


Internal Revenue Manual Section 25.6.1.10.3.2.5(2) (07-05-2024)

Protective Claims

1. Protective claims are filed to preserve the taxpayer's right to claim a refund when the taxpayer's right to the refund is contingent on future events and may not be determinable until after the statute of limitations expires. See IRM 21.5.3.4.7.3, Protective Claims. A protective claim is based on an expected change in the tax law, other legislation, regulations, or case law.



2. A claim should not be viewed as a valid claim merely because the taxpayer labels it as such. See [Nucorp, Inc. v. United States, 23 Cl. Ct. 234, 235 \(1991\)](#) (Footnote 3 provides "Nothing can be found in the Code, regulations or case law relative to the efficacy of filing a 'protective claim.' Apparently, plaintiffs used the term 'protective claim' for descriptive purposes only"). A valid protective claim need not state a particular dollar amount or demand an immediate refund; however, the claim must identify and describe the contingencies affecting the claim; must be sufficiently clear and definite to alert the IRS as to the essential nature of the claim; and must identify a specific year or years for which a refund is sought.

3. The IRS has discretion in deciding how to process protective claims. In general, it is in the best interests of the IRS and taxpayers to delay action on protective claims until the pending litigation or other contingency is resolved. Once the contingency is resolved, the IRS may obtain additional information necessary to process the claim and then allow or disallow the claim.