**Section 2525.60 Overpayments for All Other Fees, Charges or Taxes**

Upon a written request, to the attention of the Tax and Fiscal Section of the Department, which includes information supporting the request to change the amount assessed by the Department's invoice and a copy of the Department's invoice, or upon an amended return filed pursuant to Section 2525.70 of this Part, or as a result of an audit, if it appears to the satisfaction of the Director that there has been an overpayment of the amount legally chargeable pursuant to Sections 408 and 445 of the Code [215 ILCS 5/408 and 445] or Section 12 of the Fire Investigation Act [425 ILCS 25/12], the Department may issue a letter of credit for such overpayment. Any written request or amended return must be based on a mistake of fact, error in calculation, or erroneous interpretation of a statute of this or any other state, during the 6-year period immediately preceding the discovery of such overpayment as determined by Section 2525.45 of this Part.

a) For purposes of this Section:

1) A mistake of fact includes, but is not limited to:

A) Applying a percentage different than that provided in 50 Ill. Adm. Code 2520.Illustration A in calculating the Illinois Fire Marshal Tax; and

B) Using the unitary allocation for the financial regulation fee; or

2) An error in calculation includes, but is not limited to:

A) An incorrect decimal assignment; and

B) An erroneous sum, result or total arising out of a mathematical function, operation or equation; or

3) An erroneous interpretation of a statute of this or any other state, including, but not limited to:

A) A misapplication of a statute;

B) A misunderstanding of an equivocal term or phrase used in a statute.

b) However, an erroneous interpretation of a statute of this or any other state does not include a finding of unconstitutionality of the statute in question. Additionally, a mistake in fact shall not include the assertion that a statute is unconstitutional on its face.

c) Overpayments pursuant to this Section may only be used to offset the same type of tax, charge or fee in which the overpayment was made and may be transferred pursuant to Section 2525.90 of this Part. However, the transferred overpayment may only be used to offset the same type of tax, charge or fee in which the overpayment was made. Alternatively, a cash refund of the overpayment may be considered by the Director pursuant to a written request as set forth in Section 2525.85 of this Part.

d) Overpayments pursuant to this Section for which the underlying tax, fee or charge has been prospectively repealed may be used to offset any tax owed pursuant to Section 409 of the Code [215 ILCS 5/409] and may be transferred after 7 years pursuant to Section 2525.90 of this Part. Transferred overpayments in which the underlying tax has been prospectively repealed may be used to offset any tax owed pursuant to Section 409 of the Code [215 ILCS 5/409].

e) Upon written notice to the company, at its last known address, any overpayment that is not used and is not transferred will be removed from the Department's records after 7 years and be considered unclaimed monies under the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025].

(Source: Amended at 24 Ill. Reg. 10235, effective July 1, 2000)