

§ 105-241.8. Statute of limitations for assessments.

(a) General. – The general statute of limitations for proposing an assessment applies unless a different period applies under subsection (b) of this section. The general statute of limitations for proposing an assessment is the later of the following:

- (1) Three years after the due date of the return.
- (2) Three years after the taxpayer filed the return.

(b) Exceptions. – The exceptions to the general statute of limitations for proposing an assessment are as follows:

- (1) Federal determination. – If a taxpayer files a return reflecting a federal determination and the return is filed within the time required by this Subchapter, the period for proposing an assessment of any tax due is one year after the return is filed or three years after the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the return within the required time, the period for proposing an assessment of any tax due is three years after the date the Secretary received the final report of the federal determination.

- (1a) Federal amended return. – If a taxpayer files a return as a result of filing a federal amended return and the return is filed within the time required by this Subchapter, the period for proposing an assessment of any tax due is one year after the return is filed or three years after the original return was filed or due to be filed, whichever is later. If the taxpayer does not file the return within the required time, the period for proposing an assessment of any tax due is three years after the date the federal amended return was filed with the Commissioner of Internal Revenue. The date the federal amended return was filed is presumed to be the date recorded by the Internal Revenue Service.

- (2) Failure to file or filing false return. – There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if any of the following applies:
 - a. The taxpayer did not file a return.
 - b. The taxpayer filed a fraudulent return.
 - c. The taxpayer attempted in any manner to fraudulently evade or defeat the tax.

- (2a) Failure to pay trust taxes. – If a taxpayer, as a trustee, collects taxes on behalf of the State, but fails to remit all the taxes held in trust when due, the period for proposing an assessment is the later of the following:
 - a. Ten years after the due date of the return.
 - b. Ten years after the taxpayer filed the return.

- (3) Tax forfeiture. – If a taxpayer forfeits a tax credit or tax benefit pursuant to forfeiture provisions of this Chapter, the period for proposing an assessment of any tax due as a result of the forfeiture is three years after the date of the forfeiture.

- (4) Nonrecognition of gain. – If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the period for proposing an assessment of any tax due as a result of the conversion or election is the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. (2007-491, s. 1; 2018-5, s. 38.3(e); 2019-169, s. 6.2(a); 2020-58, s. 6.2(a).)