

this part under subtitle F or chapter 24 of the Internal Revenue Code of 1954 relating to the collection and administration of the taxes imposed by chapter 1 of such Code on the incomes of individuals (or relating to civil or criminal sanctions with respect to such collection and administration) shall apply to the collection and administration of qualified State individual income taxes (as defined in section 6362 of such Code and the regulations thereunder) as if such taxes were imposed by chapter 1 of chapter 24.

(86 Stat. 944, 26 U.S.C. 6364; and 68A Stat. 917, 26 U.S.C. 7805)

[T.D. 7577, 43 FR 59360, Dec. 20, 1978]

§ 31.6402(a)-1 Credits or refunds.

(a) *In general.* For regulations under section 6402 of special application to credits or refunds of employment taxes, see §§ 31.6402(a)-2, 31.6402(a)-3, and 31.6414-1. For regulations under section 6402 of general application to credits or refunds, see §§ 301.6402-1 and 301.6402-2. For provisions relating to adjustments without interest of overpayments of taxes under the Federal Insurance Contributions Act or the Railroad Retirement Tax Act or income tax withholding, see §§ 31.6413(a)-1 and 31.6413(a)-2.

(b) *Period of limitation.* For the period of limitation upon credit or refund of taxes imposed by the Internal Revenue Code of 1954, see § 301.6511(a)-1 of this chapter (Regulations on Procedure and Administration). For the period of limitation upon credit or refund of any tax imposed by the Internal Revenue Code of 1939, see the regulations applicable with respect to such tax.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 9405, 73 FR 37379, July 1, 2008]

§ 31.6402(a)-2 Credit or refund of tax under Federal Insurance Contributions Act or Railroad Retirement Tax Act.

(a) *Claim by person who paid tax to IRS—(1) In general.* (i) Any person may file a claim for credit or refund for an overpayment (except to the extent that the overpayment must be credited pursuant to § 31.3503-1) if the person paid to the IRS more than the correct

amount of employee Federal Insurance Contributions Act (FICA) tax under section 3101 or employer FICA tax under section 3111, employee Railroad Retirement Tax Act (RRTA) tax under section 3201, employee representative RRTA tax under section 3211, or employer RRTA tax under section 3221, or interest, addition to the tax, additional amount, or penalty with respect to any such tax.

(ii) The claim for credit or refund must be made in the manner and subject to the conditions stated in this section. The claim for credit or refund must be filed on the form prescribed by the IRS and must designate the return period to which the claim relates, explain in detail the grounds and facts relied upon to support the claim, and set forth such other information as may be required by this section and by the instructions relating to the form used to make such claim. No refund or credit pursuant to this section for employer tax will be allowed unless the employer has first repaid or reimbursed its employee or has secured the employee's consent to the allowance of the claim for refund and includes a claim for the refund of such employee tax. However, this requirement does not apply to the extent that the taxes were not withheld from the employee or, after the employer makes reasonable efforts to repay or reimburse the employee or secure the employee's consent, the employer cannot locate the employee or the employee will not provide consent. No refund or credit of employee FICA or RRTA tax overcollected in an earlier year will be allowed if the employee has claimed a refund or credit of the amount of the overcollection which has not been rejected or if the employee has taken the amount of such tax into account in claiming a credit against or refund of the employee's income tax, including instances in which the employee has included an overcollection of employee FICA or RRTA tax in computing a special refund (see § 31.6413(c)-1).

(iii) For adjustments without interest of overpayments of FICA or RRTA taxes, see § 31.6413(a)-2.