

## **Statute of Limitations**

*Would you provide examples of the individual income tax statute of limitations for making a claim for refund or credit?*

Example 1: A taxpayer files 2011 federal and Colorado income tax returns on April 15, 2012, but does not pay the balance of tax due until January 1, 2016. The taxpayer has three years from the date of payment to file a claim for refund or credit for the payment submitted in 2016. For this example, the taxpayer must file a claim for refund or credit by December 31, 2019. This is the case, even though the deadline is more than four years from date tax return filed.

Example 2: A wage-earning taxpayer had Colorado income tax (SIT) withheld from their paycheck during calendar year 2011. They also made an extension payment on April 10, 2012. The taxpayer was required, but failed, to file a Colorado income tax return by October 15, 2012. The taxpayer has four years from the effective date of the wage withholding and extension/estimated income tax payments, all of which are deemed to occur on April 15, 2012, to file a claim for refund of the wage withholding and estimated tax payments. For this example, the taxpayer must file by April 15, 2016 to make such a claim. If the return is filed after April 15, 2016, the wage withholding and estimated tax payment may be used to offset any tax due for 2011 (even though the offset is more than four years for claiming a refund when a tax return is not filed), but any excess credit cannot be refunded or credited to another tax year.

Example 3: Using the same facts as example 2, the Department files a return on behalf of the taxpayer on January 15, 2016. The Department-filed return results in a tax delinquency for which the Department immediately garnishes taxpayer's wages for unpaid 2011 Colorado income tax. The taxpayer has until April 15, 2016 to claim a refund or credit for any excess withholding or estimated payments, but will have until January 15, 2019 to claim a refund or credit for the garnishment payment.