

# Making an Administrative Return of Property Claim Under Internal Revenue Code (IRC) Section 6343(d)



**What is an administrative return of property claim under Internal Revenue Code section 6343(d)** – An administrative return of property claim under IRC 6343(d) is a request, for the return of levied or seized property. Generally, the person making the request believes that the Commissioner should determine to return the levy or seized property based upon one of the conditions in IRC 6343(d)(2).

**Who may make an IRC 6343(d) administrative return of property claim** – The person who owes the taxes for which the IRS levied or seized property to collect may make an administrative return of property claim. Note: Third parties make wrongful levy claims under IRC 6343(b). See Publication 4528.

**Under what conditions may the IRS return property –**

1. The levy was premature or otherwise not in accordance with the administrative procedures of the Secretary, or
2. Subsequent to the levy, the taxpayer enters into an installment agreement under section 6159 to satisfy the liability for which the levy was made through monthly payments. If, however, the agreement specifically provides that already levied upon property will not be returned under section 6343(d), the Commissioner may not grant a request for return of property because of the installment agreement, or
3. The return of property will facilitate the collection of the tax liability for which the levy was made, or
4. The taxpayer or the National Taxpayer Advocate (or his or her delegate) has consented to the return of property, and the return of property would be in the best interest of the taxpayer, as determined by the National Taxpayer Advocate (or his or her delegate), and in the best interest of the United States, as determined by the Commissioner.

**Note:** If the IRS makes a levy in violation of the law, it is in the best interests of the United States and the taxpayer to release the levy, and the IRS will return to the taxpayer any property obtained pursuant to the levy if the taxpayer submits a timely written claim.

**How does a person make an administrative return of property claim** – You must submit a written request that the IRS return the levied or seized property. Your claim should be in the form of a letter and must include the following information:

1. The name, current address, and taxpayer identification number of the person requesting the return of money (or property purchased by the United States);
2. A description of the property levied upon;
3. The date of the levy;
4. A statement of the grounds upon which the return of money is being requested (or property purchased by the United States).

If any of that information is unavailable, your claim should include a statement explaining why. Your claim may also include any other information or document that supports your claim.

**Is there a time limit for making an administrative return of property claim –**

1. If the IRS levied property, and that property is still in possession of the IRS, a return of property claim may be made at any time before sale by the IRS.
2. If levied property has been sold by the IRS, a return of property claim must be made within two years of the date of the levy. However, if the date of levy was on or before March 22, 2017, a return of property claim must have been filed before December 23, 2017.
3. If Cash has been turned over to the IRS by the person upon whom any levy under section 6331 was served, a return of property claim must be made before the expiration of two years from the date shown on the levy form. However, if the date of levy was on or before March 22, 2017, a return of property claim must have been filed before December 23, 2017.

**Note:** If the IRS decides to return your property, but it has already been sold, the IRS will give you the money it received from the sale. Generally, no interest will be paid on any money returned under IRC 6343(d). The IRS may pay interest in a case in which the IRS determines that IRC 6343(d)(2)(A) applies with respect to a levy upon an individual retirement plan.

**Where should an administrative return of property claim be filed** – Your claim must be sent to the address on the levy form.

**If the IRS decides to reject your administrative return of property claim, may the determination be appealed?** – If your claim is rejected, you have the right to appeal this determination through the Collection Appeals Program (CAP), as explained in Publication 1660, Collection Appeal Rights.