction, and the limitation period for claiming the bad debt reduction is the same as that for a claim for credit as stated above. See [86 Ill. Adm. Code 130.1960\(d\)\(5\)](#).

Example: On June 28, 2020, ABC Furniture receives a check from a customer for \$1,070 for the purchase of a sofa. They record a \$1,000 sale with \$70 of tax due on their June 2020 ST-1 return. In July 2020, their bank notifies them that the check used by the customer was not honored. They properly write off the sale as a bad debt on their March 2021 Federal income tax return. Since ABC Furniture reports tax using the gross sales method, they may claim a credit for the \$70 in tax paid on their March 2021 ST-1. If they fail to claim a credit on the original ST-1 from March 2021, they have until June 30, 2024, to file a claim.

If the bad debt deduction exceeds the amount of the taxable sales on the ST-1 return for the period in which the taxpayer's Federal Income Tax return is filed or amended, the taxpayer is allowed to carry forward the unclaimed portion of the bad debt deduction and apply it to succeeding ST-1 returns until it has been deducted in its entirety.

If the taxpayer later collects an amount that was written-off and claimed as a credit on their sales tax return, they must report the tax as due in the tax period in which it is collected.

Private Label Credit Cards

The General Assembly has crafted special rules for private-label credit cards.

86 Ill. Adm. Code 130.1960(d)(1)(C) & (D) define what qualifies as a private label credit card:

(C) "Private-label Credit Card" means a charge card or credit card that carries, refers to, or is branded with the name or logo of a retailer and may only be used to make purchases from that retailer or that retailer's affiliates.

D) "Affiliate" means an entity affiliated under section 1504 of the Internal Revenue Code, or an entity that would be an affiliate under that section had the entity been a corporation.

[86 Ill. Adm. Code 130.1960\(d\)\(4\)](#) contains provisions for bad debt claimed specifically on Private-label Credit Cards. Private labeled credit cards which may be used at locations other than the retailer's or the retailer's affiliates establishments, do not qualify for a bad debt claim under the private label credit card provisions.

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For purposes of computing the deduction or refund, payments on the accounts or receivables must be prorated against the amounts outstanding on the account.

Example: A customer uses a private label credit card to purchase a \$1,000 TV. The \$1,000 plus \$70 for tax is added to their charge account. Over the next year, the customer is assessed \$100 in interest and \$50 in late fees. The total amount they pay before the debt is written off is \$500. The bad debt write-off is calculated as follows:

Charge	Amount	Percentage	Prorated Payment
Merchandise	\$1,000	82.0%	\$410.00
Tax	\$70	5.7%	\$28.50
Interest	\$100	8.2%	\$41.00
Late Fees	\$50	4.1%	\$20.50
Total	\$1,220	100.0%	\$500

Since \$28.50 is deemed applied to the \$70.00 tax liability, the retailer may claim a credit for the remaining \$41.50 (\$70.00 minus \$28.50).

The statute of limitation for filing a claim runs from the date the private label credit card bad debt is written off on the federal return. Written off amounts which are later collected by either the lender or retailer must be included on the retailer's next return.

See 35 ILCS 120/6d(b) and 86 Ill. Adm. Code 130.1960(d)(4) for more information on the rules which apply to private-label credit cards.

8.5.1 Claims Against Final Assessments & Judgments

No claim may be allowed for any amount paid to the Department, whether paid voluntarily or involuntarily, if paid in total or partial liquidation of an assessment which had become final before the claim for credit or refund to recover the amount so paid is filed with the Department, or if paid in total or partial liquidation of a judgment or order of court.

An assessment typically becomes final when either:

- 1) a Notice of Tax Liability is issued, and the taxpayer does not protest the liability within 60 days;
or
- 2) the taxpayer protests in an Administrative Hearing or at the Tax Tribunal and it is determined that they owe a liability.

A judgment or order of court typically occurs when a case is protested in a circuit court or as stated above. See [86 Ill. Adm. Code 130.1501\(a\)\(4\)](#)

8.5.2 Claims Against Unrefunded Amounts Collected from Others

No credit may be allowed for any taxes paid by a retailer if the retailer collected those taxes from their customers unless they refund the tax to their customers prior to filing the claim. If they fail to refund customers, and the statute of limitations for filing a claim expires, the taxpayer cannot later satisfy the refund requirement and receive a credit.

Example: In March 2020, a taxpayer sells a piece of machinery to a customer for \$100,000 and collects \$7,000 in tax. They report the sale and pay the amount due on their March 2020 ST-1 Return on April 15, 2020. On June 5, 2023, the taxpayer files a claim for the \$7,000 in tax based on an MM&E certificate received from their customer. On July 8, 2023, an auditor reviews their claim and determines that they did not refund the \$7,000 in tax to their customer prior to filing the claim. The claim should be denied because the taxpayer failed to meet the conditions necessary to have the claim approved before the statute of limitations expired on June 30, 2023.

Unconditional Promissory Notes & Credit Memoranda

Instead of making cash payments, the Department allows retailers to issue unconditional promissory notes or irrevocable credit memoranda to their purchasers who paid tax in error to satisfy the requirement that the retailer refund the money before receiving claim approval. A promissory note or credit memoranda that is contingent upon the taxpayer receiving the credit from the Department is acceptable, but other terms such as expiration dates or limits on the use of the credits by the customer typically are not. A taxpayer cannot, however, meet its obligations by issuing a promissory note or credit memoranda after the statute of limitations on filing the claim expires. [86 Ill. Adm. Code 130.1501\(a\)\(2\)](#)

8.5.3 Claims Filed by Anyone Other than the Original Filer

Only the taxpayer who paid tax to the Department is eligible to receive a claim for credit. (See *CITIBANK, N.A., Appellee, v. THE ILLINOIS DEPARTMENT OF REVENUE*, [2017 IL 121634](#))

Example: A manufacturer buys a piece of machinery and pays tax to their supplier. The manufacturer later determines that the machinery qualified for the MM&E exemption. Their only recourse is to seek

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a refund from their supplier for the taxes paid. The manufacturer cannot file a claim with the Department to recover the overpaid tax.

Example: A retailer sells a \$1,000 TV to a customer who pays the purchase price plus \$70 in tax with a credit card. The credit card company pays \$1,070 to the retailer less their administration fee. The customer never makes a payment on their credit card balance and the debt is written off by the credit card company. Neither the retailer nor the credit card company can file a claim with the Department. The retailer cannot file a claim because they received full payment for the TV. The credit card company cannot file a claim because they were not the taxpayer who paid the tax to the Department.

8.5.4 Certain Claims Against Transactions Reported on an EDA-11-B

If a taxpayer is presented with an EDA-11-B, Notice of Demand for Documentary Evidence, and fails to provide the exemption documentation for a listed transaction by the designated due date, the transaction shall be conclusively presumed to be taxable. See 35 ILCS 120/7. The taxpayer is ineligible to receive a credit for the taxes paid on the transaction even if the taxpayer later obtains valid exemption documentation.

If an auditor determines that a claim should be approved in full, often the need to adjust the amount claimed by the taxpayer exists. These adjustments may either increase or decrease the total claim amount. Below are some examples of adjustments an auditor may need to make.

8.6.1 Positive Adjustments to Claims

Penalties & Interest Paid

If a taxpayer paid interest or penalties which are based on a percentage of the amount of tax due, these amounts need to be returned to the taxpayer if the associated tax was not due. Penalties based on the amount of tax due include:

- 2% late filing penalty (see note);
- 2% or 10% late payment penalties imposed by Sales Tax Processing;
- 15% or 20% penalties imposed in an audit;
- 20% negligence penalty; and
- 50% fraud penalty.

NOTE: The 2% Tier 1 and Tier 2 late filing penalties, and the 10% penalty on Motor Fuel Use Tax, are based on the amount of tax due, but the penalties are also subject to minimum and maximum amounts. Adjustments for these types of penalties require that the thresholds be considered.

Penalties that are not based on a percentage of the amount of tax due and which are not typically returned in a claim audit include:

- Bad check penalties; and
- Cost of collection fees.

Interest on Overpayments

The Department is required to pay interest on the total amount of any overpayment made by the taxpayer. This includes not only overpayments of tax, but also overpayments of penalties and interest.

8.6.2 Negative Adjustments to Claims

Retailer's Discount

If a taxpayer received a discount for timely filing and paying their return, this amount must be deducted from the approved claim amount if the taxpayer did not list the reduction on their claim.

Additional 5% Penalty for Denied Claims Against Audits

If a taxpayer signs an audit return and pays the amount due within 30 days of receiving the return, they are entitled to pay a reduced late payment penalty of 15% instead of the standard 20%. The UPIA statute, however, reinstates the 20% penalty if the taxpayer later files a claim against the audit. If a claim against an audit where the taxpayer paid the 15% late payment penalty is denied in part or in full, the auditor should impose the additional 5% penalty on the denied portion of the claim. If the taxpayer paid the full 20% late payment penalty during the audit there is no increase required.

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Example: As the result of an audit, a taxpayer paid \$100,000 in tax plus \$15,000 in late payment penalties at the reduced 15% rate. The taxpayer later files a claim for the full \$100,000. The auditor denies \$10,000 of the claim and allows the rest. In this case, the auditor also needs to reinstate the additional 5% penalty (\$500) on the denied \$10,000. This can be deducted from the amount of penalty due back to the taxpayer based on the approved \$90,000.

Example: As the result of an audit, a taxpayer paid \$100,000 in tax plus \$15,000 in late payment penalties at the reduced 15% rate. The taxpayer later files a claim for the full \$100,000. The auditor denies the full claim. In this case, the auditor needs to reinstate the additional 5% penalty (\$5,000) on the denied \$100,000. This should be presented to the taxpayer on an auditor's report.

Example: As the result of an audit, a taxpayer paid \$100,000 in tax plus \$20,000 in late payment penalties at the full 20% rate. The taxpayer later files a claim for the full \$100,000. Even if the auditor denies all or part of the claim, there is no additional 5% penalty due since the taxpayer already paid the full amount in the original audit.

NOTE: If a taxpayer paid no penalties on their original liability because they were granted abatement of penalties due to reasonable cause, we do not reinstate the 20% late payment penalty if they file a claim. Once reasonable cause is established for penalty abatement, we do not remove it.

8.6.3 Credit Memorandums, Prior Overpayments, and Cash Refunds

When a claim for credit is approved, the Department will issue the taxpayer a credit memorandum which can be used to pay future tax liability for the same type of tax reported on the return such as the Retailers' Occupation Tax, the Use Tax, the Service Use Tax, the Service Occupation Tax, or any local occupation or use tax administered by the Department. It cannot be used to pay liabilities on other tax types such as Individual Income Tax or Telecommunications Excise Tax, but the taxpayer may be able to transfer the credit to another similar tax type by contacting Sales Tax Processing.

When the Department creates a credit memorandum, statutory interest is calculated up until the date the credit memo is issued. Taxpayers do not continue to earn interest on credit memos once issued. Once established, the credit memo can generally only be applied to a liability at the direction of the taxpayer, and the credit only qualifies as a payment on the date the taxpayer requests to use it.

Example: A taxpayer receives a sales tax credit memo for \$10,000 on July 1, 2021. They file their returns but forget to pay their September 2021 liability of \$6,000 by October 20, 2021, so the taxpayer receives a bill from the Department for that amount. They may use the credit memo to pay this bill, but since the taxpayer requested to do so after the due date of the return, the taxpayer is still subject to penalties and interest.

Taxpayers can request a cash refund of a credit memo from the Department by filing [Form ST-6, Claim for Sales and Use Tax Overpayment / Request for Action on a Credit Memorandum](#), but the amount of money allocated for cash refunds is limited. Generally, a taxpayer will not receive a cash refund from the Department. They can, however, sell their credit memorandum to another taxpayer also by filing Form ST-6.

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- [86 Ill. Adm. Code 130.1501, Claims for Credit—Limitations—Procedures](#)
- [86 Ill. Adm. Code 130.1960, Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts](#)
- [ROT Act Sections 6 – 6d](#)

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