



**Glacial Lakes Corn Processors**  
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February 8, 2010

**ADDITIONAL INFORMATION ON PROTECTIVE CLAIMS FOR REFUND  
(applicable only to persons who were members during our fiscal  
years ending August 31, 2005 and/or August 31, 2006)**

We recently mailed a letter to persons who were members (including former members) of Glacial Lakes Corn Processors during our fiscal years ending August 31, 2005 (FY05) and/or August 31, 2006 (FY06) to suggest that they consider filing “protective” claims for refund with the Internal Revenue Service (“IRS”) for their 2006 tax returns in connection with the ongoing IRS audit of our cooperative tax returns for FY05 and FY06.

Our letter explained the nature of the IRS dispute, the potential tax refunds available to the affected members if the IRS successfully increases the cooperative’s taxable income for the years under audit, and the dates by which those claims must be filed. The information in this posting should be read in conjunction with that letter.

What is a “protective” claim for refund? Where all facts are known and the tax was overpaid, a claim for refund usually consists of a detailed schedule of original amounts, net changes in line items, the resulting corrected amount, and the amount of the overpayment for which a refund is claimed. However, another type of claim is a “protective” claim for refund that is usually is filed as the statute of limitations for refund claims approaches in order to preserve a taxpayer’s right to receive a refund that is contingent on a future event or that is uncertain in amount.

In our case this would be a final determination that disallows part or all of our patronage dividend deduction for the fiscal years in question, which would trigger a right to a refund for those members who filed timely protective claims for refund before the statute of limitations expired. It should be noted that the IRS is not legally required to act on a claim for refund, and if it fails to act on the claim within six months or if denies the claim, the taxpayer’s remedy is to file a suit for refund in Federal District Court or the U.S. Claims Court.

How is a protective claim for refund prepared and filed? The safest approach is to file the claim on IRS forms. For example, individuals should file their claim on Form 1040X, Amended U.S. Individual Income Tax Return. The courts and the IRS generally agree that a dollar amount need not be stated in a claim for refund if it cannot be determined. However, the grounds on which the claim is based must be stated with specificity.

Our tax advisors have prepared a sample Form 1040X for individuals and a suggested attachment to Form 1040X entitled “Explanation of Grounds on which this Protective Claim for Refund is Based.” Both are posted on our website. The sample form does not state the dollar amount of the claim, but the attachment contains the required statement of the grounds for the claim. Calendar year individuals or their tax preparers should fill in the personal information at the top of the form, filing status on line A, check the box for 2006 on line B, and insert the suggested language in line C. “See Attachment” should be inserted on lines 5, 10, 16 and 17, and the word “none” in line 22. The Exemptions information on page 2 will not

apply to most members, nor will the presidential election campaign options. Signatures are handled in the same manner as on the original tax return.

If GLCP's dispute with the IRS ultimately is resolved unfavorably to GLCP, each taxpayer will have to provide detailed calculations of the refund in a supplemental filing with the IRS in order to receive a refund. Individual members who live in South Dakota should file Form 1040X together with the attached explanation by mailing it to Department of the Treasury, Internal Revenue Service Center, Fresno, CA 93888-0422. Form 1040X and related instructions are available at [www.irs.gov](http://www.irs.gov).

How much is my claim for refund likely to be? The amount of each claim for refund will depend on the particular facts of each member's 2006 tax return and the portion of the member's patronage dividend from GLCP shown on that return that is successfully disallowed by the IRS. As indicated in the recent letter, the proposed IRS disallowance, if it is upheld on appeal, would result in a refund of approximately 4/10ths to 6/10ths of one cent per split share, or approximately \$360 to \$540 for an individual who held 90,000 shares in 2006 (5,000 original shares before later stock splits). This is based on the different tax treatment of a patronage dividend (GLCP wins) versus an ordinary dividend (IRS wins). Ordinary dividends are currently taxed at lower rates than patronage dividends reported as ordinary income, and are not subject to self-employment taxes.

If none of our patronage dividend ultimately is disallowed (i.e., GLCP prevails in its dispute with the IRS), that would be good news for the cooperative and the members, because our patronage dividends would not be subject to double taxation and the cooperative would owe no tax or interest or penalties. However, filing the protective claims for refund would turn out to have been an unproductive exercise, and the claim for refund would simply go un-acted upon.

The indicated refund amounts are rough estimates. Every situation is different, and it is difficult to generalize because of the dynamics involved in the individual tax calculations, e.g., marital status, number of dependents, itemized deductions, income subject to self-employment tax, non-farm income, etc. The only generalization that can be made is that the larger the member's patronage dividend in 2006, the greater the amount of refund claim at risk by *not* filing a claim at this time.

What about fiscal year members and members who are not individuals? Both our recent letter and this information supplement have focused on members who are calendar year individuals. Because of different filing deadlines, calculations and forms, members who are fiscal year taxpayers and members that are not individuals should consult with their tax advisers regarding the possible filing of claims for refund. C corporations, for example, do not benefit from the favorable dividend rates applicable to individuals and are not subject to self-employment tax, but instead may claim a 70% dividends received deduction for ordinary dividends. C corporations file on claims for refund on Form 1120X, Amended U.S. Corporation Income, and other types of taxpayers, e.g., trusts, file claims on the same forms used for their original returns with the term "Amended Return" prominently marked at the top of the return.

Do I need to file a protective claim for my 2007 tax return? Members may wish to consider similar protective claims for refund for their 2007 tax returns because a portion of the cooperative's FY06 patronage dividend was actually paid in 2007 and thus affects your 2007 return. However, given the current uncertainty as to the IRS dispute, it seems advisable for calendar year members to postpone the preparation and filing of claims for 2007 until early in 2011, by which time the IRS dispute might be resolved, or if not resolved, when they will be faced with another deadline for filing claims. The potential claims for refund for calendar year 2007 may be somewhat smaller than the 2006 claims, and the position advocated by the IRS in the current audit does not have continuing effect beyond FY06.

**Attachment to Form 1040-X, Amended U.S. Individual Income Tax Return  
Explanation of Grounds on which this Protective Claim for Refund is Based**

Taxpayer's Name(s): \_\_\_\_\_  
Taxpayer's Social Security Number(s): \_\_\_\_\_  
Taxable Year: 2006

**This Protective Claim for Refund is filed by the taxpayer(s) to preserve the right to a refund if an ongoing Internal Revenue Service ("IRS") examination of Glacial Lakes Corn Processors ("GLCP") results in an ultimate determination that some or all of the patronage dividends paid by GLCP during 2006 did not qualify as a patronage dividend.**

GLCP is a non-exempt cooperative that is subject to Sections 1381-1388 (Subchapter T) of the Internal Revenue Code of 1986, as amended. The IRS issued a "30-day letter" that proposes to disallow 38.6% of GLCP's patronage dividend deduction for its fiscal year ended August 31, 2005, and 14% of its patronage dividend for its fiscal year ended August 31, 2006. The basis for disallowance is that a portion of each patronage dividend was paid out of nonpatronage sourced income. GLCP has protested the proposed adjustments to the IRS Appeals Office, and the ultimate outcome cannot be determined at this time.

The taxpayer(s) was a shareholder, member and patron of GLCP (EIN 46-0458202) during the fiscal years at issue. All of GLCP's patronage dividend for fiscal year ended August 31, 2005 and a portion of GLCP's patronage dividend for fiscal year ended August 31, 2006 were received by the taxpayer(s) in 2006, which the taxpayer(s) properly included in income for taxable year 2006. This created or increased both an income tax liability and a self-employment tax liability for the taxpayer(s) for 2006.

If the IRS ultimately is successful in its proposed disallowance of GLCP's patronage dividends for the years at issue, the taxpayer would not be required to treat the disallowed portion that was received in 2006 as a patronage dividend in the taxpayer's 2006 income tax return. Instead, the taxpayer would have ordinary dividend income to the extent the disallowed portion of the patronage dividend was received in cash during 2006. This includes 100% of the FY05 patronage dividend – including the qualified written notice of allocation that was issued in January 2006 and redeemed in April 2006, and 48.9% of the FY06 patronage dividend). See General Counsel Memorandum 38714 and Private Letter Ruling 8547039. These adjustments would affect earnings from self-employment, and adjusted gross income, taxable income, and therefore would also affect other items in the 2006 return that are based on those amounts.

The disallowance of GLCP's patronage dividend, if it occurs, will change the taxpayer's 2006 tax liability as follows: (1) the disallowed portion of the patronage dividend is not includable in gross income from farming or other business; (2) to the extent the disallowed portion constitutes an ordinary dividend (100% of the FY05 patronage dividend and 48.9% of the FY06 patronage dividend), it is subject to tax at the lower rates applicable to qualifying domestic dividends; and (3) the taxpayer's self-employment tax is reduced by the amount attributable to the disallowed portion of the patronage dividend (Internal Revenue Code Section 1402(a)(2)), and (4) other amounts may change automatically as a result of these changes.

As indicated above, the taxpayer(s) claims a refund only if some or all of GLCP's patronage dividends for the years at issue ultimately are disallowed by the IRS. Accordingly, when that is finally determined, the taxpayer will provide supplemental information that will state the dollar amount of the claim for refund, all of which the taxpayer(s) want refunded.

(Rev. January 2010)

▶ See separate instructions.

Your first name and middle initial	Your last name	Your social security number
If a joint return, your spouse's first name and middle initial	Your spouse's last name	Your spouse's social security number
Your current home address (number and street). If you have a P.O. box, see page 5 of the instructions.	Apt. no.	Your phone number

Your city, town or post office, state, and ZIP code. If you have a foreign address, see page 5 of instructions.

**All filers must complete lines A, B, and C.**

**A Amended return filing status.** You must check one box even if you are not changing your filing status. **Caution.** You cannot change your filing status from joint to separate returns after the due date.

- Single
- Married filing jointly
- Married filing separately
- Qualifying widow(er)
- Head of household (If the qualifying person is a child but not your dependent, see page 5 of instructions.)

**B This return is for calendar year**  2009  2008  2007  2006  
**Other year.** Enter one: calendar year or fiscal year (month and year ended):

**C Explanation of changes.** In the space provided below, tell us why you are filing Form 1040X.

This is a Protective Claim for Refund, the amount of which cannot be determined at this time. See the attached explanation of the grounds on which this Claim is based.

Income and Deductions	Correct Amount
1 Adjusted gross income (see page 6 of instructions). If net operating loss (NOL) carryback is included, check here <input type="checkbox"/>	1
2 Itemized deductions or standard deduction (see page 6 of instructions)	2
3 Subtract line 2 from line 1	3
4 Exemptions. If changing, complete the Exemptions section on the back and enter the amount from line 30 (see page 6 of instructions)	4
5 Taxable income. Subtract line 4 from line 3	5 See Attachment

Tax Liability	
6 Tax (see page 7 of instructions). Enter method used to figure tax:	6
7 Credits (see page 8 of instructions). If general business credit carryback is included, check here <input type="checkbox"/>	7
8 Subtract line 7 from line 6. If the result is zero or less, enter -0-	8
9 Other taxes (see page 8 of instructions)	9
10 Total tax. Add lines 8 and 9	10 See Attachment

Payments	
11 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld (if changing, see page 8 of instructions)	11
12 Estimated tax payments, including amount applied from prior year's return (see page 8 of instructions)	12
13 Earned income credit (EIC) (see page 8 of instructions)	13
14 Refundable credits from <input type="checkbox"/> Schedule M or Form(s) <input type="checkbox"/> 2439 <input type="checkbox"/> 4136 <input type="checkbox"/> 5405 <input type="checkbox"/> 8801 <input type="checkbox"/> 8812 <input type="checkbox"/> 8863 <input type="checkbox"/> 8885 or <input type="checkbox"/> other (specify):	14
15 Total amount paid with request for extension of time to file, tax paid with original return, and additional tax paid after return was filed (see page 9 of instructions)	15
16 Total payments. Add lines 11 through 15	16 See Attachment

Refund or Amount You Owe (Note. Allow 8-12 weeks to process Form 1040X.)	
17 Overpayment, if any, as shown on original return or as previously adjusted by the IRS (see page 9 of instructions)	17
18 Subtract line 17 from line 16 (If less than zero, see page 9 of instructions)	18
19 Amount you owe. If line 10 is more than line 18, enter the difference (see page 9 of instructions)	19
20 If line 10 is less than line 18, enter the difference. This is the amount overpaid on this return	20
21 Amount of line 20 you want refunded to you	21 See Attachment
22 Amount of line 20 you want applied to your (enter year): estimated tax 22 NONE	

Complete and sign this form on Page 2.

**Exemptions**

Complete this part **only** if you are:

- Increasing or decreasing the number of exemptions (personal and dependents) claimed on line 6d of the return you are amending, or
- Increasing or decreasing the exemption amount for housing individuals displaced by Hurricane Katrina or a Midwestern disaster.

See Form 1040 or Form 1040A instructions and page 10 of Form 1040X instructions.

	Correct Number or Amount
<b>23</b> Yourself and spouse. <i>Caution. If someone can claim you as a dependent, you cannot claim an exemption for yourself</i>	<b>23</b>
<b>24</b> Your dependent children who lived with you	<b>24</b>
<b>25</b> Your dependent children who did not live with you due to divorce or separation	<b>25</b>
<b>26</b> Other dependents	<b>26</b>
<b>27</b> Total number of exemptions. Add lines 23 through 26	<b>27</b>
<b>28</b> Multiply the number of exemptions claimed on line 27 by the exemption amount shown in the instructions for line 28 for the year you are amending (see page 10 of instructions)	<b>28</b>
<b>29</b> If you are claiming an exemption amount for housing individuals displaced by Hurricane Katrina, enter the amount from Form 8914, line 6 for 2006. If you are claiming an exemption amount for housing individuals displaced by a Midwestern disaster, enter the amount from Form 8914, line 2 for 2008, or line 6 for 2009	<b>29</b>
<b>30</b> Add lines 28 and 29. Enter the result here and on line 4 on page 1 of this form	<b>30</b>
<b>31</b> List <b>ALL</b> dependents (children and others) claimed on this amended return. If more than 4 dependents, see page 10 instructions.	

(a) First name	Last name	(b) Dependent's social security number	(c) Dependent's relationship to you	(d) Check box if qualifying child for child tax credit (see page 10 of instructions)
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

**Presidential Election Campaign Fund**

Checking below will not increase your tax or reduce your refund.

- Check here if you did not previously want \$3 to go to the fund, but now do.
- Check here if this is a joint return and your spouse did not previously want \$3 to go to the fund, but now does.

**Checklist**

Before mailing this form, remember to

- Complete name, address, and social security number
- Complete lines A, B, and C on page 1
- Complete lines 1 through 22 on page 1
- Complete lines 23 through 31 on page 2, if required
- Attach any supporting documents and new or changed forms and schedules
- Sign and date this form

**Sign Here**

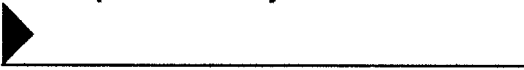
Remember to keep a copy of this form for your records.

Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information about which the preparer has any knowledge.




Your signature Date Spouse's signature. If a joint return, both must sign. Date

**Paid Preparer's Use Only**



Preparer's signature Date

\_\_\_\_\_  
Firm's name (or yours if self-employed), address, and ZIP code

Check if self-employed

\_\_\_\_\_  
Preparer's SSN or PTIN

\_\_\_\_\_  
Phone number

\_\_\_\_\_  
EIN