

City and County of Denver, Colorado

TAX GUIDE

Topic No. 66

REFUNDS AND CREDITS

TAXES REMITTED BY VENDORS

If, after a sales or use tax return has been filed by a taxpayer, it is determined that the amount paid exceeds what is due, the excess shall be refunded to the taxpayer, or credited against any subsequent remittance from the same taxpayer, with the following limitations and restrictions:

- A. When taxes have been paid by a customer in error, refunds or credits will be made only to the extent the taxpayer has refunded or credited that customer's account the amount of taxes erroneously paid;
- B. The aggregate amount of the refund cannot exceed \$150,000;
- C. The claim must be submitted within three (3) years after the return is filed, provided, however, that if the three-year statute of limitation period for assessment of tax has been extended, then a claim for refund or credit may be made within such extended period;
- D. Refunds or credits will be made only to the extent they exceed any deficiencies disclosed by an audit of the taxpayer's books and records of accounts; and

DISPUTED TAXES

The ordinance provides that if a dispute arises between the vendor and a purchaser regarding the status of an exemption, the vendor is required to collect the tax and the purchaser must pay the tax. Afterward, but within sixty (60) days, the purchaser may apply to the Manager of Finance for a refund of the tax. The application must be made on the prescribed form, be supported by an affidavit of the purchaser, and include the original sales invoice or receipt.

The Manager of Finance shall examine the application and supporting documentation upon receipt and give written notice of his/her decision. If a refund is due the taxpayer, the City will pay interest from the time the overpayment was made. The rate of interest shall be the average monthly rate earned by the City on the General Fund for the calendar year immediately preceding the year in which the refund is made.

If the taxpayer disagrees with the Manager of Finance's decision, the taxpayer may, within thirty (30) days after such decision is mailed to him/her, petition the Manager of Finance for a hearing on the claim, in the manner provided regarding protested assessments of unpaid taxes.

The right of any taxpayer to a refund shall not be assignable, and the application for the refund must be made by the same taxpayer who purchased the goods and paid the tax as shown on the invoice for the sale.

TAXES PAID TO THE INCORRECT MUNICIPALITY

When it is determined by the Manager of Finance that sales/use taxes owed to Denver have been erroneously paid by a taxpayer or vendor to another municipality, Denver shall promptly notify that taxpayer or vendor that taxes are being improperly collected and remitted, and direct that improper collection and remittance cease. In order to recover such taxes improperly remitted to another municipality, Denver may either:

- make a written claim for recovery directly to the municipality that received the tax, penalty, or interest owed to Denver, or
- institute procedures for collection of the tax, penalty, or interest from the taxpayer or vendor.

Many other home-rule municipalities in Colorado which collect their own local sales/use tax have a reciprocal provision in their ordinances allowing them to make a written claim for recovery directly to Denver of taxes they believe are owed to them but were erroneously remitted to Denver. Within ninety (90) days after receipt of such a claim for recovery, Denver shall examine the claim, determine whether or not all or a portion of the tax claimed was improperly received by Denver, and shall notify the municipality which submitted the claim in writing that the claim is either approved or denied in whole or in part, including the reasons for that determination. If the claim is approved in whole or in part, Denver shall remit the undisputed amount to the municipality that submitted the claim, within thirty (30) days of approval.

REFERENCES

- * DRMC Section 53-42. Collection and refund of disputed tax – Sales.
- * DRMC Section 53-43. Refund procedures - Sales.
- * DRMC Section 53-45. Examination of returns; refunds, credits, and deficiencies - Sales.
- * DRMC Section 53-49. Refusal to make return; estimate of taxes; penalty; notice; assessment - Sales.
- * DRMC Section 53-82. Claims for recovery - Sales.
- * DRMC Section 53-110. Collection and refund of disputed tax - Use.
- * DRMC Section 53-111. Refund procedures - Use.
- * DRMC Section 53-113. Examination of returns; refunds, credits and deficiencies - Use.
- * DRMC Section 53-117. Refusal to make return; estimate of taxes; penalty; notice; assessment - Use.
- * DRMC Section 53-161. Claims for recovery - Use.

THE ABOVE INFORMATION IS A SUMMARY IN LAYMAN'S TERMS OF THE RELEVANT DENVER TAX LAW FOR THIS INDUSTRY OR BUSINESS SEGMENT. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE DRMC AND APPLICABLE RULES AND REGULATIONS.