

# Instructions for Form 843

(Rev. February 2009)

## Claim for Refund and Request for Abatement



Department of the Treasury  
Internal Revenue Service

Section references are to the Internal Revenue Code unless otherwise noted.

## General Instructions

### What's New

**Employer claims for refunds or abatements of FICA tax, RRTA tax, or income tax withholding no longer made on Form 843.** Treasury Decision 9405 changed the process for employers claiming a refund or abatement of FICA tax, RRTA tax, or income tax withholding beginning with errors discovered on or after January 1, 2009. If you are an employer that files Form 941, 941-SS, 943, 944, 944-SS, 945, CT-1, or any related Spanish language return, you cannot file a claim for refund or abatement of overreported FICA tax, RRTA tax, or income tax withholding on Form 843. Instead, you must file your claim using Form 941-X, 941-X (PR), 943-X, 943-X (PR), 944-X, 944-X (PR), 944-X (SP), 945-X, or Form CT-1 X. You can continue to use Form 843 when requesting a refund or abatement of assessed interest or penalties.

See *Do not use Form 843 when you must use a different tax form* below for more information on the form you must use.

**Filing Form 1040X or Form 843 for hurricane loss reimbursements.** If you claimed a casualty loss on your main home resulting from Hurricanes Katrina, Rita, or Wilma and later received a qualified grant as reimbursement for that loss, you may need to report the reimbursement. See the Instructions for Form 1040X, Amended U.S. Individual Tax Return, for more information.

If you previously reported the qualified grant as taxable income and want to instead elect to reduce a previously taken casualty loss, you must file Form 843 to alert the IRS of this election. You may be entitled to a waiver of penalties and interest on any balance due arising from the election. To qualify for the waiver of penalties and interest, you must pay any tax due within a year of the time you file Form 1040X.

You must submit Form 1040X or Form 843 by the later of July 30, 2009 or the due date (as extended) of the return for the year in which the hurricane grant relief was received. When filing Form 843, (a) write "Hurricane Grant Relief" in dark, bold letters at the top of the form, (b) attach copies of any previously filed Forms 1040X, and (c) provide proof of the amount of any hurricane grant received. Mail Form 843 with the required attachments to:

Department of the Treasury  
Internal Revenue Service Center  
Austin, TX 73301-0255

For more information about filing amended returns to report qualified grants reimbursing hurricane-related casualty losses that were claimed in a prior year, see Notice 2008-95, available at [www.irs.gov/irb/2008-44\\_IRB/ar09.html](http://www.irs.gov/irb/2008-44_IRB/ar09.html).

### Purpose of Form

Use Form 843 to claim a refund or request an abatement of certain taxes, interest, penalties, and additions to tax.

Do not use Form 843 to request a refund of income tax. Employers cannot use Form 843 to request a refund of FICA tax, RRTA tax, or income tax withholding. Also do not use Form 843 to amend a previously filed income or non-FUTA employment tax return.

**Note.** You cannot use Form 843 to request an abatement of income, estate, or gift taxes. Employers cannot use Form 843 to request abatement of FICA tax, RRTA tax, or income tax withholding overpayments.

### Use Form 843 to claim or request the following.

- A refund of tax, other than a tax for which a different form must be used.
- An abatement of tax, other than income, estate, or gift tax. Employers cannot use Form 843 to request an abatement of FICA tax, RRTA tax or income tax withholding overpayments.
- A refund to an employee of excess social security or railroad retirement (RRTA) tax withheld by any one employer, but only if your employer will not adjust the overcollection. See the instructions for line 6.
- A refund to an employee of social security or Medicare taxes that were withheld in error. If you are a nonresident alien student, see Pub. 519 for specific instructions.
- A refund of excess tier 2 RRTA tax when you had more than one railroad employer for the year and your total tier 2 RRTA tax withheld or paid for the year was more than the tier 2 limit. See the instructions for line 3.
- A refund or abatement of interest, penalties, or additions to tax caused by certain IRS errors or delays, or certain erroneous written advice from the IRS.
- A refund or abatement of a penalty or addition to tax due to reasonable cause or other reason (other than erroneous written advice provided by the IRS) allowed under the law.
- A refund of the penalty imposed under section 6715 for misuse of dyed fuel.
- A refund or abatement of tier 1 RRTA tax for an employee representative.



**TIP** If you received an IRS notice notifying you of a change to an item on your tax return, or that you owe interest, a penalty, or addition to tax, follow the instructions on the notice. You may not have to file Form 843.

### Do not use Form 843 when you must use a different tax form.

- Use Form 1040X, Amended U.S. Individual Income Tax Return, to change any amounts reported on Form 1040, 1040A, 1040EZ, 1040EZ-T, 1040NR, or 1040NR-EZ, to change amounts previously adjusted by the IRS, or to make certain elections after the prescribed deadline (see Regulations sections 301.9100-1 through -3).
- Use Form 8379, Injured Spouse Allocation, to claim your portion of a joint refund used to offset your spouse's past due obligations.
- Individuals, estates, and trusts filing within 1 year after the end of the year in which a claim of right adjustment under section 1341(b)(1), a net operating loss (NOL), a general business credit, or net section 1256 contracts loss arose, can use Form 1045, Application for Tentative Refund, to apply for a refund resulting from any overpayment of tax due to the claim of right adjustment or the carryback of the loss or unused credit. Individuals also can get a refund by filing

Form 1040X instead of Form 1045. An estate or trust can file an amended Form 1041, U.S. Income Tax Return for Estates and Trusts.

- Employers must use the tax form that corresponds to the tax return previously filed to make an adjustment or claim a refund or abatement of FICA tax, RRTA tax, or income tax withholding overpayments.

IF you filed...	CORRECT using...
Form 941 or Form 941-SS	Form 941-X
Form 943	Form 943-X
Form 944 or Form 944-SS	Form 944-X
Form 945	Form 945-X
Form CT-1	Form CT-1 X
Formulario 941-PR	Formulario 941-X (PR)
Formulario 943-PR	Formulario 943-X (PR)
Formulario 944-PR	Formulario 944-X (PR)
Formulario 944(SP)	Formulario 944-X (SP)
If you filed Schedule H (Form 1040) or Anexo H-PR (Formulario 1040-PR), see Pub. 926, Household Employer's Tax Guide on how to correct that form.	

For more information, see Treasury Decision 9405 at [www.irs.gov/irb/2008-32\\_irb/ar13.html](http://www.irs.gov/irb/2008-32_irb/ar13.html).

- Use Form 1120X, Amended U.S. Corporation Income Tax Return, to correct Form 1120 or 1120-A as originally filed, or as later adjusted by an amended return, a claim for refund, or an examination, or to make certain elections after the prescribed deadline (see Regulations sections 301.9100-1 through -3).
- Use Form 720X, Amended Quarterly Federal Excise Tax Return, to make adjustments to liability reported on Forms 720 you have filed for previous quarters. Do not use Form 720X to make changes to claims made on Schedule C (Form 720), except for the section 4051(d) tire credit and section 6426 fuel credits.
- Use Form 730, Monthly Tax Return for Wagers, to claim a credit or refund of wagering tax.
- Use Form 4136, Credit for Federal Tax Paid on Fuels, to claim a credit against your income tax for certain nontaxable uses (or sales) of fuel during the income tax year. Also, use Form 4136 if you are a producer claiming a credit for alcohol fuel mixtures or biodiesel mixtures. However, you can use Form 8849, Claim for Refund of Excise Taxes, to claim a periodic refund instead of waiting to claim an annual credit on Form 4136.
- Use Form 8849, Claim for Refund of Excise Taxes, to claim a refund of excise taxes other than those resulting from adjustments to your reported liabilities. See IRS Publication 510, Excise Taxes, for the appropriate forms to use to claim excise tax refunds.
- Corporations (other than S corporations) can use Form 1139, Corporation Application for Tentative Refund, to apply for a quick refund of taxes from an election to deduct a public utility property disaster loss under section 1400N(o), an overpayment of tax due to a claim of right adjustment under section 1341(b)(1), or the carryback of a net operating loss (NOL), a net capital loss, or an unused general business credit.

## Separate Form for Each Period

Generally, you must file a separate Form 843 for each tax period and each type of tax. There are exceptions for certain claims. See the instructions for line 5.

## Who Can File

You can file Form 843 or your authorized representative can file it for you. If your authorized representative files Form 843, the original or copy of Form 2848, Power of Attorney and Declaration of Representative, must be attached. You must sign Form 2848 and authorize the representative to act on your behalf for the purposes of the request. See the Instructions for Form 2848 for more information.

If you are filing as a legal representative for a decedent whose return you filed, attach to Form 843 a statement that you filed the return and you are still acting as the decedent's representative. If you did not file the decedent's return, attach certified copies of letters testamentary, letters of administration, or similar evidence to show your authority. File Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer, with Form 843 if you are the legal representative of a decedent.

## Where To File

If you are filing Form 843 in response to an IRS notice, send it to the address shown in the notice. Otherwise, file Form 843 with the service center where you would be required to file a current tax return for the tax to which your claim or request relates. For more information, see the most recent instructions for that tax return.

## Penalty for Erroneous Claim for Refund

If you claim an excessive amount of tax refund or credit relating to income tax (other than a claim relating to the earned income credit), you may be liable for a penalty of 20% of the amount that is determined to be excessive. An excessive amount is the amount of the claim for refund or credit that is more than the amount of claim allowable for the tax year. The penalty may be waived if you can show that you had a reasonable basis for making the claim.

## Paid Tax Return Preparer

A paid tax return preparer who files Form 843 for you must sign the form and fill in the identifying information at the bottom of the form. The tax preparer must give you a copy of the completed Form 843 for your records. These rules apply to claims related to income taxes, employment taxes, estate and gift taxes, and other types of taxes.

## Specific Instructions

**Social security number.** Enter your social security number (SSN). If you are filing Form 843 relating to a joint return, enter the SSNs for both you and your spouse.

### Line 3

Check the appropriate box to show the type of tax for which you are claiming a refund or requesting an abatement. If the claim relates to interest, a penalty, or addition to tax, check the box to indicate the type of tax to which the claim or request relates. Do not use Form 843 to claim a refund or request an abatement of income tax or taxes noted under *Purpose of Form* on page 1.

**Excess tier 2 RRTA tax.** Complete lines 1 and 2. On line 3, check the box for "Employment" tax. Skip lines 4, 5, and 6. In the space for line 7, identify the claim as "Excess tier 2 RRTA" and show your computation of the refund. You must also attach copies of your Forms W-2 for the year to Form 843. See the worksheet in Pub. 505, Tax Withholding and Estimated Tax, to help you figure the excess amount.

## Line 4

If you are requesting a refund or abatement of an assessed penalty, enter the applicable Internal Revenue Code (IRC) section. Generally, you can find the IRC section on the Notice of Assessment you received from the IRS.

## Line 5

### Requesting Abatement or Refund of Interest Due to IRS Error or Delay

The IRS can abate interest if the interest is caused by IRS errors or delays.

The IRS will abate the interest only if there was an unreasonable error or delay in performing a managerial or ministerial act (defined on this page). The taxpayer cannot have caused any significant aspect of the error or delay. In addition, the interest can be abated only if it relates to taxes for which a notice of deficiency is required. This includes income taxes, generation-skipping transfer taxes, estate and gift taxes, and certain excise taxes. Interest related to employment taxes or other excise taxes cannot be abated. See Pub. 556, Examination of Returns, Appeal Rights, and Claims for Refund, for more information.

**Managerial act.** The term “managerial act” means an administrative act that occurs during the processing of your case involving the temporary or permanent loss of records or the exercise of judgment or discretion relating to management of personnel. A decision regarding the proper application of federal tax law is not a managerial act. See Regulations section 301.6404-2 for more information.

**Ministerial act.** The term “ministerial act” means a procedural or mechanical act that does not involve the exercise of judgment or discretion and that occurs during the processing of your case after all prerequisites of the act, such as conferences and review by supervisors, have taken place. A decision regarding the proper application of federal tax law is not a ministerial act. See Regulations section 301.6404-2 for more information.

### How To Request an Abatement of Interest

Request an abatement of interest by writing “Request for Abatement of Interest Under Section 6404(e)” at the top of Form 843.

Complete lines 1 through 3. Check the first box on line 5a. On line 5b, show the dates of any payment of interest or tax liability for the tax period involved.

On line 7 state:

- The type of tax involved,
- When you were first notified by the IRS in writing about the deficiency or payment,
- The specific period for which you are requesting abatement of interest,
- The circumstances of your case, and
- The reasons why you believe that failure to abate the interest would result in grossly unfair treatment.

**Multiple tax years or types of tax.** File only one Form 843 if the interest assessment resulted from the IRS’s error or delay in performing a single managerial or ministerial act affecting a tax assessment for multiple tax years or types of tax (for example, where 2 or more tax years were under examination). Check the applicable box(es) on line 2 and provide a detailed explanation on line 7.

## Requesting Abatement or Refund of a Penalty or Addition to Tax as a Result of Written Advice

The IRS can abate or refund any portion of a penalty or addition to tax caused by erroneous advice furnished to you in writing by an officer or employee of the IRS acting in his or her official capacity.

The IRS will abate the penalty or addition to tax only if:

1. You reasonably relied on the written advice,
2. The written advice was in response to a specific written request for advice made by you (or your representative who is allowed to practice before the IRS), and
3. The penalty or addition to tax did not result from your failure to provide the IRS with adequate or accurate information.

### How To Request an Abatement or Refund of a Penalty or an Addition to Tax as a Result of Written Advice

Request an abatement or refund of a penalty or addition to tax because of erroneous written advice by writing “Request for Abatement of Penalty or Addition to Tax Under Section 6404(f)” at the top of Form 843.

Complete lines 1 through 4. Check the second box on line 5a. On line 5b, enter the date of payment if the penalty or addition to tax has been paid.

You must attach copies of the following information to Form 843:

1. Your written request for advice,
2. The erroneous written advice you relied on that was furnished to you by the IRS, and
3. The report, if any, of tax adjustments identifying the penalty or addition to tax, and the item(s) relating to the erroneous advice.

**When to file.** An abatement of any penalty or addition to tax as a result of written advice will be allowed only if:

- You submit the request for abatement within the period allowed for collection of the penalty or addition to tax, or
- You paid the penalty or addition to tax, within the period allowed for claiming a credit or refund of such penalty or addition to tax.

## Line 6

Check the appropriate box to show the type of return, if any, to which your claim or request relates. Check the box labeled “1040” to indicate other individual income tax returns (such as Form 1040A or Form 1040EZ).



*You can use Form 843 to request a refund or an abatement of interest, penalties, and additions to tax that relate to your income tax return. However, you cannot use Form 843 to request a refund or an abatement of income tax. If you are an employer, you cannot use it to request abatement of FICA tax, RRTA tax, or income tax withholding overpayments.*

Check the box labeled “Other” if your claim relates to Form 944, Employer’s ANNUAL Federal Tax Return. Enter “944” (or “944-SS”) in the space provided. Also check “Other” if your claim relates to Form CT-2, Employee Representative’s QUARTERLY Railroad Tax Return and enter “CT-2” in the space provided.

**Refund of excess social security taxes.** If you are claiming a refund of excess social security or RRTA tax withheld by one employer, you must, if possible, attach a statement from the employer. The statement should indicate the following.

- The amount, if any, the employer has reimbursed you for any excess taxes withheld.
- The amount, if any, of credit or refund claimed by the employer or authorized by you to be claimed by the employer.

The employer should include in the statement the fact that it is made in support of your claim for refund of employee tax paid by the employer to the IRS.

If you cannot obtain a statement from the employer, you should attach a statement with the same information to the best of your knowledge and belief and include in the statement an explanation of why you could not obtain a statement from the employer.

## Line 7

Explain in detail your reasons for filing this claim and show your computation for the credit, refund, or abatement. If you attach an additional sheet(s), include your name and SSN, or employer identification number (EIN) on it. Also, attach appropriate supporting evidence.

## Requesting Net Interest Rate of Zero on Overlapping Tax Underpayments and Overpayments

If you have paid or are liable for interest on a tax underpayment and have received or are due interest on a tax overpayment for the same period of time, you can request that the IRS compute the interest using the net interest rate of zero.

### How To Request a Net Interest Rate of Zero

You can request a net interest rate of zero by writing on top of Form 843 "Request for Net Interest Rate of Zero under Rev. Proc. 2000-26." You must provide documentation to substantiate that you are the taxpayer entitled to receive the interest due on the overpayment.

Leave line 1 blank. You can enter a dollar amount on line 2 or leave it blank. Complete line 3 to indicate the type of tax. More than one box can be checked.

Do not complete lines 4 and 5. Complete line 6 to indicate the type of return filed. More than one box can be checked.

On line 7, provide all of the following information:

1. The tax periods for which you overpaid and underpaid your tax liability.
2. When you paid the tax underpayment.
3. When you received your tax refund.
4. The periods that your overpayment and underpayment overlapped and the overlapping amount.
5. A computation, to the extent possible, of the amount of interest to be credited, refunded, or abated.

6. If your claim involves more than one tax identification number, please describe the relationship between each of the parties listed in the claim during the overlapping period(s).

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**Privacy Act and Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. Sections 6402 and 6404 state the conditions under which you may file a claim for refund and request for abatement of certain taxes, penalties, and interest. Form 843 may be used to file your claim. Section 6109 requires that you disclose your taxpayer identification number (TIN). Routine uses of this information include providing it to the Department of Justice for civil and criminal litigation and to cities, states, U.S. commonwealths or possessions and territories, and the District of Columbia for use in administering their tax laws. We may also give this information to Federal and state agencies to enforce Federal nontax criminal laws and to combat terrorism. You are not required to claim a refund or request an abatement; however, if you choose to do so you are required to provide the information requested on this form. Failure to provide all of the requested information may delay or prevent processing your claim or request; providing false or fraudulent information may subject you to civil or criminal penalties.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

<b>Recordkeeping</b> . . . . .	26 min.
<b>Learning about the law or the form</b> . . . . .	18 min.
<b>Preparing the form</b> . . . . .	28 min.
<b>Copying, assembling, and sending the form to the IRS</b> . . . . .	20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address. Instead, see *Where To File* on page 2.

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