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**431. Refunds.**

**If any person satisfies the Assessing Officer that the amount of tax paid by him or on his behalf or treated as paid by him or on his behalf for any tax year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of the excess.**

**432. Person entitled to claim refund in certain special cases.**

**(1) Where the income of one person is included in total income of any other person under any provision of this Act, the latter alone shall be eligible for a refund under this Chapter in respect of such income.**

**(2) Where a person is unable to claim or receive a refund due to him, on account of death, incapacity, insolvency, liquidation or other cause, his legal representative or the trustee or guardian or receiver, shall be entitled to claim or receive such refund for the benefit of such person or his estate.**

**433. Form of claim for refund and limitation.**

**Every claim for refund under this Chapter shall be made by furnishing return as per section 263.**

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**434. Refund for denying liability to deduct tax in certain cases.**

**(1) Where,—**

**(a) under an agreement or other arrangement, in writing, the tax deductible on any income, other than interest in section 393(2) (Table: Sl. No. 17), is to be borne by the person by whom the income is payable; and**

**(b) such person having paid such tax to the credit of the Central Government claims that no tax was required to be deducted on such income,**

**he may, within thirty days from the date of payment of such tax, file an application before the Assessing Officer for refund of such tax in such form and such manner, as may be prescribed.**

**(2) The Assessing Officer shall, by an order in writing, allow or reject the application as referred to in sub-section (1).**

**(3) No application under sub-section (1) shall be rejected unless an opportunity of being heard has been given to the applicant.**

**(4) The Assessing Officer may, before passing an order under sub-section (2), make such inquiry as he considers necessary.**

**(5) The order under sub-section (2) shall be passed within six months from the end of the month in which application under sub-section (1) is received.**

**435. Refund on appeal, etc**

**(1) Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes**

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due to the assessee, the Assessing Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf.

(2) Where, by the order as referred to in sub-section (1),—

(a) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(b) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.

**436. Correctness of assessment not to be questioned.**

In a claim under this Chapter, it shall not be open to the assessee to question the correctness of any assessment, or other matter decided which has become final and conclusive, or ask for a review of the aforesaid assessment or matter; and the assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess.

**437. Interest on refunds.**

(1) Where a refund is due to the assessee under this Act, he shall, subject to the provisions of this section, be entitled to receive, in addition to the refund, simple interest thereon calculated at the rate of 0.5% for every month or part of a month, in the circumstances specified in column B of the Table below, for the period specified in column C of the said Table.

Table

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Sl. No.	Circumstances	Period
A	B	C
1.	Where the refund is out of tax collection at source under section 394 or paid by way of advance tax or treated as paid under section 390(5), during the financial year.	<p>a) From the first day of April of the year following the tax year to the date on which the refund is granted, where the return of income has been furnished on or before the due date as specified in section 263(1);</p> <p>b) From the date of furnishing the return of income to the date on which the refund is granted; in any other case.</p>
2.	Where the refund is out of any tax paid under section 266.	From the date of furnishing or return of income or payment of tax, whichever is later, to the date on which the refund is granted.
3.	Any other case.	From the date or, as the case may be, dates on and from which the amount of tax or penalty specified in the notice of demand issued under section 289 is paid in excess of such demand to the date on which the refund is granted.

(2) No interest shall be payable under sub-section (1) (Table: Sl. No. 1 or 2), if the amount of refund is less than 10% of the tax as determined under section 270(1) or on regular assessment.

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**(3) Where refund, mentioned in sub-section (1) (Table: Sl. No. 1), arises as a result of an order passed by the Assessing Officer in consequence of an application made by the assessee under section 288 (1) (Table: Sl. No. 11), interest shall be calculated at the rate of 0.5% for every month or part of a month comprised in the period from the date of such application to the date on which the refund is granted.**

**(4) In a case where a refund arises as a result of giving effect to an order under section 359 or 363 or 365(10) or 368 or 377 or 378, wholly or partly, otherwise than by making a fresh assessment or reassessment, the assessee shall be entitled to receive an additional interest which shall be—**

**(a) In addition to the interest payable under sub-section (1); and**

**(b) computed on such amount of refund calculated at the rate of 3% per annum, for the period beginning from the date following the date of expiry of the time allowed under section 286(1) (Table: Sl. Nos. 9 and 10) to the date on which the refund is granted.**

**(5) For the purposes of sub-section (4), in a case where proceedings for assessment or reassessment are pending, in computing the period for determining the additional interest payable, the period beginning from the date on which such refund is withheld by the Assessing Officer as per and subject to provisions of section 438(3) and ending with the date upto which such refund is withheld, shall be excluded.**

**(6) Where refund of any amount becomes due to the deductor in respect of any amount paid to the credit of the Central Government under Chapter XIX-B, such deductor shall be**

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entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of 0.5% for every month or part of a month comprised in the period, from the date on which—

(a) claim for refund is made in such form as may be prescribed; or

(b) tax is paid, where refund arises on account of giving effect to an order under section 359 or 363 or 365(10) or 368, to the date on which the refund is granted.

(7) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee or the deductor, as the case may be, whether wholly or in part, the period of the delay so attributable to him shall be excluded from the period for which interest is payable under this section.

(8) Where any question arises as to the period to be excluded under sub-section (7), it shall be decided by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner whose decision thereon shall be final.

(9) Where, as a result of an order under section 270(10) or 271 or 279 or 287 or 288 or 359 or 363 or 365(10) or 368 or 377 or 378, the amount on which interest was payable under sub-section (1) or (3) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly.

(10) In a case where the interest is reduced under sub-section (9), the Assessing Officer shall serve on the assessee a notice of demand in such form as may be prescribed specifying the

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amount of the excess interest paid and requiring him to pay such amount.

(11) The notice of demand under sub-section (10) shall be deemed to be a notice under section 289 and the provisions of this Act shall apply accordingly.

438. Set off and withholding of refunds in certain cases.

(1) Where a refund becomes due or is found to be due to any person under this Act, the Assessing Officer or Commissioner or Principal Commissioner or Chief Commissioner or Principal Chief Commissioner, as the case may be, may in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by such person.

(2) Any action under sub-section (1) shall be taken after giving an intimation in writing to such person of the action proposed to be taken.

(3) Where,—

(a) a part of the refund is set off under sub-section (1); or

(b) no such amount as referred to in clause (a) is set off,

and refund becomes due to a person, and the Assessing Officer, having regard to the fact that proceedings for assessment or reassessment are pending in the case of such person, may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or the Commissioner, withhold the refund up to sixty days from the date on which such assessment or reassessment is made.

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