

Key Details & Instructions

Filing Deadline: *Must be submitted on or before July 10, 2026.*

Where to File: *Mail via Priority Mail to the IRS Service Center where your original tax return was filed.*

Form 843 Line-by-Line Guide

- **Top of Form:** *Write: "Protective Refund Claim Pursuant to Kwong Case".*
- **Other:** *Check other Write: "Protective refund claim for penalties and interest under IRC § 7508A(d) (Kwong v. United States)".*
- **Lines 1–3:** *Fill in your name, address, SSN/EIN, and contact information.*
- **Line 4:** *Enter the tax period/year you are claiming (you must file a separate form for each tax year).*
- **Line 5:** *Check the box that corresponds to your tax return (e.g., box 1040 for individual income tax).*
- **Line 6:** *Leave blank unless you know the specific Internal Revenue Code section (e.g., §6654 for estimated tax).*
- **Line 7:** *Check the box for reason (d) ("A request for abatement or refund of a different type of tax, interest, penalty, addition to tax or fee...").*
- **Line 8 (Explanation):** *Copy and paste the explanation text below*

Text to Paste in Line 8

"This is a protective claim for refund is filed to preserve the taxpayer's right to recover penalties and interest assessed/paid during the COVID-19 disaster period (January 20, 2020, through July 10, 2023) in light of the ruling in Kwong v. United States, as well as under the alternative statutory basis in P.L. 119-64 (enacted December 26, 2025), which independently requires the IRS to treat disaster-period postponements as extensions of return deadlines for refund lookback purposes.

Under the Kwong decision, the IRS should not have assessed interest and penalties during this multi-year disaster window. This protective claim is being filed because the final legal determination is still pending/uncertain, and this submission is intended to keep the statute of limitations open. The exact refund amount cannot be finalized at this time and will be calculated and perfected once the Kwong litigation is fully resolved."

Important Considerations

- **Paid vs. Unpaid:** *If you already paid the penalty and interest, you are requesting a Refund. If you have not paid it yet, you are requesting an Abatement.*

- **Separate Forms:** *You must prepare and mail a separate Form 843 for each affected tax year.*
- **Guidance:** *Because Kwong is being litigated by the government, protective claims can be complex. **Yes, you can** put multiple Form 843s in the same envelope, **but only if** they are for the same tax period or type of tax, and you are mailing them to the exact same IRS Form 843 Mailing Address*

Review these guidelines before sealing your envelope:

- **When to separate:** *Generally, the IRS requires a separate Form 843 for each different tax period, fee year, or tax type. If different forms must be mailed to completely different service centers (or if you are submitting a standard tax return), put them in separate envelopes.*
- **Make them distinct:** *If bundling multiple 843s together, ensure each is filled out completely and has its own supporting documentation (e.g., W-2s, correspondence) attached directly to that specific form.*
- **Include a cover sheet:** *Place a brief, clear cover letter at the very top of each submission stating you are filing multiple submissions for separate years and mailed each separately.*
- **Include Transcripts:** *include copies of Account transcripts for each year.*
- **Get proof of mailing:** *Because you are combining important documents, send your package using certified mail with a return receipt so you have proof of the exact date the IRS received it*

What a Protective Claim Accomplishes

If a refund claim is filed, the IRS might respond by issuing a notice rejecting the claim. If that happens, a taxpayer can file a protest with Appeals or pursue a refund suit in district court. If the IRS does not reject the claim, a refund suit can be filed six months after filing the refund claim.

A Measured Approach

If Kwong is upheld, *the IRS should process any timely filed claims for abatement or refund once the government acquiesces to the decision or is forced to follow it.*

If the decision is reversed, *claims will either be denied or not acted on. At that point, the ability to litigate in another venue would be available.*