



## Potential Abatement & Refund Opportunity for COVID-era Penalties & Interest

A recent ruling by the Court of Federal Claims offers a potential path for taxpayers to seek abatement or refunds of penalties imposed during the federally declared COVID-19 disaster period. This opportunity applies to **taxpayers that were charged with IRS penalties on obligations originally due between January 20, 2020, and July 10, 2023.**

In 2019, Congress amended IRC § 7508A by mandating that certain filing deadlines be postponed during federally declared disasters. **The period of postponement included the entire length of the disaster period plus an additional 60 days.** The nationwide emergency regarding COVID-19 began January 20, 2020, and remained in effect until May 11, 2023. In [Kwong v. United States, 179 Fed. Cl. 382 \(Nov. 25, 2025\)](#), the court ruled that this created a period for the mandatory postponement of tax deadlines from **January 20, 2020, through July 10, 2023.**

IRC § 7508(a)(1) broadly covers postponed acts, including determining interest, penalties, and refunds. As a result, many penalties and related interest, including for late filing or payment, may have been improperly imposed during the COVID-19 disaster period. Under IRC § 6511(a), the deadline for filing a claim is generally the later of three years from filing the return or two years from payment. For returns filed during the COVID-19 disaster period, the limitations period did not begin until July 10, 2023, so **most affected taxpayers have until July 10, 2026, to file a claim.**

The IRS disagrees with the court's decision in Kwong and has filed its notice of appeal. Therefore, it is imperative for taxpayers to file a claim to preserve their rights while the appeal is pending. There are essentially two options for filing a refund claim with the IRS in this situation: a protective claim or a formal claim.

- A **protective claim** preserves the taxpayer's refund rights before the statute of limitations expires while the courts continue to resolve the Kwong case. Once the underlying contingency is resolved, the taxpayer must perfect the claim by notifying the IRS and providing more detailed facts, calculations, and explanations. If this is not done timely, the IRS may disallow the claim. However, the [Tax Controversy Team](#) at JTaylor will continue to actively monitor any updates to Kwong litigation and can guide you through this process.
- A **formal claim** is a more definitive action, but the taxpayer must be prepared for the possibility that the IRS may deny the claim and litigation may follow. If the IRS denies the claim, it initiates a two-year statute of limitations for the taxpayer to challenge the denial in court. Accordingly, the statute may begin running before the Kwong case is resolved.

Before taking action, taxpayers should consider whether the potential benefit outweighs the cost and effort involved. Relevant factors include the amount of penalties, the potential cost of litigating a refund claim, and the likelihood of recovery.

**We recommend the protective claim path for most eligible taxpayers** because it keeps the statute of limitations from running out without prematurely starting the clock for taxpayers to challenge the IRS's potential denial. **With the deadline quickly approaching, prompt action is required.** Our [Tax Controversy Team](#) specializes in navigating abatement and refund requests with the IRS and is ready to help navigate every step of this opportunity. Please feel free to reach out if you have any questions regarding either type of claim, your eligibility, or about this process as a whole.

**Action is required by July 10, 2026,** for taxpayers to avail themselves of an opportunity for relief from COVID-era penalties and interest.