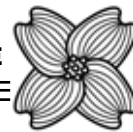




RULES OF
Department of Revenue
Division 10—Director of Revenue
Chapter 102—Sales/Use Tax—Taxpayers Rights

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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 seller to file a claim for refund of an over-payment of sales or use taxes resulting from a mistake of fact or law and it permits a purchaser that is not able to obtain a refund of an over-payment of sales or use tax from the seller to file a claim for refund with the department. Section 144.100, RSMo requires a seller to file an amended return to correct an error or omission on a return. Section 144.746, RSMo allows the seller and the department to extend by agreement the time to file a claim for refund. Section 144.030.2(24), 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 seller has overpaid tax, the seller may file a claim for a refund with the department. If a purchaser is not able to obtain a refund from the seller, the purchaser may qualify to file a claim for refund with the department.

(2) Basic Application.

(A) A seller may file a claim for a refund within ten (10) 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 ten- (10-) year period. Every claim must be in writing, signed by the applicant, 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 or the purchaser that originally paid the tax to the seller. A purchaser seeking a refund of an erroneously paid tax must first seek a refund from the seller. A seller 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 or the seller may provide an assignment of rights to the purchaser to file the claim for refund. The purchaser may also file a claim for refund with the department if –

1. The seller refuses to assign the rights to file a claim for refund within sixty (60) days of the date of the purchaser's written request to the seller;
2. The seller is out of business; or
3. The purchaser cannot locate the seller.

The claim by the purchaser is subject to any offset, defense, or any claim the director has against the purchaser or the seller.

(C) The department will notify a registered seller of refund claims filed by a purchaser without the seller's assignment of rights. If the seller objects to the refund claim, the department will not pay the refund. If the seller agrees that the purchaser may pursue a refund claim, or fails to respond to the notification within thirty (30) days of the date of notification, the department will process the refund and will amend the return of the seller to reflect the refund if granted. A refund

claim will not be considered filed until the seller agrees the purchaser may pursue a refund claim or thirty (30) days after the department has notified the seller of the purchaser's claim.

(D) The department will issue a statement approving a credit in the amount of the overpayment instead of a refund if the seller requests a credit on the claim. A seller cannot take a credit for any overpayment of tax unless prior approval has been obtained from the department. If it is determined later that the seller will incur no future liability, for example if the business is closed, the seller may return the credit authorization to the department and request a refund. A purchaser may not obtain a credit.

(E) 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. The adjustment may not exceed the gross receipts for the filing period.

(F) Section 32.068, RSMo, establishes the interest rate paid on refunds. Interest does not apply to a credit.

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

(H) In addition to the refund claim procedure described above, a purchaser of taxable, non-domestic utility services using any portion of the services for nontaxable domestic use may also claim a refund from the department on the domestic use portion of the purchase. A purchaser of utility services for domestic use for occupants of residential apartments, condominiums, and nursing homes through a single or master meter, may claim a refund on the domestic use portion of the purchase, which 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.

(3) Examples.

(A) A seller 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 seller must complete a 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 seller determines that in the past ten (10) 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 seller purchases its carpet from a wholesaler located outside of the state. Therefore, the carpet seller 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 seller should complete amended sales tax returns for each period during the ten (10) years and amended use tax returns for each period during the ten (10) years. If the amended returns result in an overpayment, the carpet seller 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 may 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 or the supply company may provide the manufacturer an assignment of rights statement allowing the manufacturer to file the refund claim with the department.

(E) In September 2019, a taxpayer discovers it paid tax on a January 2009 sale for which it has an exemption certificate. The taxpayer submits a refund application for the exempt sale. Because the due date and the date paid of the original January 2009 return and payment was February 20, 2009, the refund application will be denied because it is not within the ten- (10-) year statute of limitations.

(F) In 2017, 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 2017 purchases of water prior to April 15, 2018.

(G) A nursing home that is under a non-domestic rate classification pays for the electricity, including tax for the entire facility in 2010, 2011, and 2012. The electric company may file a claim for refund on behalf of the nursing home in January 2020, as long as it is filed within ten (10) years of the due date or the date paid whichever is later.

(H) A purchaser purchases manufacturing equipment on July 1, 2012, and pays sales tax on the purchase. On October 1, 2012, the purchaser presents an exemption certificate to the seller and requests the seller in writing to file a refund request for the taxes paid. The seller does not respond to the purchaser's request within sixty (60) days. The purchaser then files a refund claim with the department and the department notifies the seller of the claim for refund. The seller does not respond to the department's notification. The department verifies that the equipment qualifies for the exemption and the taxes paid on the purchase. The department issues the refund to the purchaser.

(I) A purchaser purchases manufacturing equipment on July 1, 2012, and pays sales tax on the purchase. On October 1, 2012, the purchaser presents an exemption certificate to the seller and requests the seller in writing to file a refund for the taxes paid. The seller does not respond to the purchaser's request within sixty (60) days. The purchaser then files a refund claim with the department and the department notifies the seller of the claim for refund. The seller responds to the department's notification and directs the department to not refund the tax. The department cannot issue the refund to the purchaser.

AUTHORITY: section 144.270, RSMo 2016. 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. Amended: Filed April 1, 2002, effective Oct. 30, 2002. Amended: Filed Sept. 8, 2020, effective March 30, 2021.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961, 2008.*

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 ten- (10-) 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 ten- (10-) 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 ten- (10-) 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 eleven (11) years after the sale was reported and the tax was remitted to the state. The credit or refund would be denied.

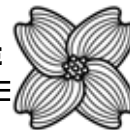
AUTHORITY: section 144.270, RSMo 2016. This rule originally filed as 12 CSR 10-115.100. Original rule filed April 19, 2000, effective Oct. 30, 2000. Changed to 12 CSR 10-102.100 Dec. 31, 2000. Amended: Filed Jan. 2, 2020, effective July 30, 2020. Amended: Filed Oct. 28, 2020, effective May 30, 2021.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961, 2008.*

12 CSR 10-102.110 Protest Payments, Protest Overpayments, and Protest Payment Returns

PURPOSE: This rule interprets the sales tax law as it applies to protest payments, protest overpayments, and protest payment returns.

PUBLISHER'S NOTE: The secretary of state has determined that publication of the entire text of the material that is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed



here.

(1) If the taxpayer in good faith believes that they are not subject to the sales tax under the Missouri sales tax act, they, upon payment of the required amount of tax, and denoting the payment as a protest payment when made, may file a protest payment affidavit, in which they specifically shall set out why they are protesting payment of the tax and give supporting information. The protest claim shall be made by filing a Form 163, Sales Tax Protest Payment Affidavit, under oath and submitted within thirty (30) days after the protest payment. Failure to denote the payment as made under protest, or to make a protest claim within the time required, and under the conditions specified will void the protest claim.

(2) If a protest payment is not made by the required due date, interest and additions to tax should be included in the payment to properly perfect the protest.

(3) Overpayments resulting from clerical, mathematical, or similar errors should be recovered by following the refund procedures outlined in section 144.695, RSMo. If any taxpayer, in good faith, and for just cause, feels the imposition of Missouri use tax has been improperly charged against them, they, when making their payment, may denote the payment as a protest payment, and execute a protest payment using a Sales or Use Tax Protest affidavit, Form 163B, specifically stating the grounds upon which the protest is being made. The claim must be made under oath within thirty (30) days after payment. If this procedure is not followed, all payments will be accepted by the director as proper payments.

(4) A taxpayer filing a protest payment return must submit a notarized protest payment affidavit with the return, reflecting the specific amount of tax being paid under protest. Separate checks need not be submitted for the state and local sales taxes being protested.

(5) Form 163, Sales Tax Protest Payment Affidavit, and Form 163B, Sales or Use Tax Protest Affidavit, revised March 2020, are incorporated by reference and are published by and can be obtained from the Missouri Department of Revenue at www.dor.mo.gov or at the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO 65101. These forms do not include any amendments, or additions since the revision dates noted.

AUTHORITY: sections 144.270 and 144.705, RSMo 2016. S.T. regulation 240-3 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. This rule was previously filed as 12 CSR 10-3.552. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Moved to 12 CSR 10-102.110 and amended: Filed Aug. 7, 2023, effective March 30, 2024.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961, 2008, and 144.705, RSMo 1959.*

12 CSR 10-102.160 Effect of Saturday, Sunday, or Holiday on Payment Due

PURPOSE: This rule establishes the due date for payment of taxes where the original due date falls on certain days and interprets and applies section 144.655, RSMo.

(1) If the last day for payment of the taxes falls on a Saturday, Sunday or legal holiday, the payment shall be considered timely if it is postmarked or filed in person the next succeeding day, which is not a Saturday, Sunday or legal Missouri or national holiday.

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 655-1 filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. This rule was previously filed as 12 CSR 10-4.160. Moved to 12 CSR 10-102.160, effective Aug. 31, 2023.*

**Original authority: 144.705, RSMo 1959.*

12 CSR 10-102.554 Filing Protest Payment Returns (Rescinded May 30, 2024)

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 240-4 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. This rule was previously filed as 12 CSR 10-3.554. Moved to 12 CSR 10-102.554, effective Aug. 31, 2023. Rescinded: Filed Nov. 8, 2023, effective May 30, 2024.