

Rules of
Department of Revenue
Division 10—Director of Revenue
Chapter 102—Sales/Use Tax—Taxpayers Rights

Title	Page
12 CSR 10-102.016 Refunds and Credits	3
12 CSR 10-102.100 Bad Debts Credit or Refund	4

Title 12—DEPARTMENT OF REVENUE

Division 10—Director of Revenue Chapter 102—Sales/Use Tax—Taxpayers Rights

12 CSR 10-102.016 Refunds and Credits

PURPOSE: Section 144.190, RSMo permits a taxpayer to file a claim for refund of an overpayment of sales or use taxes resulting from a mistake of fact or law. Section 144.100, RSMo requires a taxpayer to file an amended return to correct an error or omission on a return. Section 144.746, RSMo allows the taxpayer and the department to extend by agreement the time to file a claim for refund. Section 144.030.2(23), RSMo establishes special refund procedures for purchasers of domestic utilities under a non-domestic utility rate classification. This rule explains requirements for obtaining a refund or credit on overpayment of sales and use taxes.

(1) In general, if a taxpayer has overpaid tax, the taxpayer may file a claim for a refund with the department.

(2) Basic Application of Tax.

(A) A taxpayer may file a claim for a refund within three (3) years after the date of an overpayment. The date of the overpayment is the due date of the original return or the date paid whichever is later. The department will not consider a claim unless it is filed within the three (3)-year period. Every claim must be in writing under oath, and must state the specific grounds upon which the claim is founded. If the overpayment is due to an error or omission in a previously filed return, the claim must be accompanied by an amended return for each period in which the tax was originally reported. If the error or omission is corrected in the return immediately following the filing period in which the error or omission occurred, no amended return or claim for refund is required.

(B) The person requesting the refund or credit must be the person who is legally obligated to remit the tax to the Department of Revenue. If a taxpayer erroneously pays sales tax to a vendor, the taxpayer should seek a refund from that vendor. Vendors may file a claim on behalf of the purchaser by submitting a claim for refund and amended returns for the period(s) in which the tax was erroneously remitted.

(C) The department will issue a statement approving the credit in the amount of the overpayment instead of a refund if the taxpayer requests a credit on the claim. The credit may be applied to any subsequent tax

liability by attaching the approved credit authorization form to the return to which the credit is being applied. In no case, however, should a person take a credit for any overpayment of tax unless prior approval has been obtained from the department. If it is determined later that the person will incur no future liability, for example the business is closed, the credit may be returned to the department for a refund.

(D) If a sale is rescinded, no amended return or claim for refund is required. The seller may adjust its gross receipts on its next filed return. However, the adjustment may not exceed the gross receipts for the filing period.

(E) Interest is paid on all refunds at a rate established pursuant to section 32.057, RSMo. Interest does not apply to a credit.

(F) No refunds will be granted for illegally or erroneously overcharged or overcollected sales tax incident to credit card discounts, imposition of sales tax by the retailer upon amounts representing cigarette tax imposed under Chapter 149, RSMo, or imposition of sales tax by the retailer upon amounts representing tax on sales of beer, liquor or wine under Chapter 311, RSMo.

(G) The department may recover any refund or credit erroneously made or allowed in an action against the person legally obligated to remit the tax.

(H) A person making taxable, non-domestic purchases of utility services and using any portion of the services for nontaxable domestic use may apply for a credit or refund on the domestic use portion of the purchase. In addition, a person making domestic purchases of utility services on behalf of occupants of residential apartments, condominiums and nursing homes through a single or master meter, may also apply for a credit or refund on the domestic use portion of the purchase. Domestic use includes common areas and facilities as well as vacant units. The claim for refund must be filed between the first day of the first month and the fifteenth day of the fourth month following the year of purchase.

(I) Alternatively, the purchaser of nontaxable, domestic use utility services may request the utility company to apply for a refund on the domestic portion of its utility purchases. The utility company, as the seller of utilities, has three (3) years from the due date of its return for the period in which the domestic utilities were sold to file a claim for refund on behalf of the purchaser.

(J) The taxpayer and the department may extend by agreement the period allowed for filing a claim for refund. However, such an agreement is allowed only if the time for filing a claim for refund has not yet expired.

(3) Examples.

(A) A vendor collects tax on a sale to a customer that takes place in August and reports it on its August sales tax return. In October, that customer presents a valid exemption certificate for the August sale. To claim a refund, the vendor must complete a notarized claim for refund and submit it with a copy of the invoice, the customer's exemption certificate and an amended August return.

(B) A carpet vendor determines that in the past three (3) years it has been collecting and remitting sales tax on carpet sales in which it is also installing the carpet in homes and businesses. The vendor purchases its carpet from a wholesaler located outside of the state. Therefore, the carpet vendor should have been paying use tax on its purchases of the carpet from its wholesaler and selling its carpet without charging sales tax on its installation sales. The vendor should complete amended sales tax returns for each period during the three (3) years and amended use tax returns for each period during the three (3) years. If the amended returns result in an overpayment, the carpet vendor may claim a refund by completing a refund application.

(C) A computer store sells a computer to a customer and reports the tax on its May sales tax return. In July the customer returns the computer for a full refund. Because the May sales tax has been remitted to the department the computer store adjusts its gross receipts for July. If the adjustment exceeds its July gross receipts, the computer store must submit an application for refund and an amended return for May.

(D) A manufacturer discovers it paid tax on its purchase of a piece of equipment that qualified for an expanded plant exemption. The manufacturer purchased the equipment from an equipment supply company who reported the tax to the department. The supply company must request the refund from the department on behalf of the manufacturer by submitting a refund application, the manufacturer's exemption certificate and an invoice of the sale.

(E) In March 1999, a taxpayer discovers it paid tax on a January 1996 sale for which it has an exemption certificate. The taxpayer submits a refund application for the exempt sale. Because the due date of the original January 1996 return was February 20, 1996, the refund application will be denied because it is not within the three (3)-year statute of limitations.

(F) In 1997, an apartment complex under a non-domestic rate classification pays the water bill, including sales tax, to the utility

company for the entire complex. The apartment complex may file a claim for refund on its 1997 purchases of water prior to April 15, 1998.

(G) A nursing home that is under a non-domestic rate classification pays for the electricity, including tax for the entire facility in 1996, 1997 and 1998. The electric company may file a claim for refund on behalf of the nursing home in January 1999, as long as it is filed within three (3) years of the due date of the earliest return.

(H) The department begins an audit on a taxpayer on June 1, 1999, that will cover the tax periods May 1996 through May 1999. The department and the taxpayer may enter into an agreement to extend the period for issuing an assessment and for filing a claim for refund for a specified period of time. The agreement must be made before the original expiration date for issuing the assessment or claiming the refund and may be extended by subsequent agreements.

AUTHORITY: section 144.270, RSMo 1994. This rule originally filed as 12 CSR 10-110.016. Original rule filed Sept. 29, 1999, effective March 30, 2000. Changed to 12 CSR 10-102.016 Dec. 31, 2000.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961.*

12 CSR 10-102.100 Bad Debts Credit or Refund

PURPOSE: sections 144.190 and 144.696, RSMo provide for refund of overpayments. Section 144.220, RSMo sets forth the law on the statute of limitations. This rule explains how to claim a credit or refund for tax paid on a sale that has become a bad debt.

(1) In general, a seller may file for a credit or refund within the three-year statute of limitations when sales are written off as bad debts.

(2) Definition of Terms.

(A) Bad debt is a sale that has been written off for state or federal income tax purposes. In order to qualify for a bad debt deduction for sales or use tax purposes, a sale must have been previously reported as taxable.

(B) Accrual or gross sales reporting method means a seller reports the sale and remits the tax at the time of the sale. The receipts are not received from the buyer until a later date. Therefore, a timing difference occurs between the time that the sale, with applicable sales tax, is reported to the state and the time that the seller receives payment from the buyer.

(3) Basic Application of the Law.

(A) A seller may file for a refund or credit within the three-year statute of limitations for those sales written off as bad debts if the sales were reported using the accrual or gross sales method. This period is calculated from the due date of the return or the date the tax was paid, whichever is later.

(B) If a bad debt credit or refund is given and the debt is later collected, that amount must be reported on the next return as a taxable sale.

(4) Examples.

(A) A retailer reports and pays sales tax on the accrual or gross sales method. The retailer determines some sales to customers are not collectible and writes them off as bad debts for income tax purposes. The retailer requests a credit or refund from the state within the three-year statute of limitations. The credit or refund would be granted.

(B) A retailer reports and pays sales tax on the accrual or gross sales method. The retailer determines some sales to customers are not collectible and writes them off as bad debts for income tax purposes. The retailer requests a credit or refund from the state four years after the sale was reported and the tax was remitted to the state. The credit or refund would be denied.

AUTHORITY: section 144.270, RSMo 1994. This rule originally filed as 12 CSR 10-115.100. Original rule filed April 19, 2000, effective Oct. 30, 2000. Changed to 12 CSR 10-102.100 Dec. 31, 2000.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961.*