

79-3693. Refund of sales tax; retailers; applications, requirements; refund claims; consumer applications and refund claims, requirements; sufficient proof requirement. (a) As used in K.S.A. 79-3601 et seq., and amendments thereto, "refund claim" means an application for the refund of sales tax, penalty or interest submitted in writing on a form prescribed by the department that has been completed and is accompanied by all information and documentation needed to verify and process the claim. A refund application that is incomplete or is not documented as required by this section shall not be considered to be a refund claim. The term "refund claim" may include a claim for payment, a credit or an entitlement to a deduction. The refund claim may be required by the department to be filed electronically. Each agent or representative filing a refund application on behalf of another shall submit a power of attorney that authorizes the agent or representative to act on behalf of the applicant.

(b) (1) Any person who is registered with the department as a retailer and who reported and remitted sales tax to the department that was not owed, was remitted in error or was an overpayment may apply for a refund of such taxes remitted by such retailer to the department.

(2) Each registered retailer shall have a continuing duty to correct any errors in sales tax returns filed with the department and to enable purchasers to obtain refunds of taxes that were overpaid or paid in error.

(3) Each refund application filed by an entity that files sales tax returns shall be treated as an application to adjust or amend the return. The amended tax return shall be subject to verification by examination of the taxpayer's records.

(4) Each application for a refund claim shall contain all the information required in this section and shall be accompanied by all additional documentation prescribed in this section that is needed to determine the validity of the application and to verify and process the application. Each such refund application that contains insufficient information or documentation to verify and process the application shall be returned to the applicant with directions to file a new and complete application. If an application for a refund claim has been returned by the department as incomplete, no application for refund claim shall be considered to have been filed until a new application is submitted that contains sufficient information and is supported by sufficient documentation to verify and process the application as a refund claim.

(5) The application for a refund claim shall include the following information:

(A) If applicable, an amended return for each period for which a refund is sought, which shall contain the retailer's current name, mailing address, employee identification number and Kansas sales tax registration number;

(B) the name and telephone number of the person whom the department should contact if additional information is needed;

(C) an explanation of the reason why a refund is due. If applicable, the explanation shall include a detailed and factual description of how the items sold were used by the consumer;

(D) if tax has been refunded to the consumer, the amount, the name of the refund recipient, and an explanation of how the refund was made, whether by cash, check, credit or other means;

(E) a schedule listing each invoice in chronological order that includes the name and address of the purchaser, a description of the items sold, the date of purchase, the invoice number, the amount subject to tax, the amount of tax collected, the reporting period for the tax, the location of the sale and a detailed statement of usage of the item purchased. If the applicant or such applicant's agent maintains records or prepares the schedule in an electronic, machine-sensible format, all schedules submitted to support the refund application shall be provided in an electronic, machine-sensible format in addition to the paper document;

(F) the signature of the payee and the signature of the retailer; and

(G) any additional information required by the application form that is needed to verify and process the refund application.

(6) The refund claim shall include the following documentation:

(A) If applicable, a properly completed exemption certificate from the consumer;

(B) if the retailer has refunded taxes to the consumer, a canceled check or irrevocable credit memo issued by the retailer showing that the retailer has credited or refunded the tax previously collected from the consumer, a written agreement that the refund shall be jointly issued to the retailer and the consumer or other proof of repayment; and

(C) all invoices pertaining to the schedule required to be submitted under subsection (b)(5)(E) and any other documentation needed to verify and process the refund application being made in the schedule, which may include credit memos, contracts, job cost records, tax accrual worksheets with refund items identified, charts of account and any other documentation, including employment data for claims related to the provisions of subsection (cc) of K.S.A. 79-3606, and amendments thereto.

(c) A consumer may apply directly to the department for a refund if the consumer meets the requirements of subsection (a) of K.S.A. 79-3650, and amendments thereto, and submits an application and supporting documentation as required in this section. In order to be considered complete for processing and verification purposes, each consumer-filed refund claim shall include the following information:

(1) The consumer's name, current mailing address and telephone number; the retailer's name, last known mailing address and telephone number;

(2) the information referenced in subsection (b)(5)(B), (C), (E) and (G);

(3) a description of the items purchased, the date of purchase, the location of the purchase, the invoice number, the amount subject to tax and the amount of tax paid; and

(4) the signature of the applicant.

(d) The documentation provided with each consumer-filed refund claim shall include a copy of each of the following:

(1) The information referenced in subsection (b)(6)(A) and (C); and

(2) a written statement signed by the consumer stating that the consumer has not and will not seek a duplicate refund from the retailer.

(e) No refund or credit shall be allowed by the director without sufficient proof submitted by the applicant for a refund claim that the tax sought to be refunded was paid to the department.

(f) The provisions of this section shall be part of and supplemental to the Kansas retailers' sales tax act.

History: L. 2007, ch. 155, § 1; July 1.