



**Glacial Lakes Corn Processors**  
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January 21, 2011

**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 on August 31, 2006 (FY06) to suggest that they consider filing a “protective” claim for refund with the Internal Revenue Service (“IRS”) for their 2007 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 refund 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 the protective claim 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 2007 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 2007 tax return and the portion of the member's patronage dividend from GLCP shown on that return that is successfully disallowed by the IRS. The proposed IRS disallowance, if it is upheld on appeal, could result in a refund of up to approximately 4/10ths to 5/10ths of one cent per split share, or approximately \$360 to \$450 for an individual who held 90,000 shares as of August 31, 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. In addition, the noncash portion of the disallowed patronage dividend would not be includable in income.

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, if we prevail, 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 received in 2007, 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.

**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: 2007

**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 2007 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. A portion of GLCP's patronage dividend for fiscal year ended August 31, 2006 was received by the taxpayer(s) in 2007, which the taxpayer(s) properly included in income for taxable year 2007. This created or increased both an income tax liability and a self-employment tax liability for the taxpayer(s) for 2007.

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 2007 as a patronage dividend in the taxpayer's 2007 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 2007 (29% 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 2007 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 was paid in cash and constitutes an ordinary dividend (29% of the FY06 patronage dividend), it is subject to tax at the lower rates applicable to qualifying domestic dividends; (3) to the extent the disallowed portion was paid in noncash, it is not includable in gross income of the taxpayer; (4) 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 (5) 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.

Amended U.S. Individual Income Tax Return

See separate instructions.

Form header section with fields for name, address, and social security numbers.

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

B This return is for calendar year 2009, 2008, 2007, or 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.

Income and Deductions table with columns for line number, description, and Correct Amount.

Tax Liability table with columns for line number, description, and Correct Amount.

Payments table with columns for line number, description, and Correct Amount.

Refund or Amount You Owe table with columns for line number, description, and Correct Amount.

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. <b>Caution.</b> If someone can claim you as a dependent, you cannot claim an exemption for yourself	<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, <b>both</b> must sign.	Date

**Paid Preparer's Use Only**

Preparer's signature	Date	Firm's name (or yours if self-employed), address, and ZIP code

	<input type="checkbox"/> Check if self-employed		
Preparer's SSN or PTIN		Phone number	EIN