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# Refund of excess taxes withheld on compensation

EXCEPT in cases where an exemption applies, every employer is required to withhold the corresponding taxes on compensation before paying this to employees. In some cases, the amount actually withheld by the employer is higher than the total applicable tax. The excess is returned to the employee.

Because of this, some employees would anticipate that, by the end of each year, a portion of the amount withheld would be returned to them by the employer. It has become a common notion for some employees that they should be automatically receiving refunds at the end of the year. And if there is no refund, these employees complain that their employers are violating the tax laws by not returning the amounts due to them.

It is, indeed, required under the Tax Code that the employer shall be liable for the withholding and remittance of the correct amount of tax required to be deducted and withheld. If the employer fails to fulfill this obligation, the responsibility for the payment of the tax that should have been withheld and the corresponding penalties falls on him or her.

In this regard, the withholding-tax regulations provide withholding-tax tables to be followed by the employers in complying with their withholding-tax obligations for every payroll period. The withholding-tax tables are designed to approximate the applicable taxes for every taxable compensation payment.

The taxable income and the corresponding taxes, however, are still determined on a yearly basis, which, in the case of individuals, is always on the calendar year. The taxes actually withheld are supposed to be equal to the taxes due from the income of the employee. But there are instances when the amount actually withheld does not equal the total taxes due in the year. This is due to various reasons, such as adjustments in the compensation income, improper inclusion or exclusion of non-taxable or taxable items of compensation, or simply an error in the amounts of taxes withheld. What happens, then, if the amount withheld is different from the taxes due from the employee’s compensation?

The law requires that on or before the end of the calendar year, but prior to the payment of the compensation for the last payroll period, the employer shall determine the tax due from each employee on the taxable compensation income for the entire taxable year. The difference between the tax due from the employee for the entire year and the sum of taxes withheld from January to November shall either be withheld from the last salary in December or refunded to the employee not later than January 25 of the following year.

A refund of the taxes withheld is possible if the difference between the taxes due from the employee, as computed on an annual basis, is less than the total of taxes withheld. It is only in this scenario that the employee can receive a refund. It is not automatic that one should receive a refund of taxes withheld by the end of the year.

While there is no refund of taxes withheld on compensation in the absence of excess taxes actually withheld by the employer on the taxable compensation paid to employees, it is the employer’s obligation to ensure that correct taxes are withheld and remitted to the tax authority. In case of withholding excessive taxes, whether or not it is due to the error of the employer, the employee is entitled to a return of the excess. Employees should, therefore, be vigilant in ascertaining that the correct amount of taxes had been withheld by their employers. Upon receiving Bureau of Internal Revenue Form 2316 from their employer, employees should do a recalculation of their taxes. If there is an excess, they have the right to demand a refund from the employer.

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