

DRAFT

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-46. Procedures for Purchaser Refund Requests Pursuant to Utah Code Ann. Sections 59-1-1410 and 59-12-110.

(1) Definitions.

(a) "Division" means the ~~[Auditing]~~Business Taxes and Discovery Division of the commission.

(b) "Purchaser refund request" means:

(i) a refund request for sales tax that was overpaid; and

(ii) submitted by a person other than the seller that originally collected and remitted the sales tax to the commission.

(c) "Required information and documents" means, for each transaction included in a purchaser refund request:

(i) a description of the item for which a refund is requested;

(ii) the invoiced transaction date;

(iii) the taxable purchase amount;

(iv) the tax rate applied to the purchase amount;

(v) the invoice number;

(vi) invoices or receipts or other books and records that show the items purchased and sales tax charged;

(vii) the sales tax paid;

(viii) the reason and basis in Utah law for exempting or excluding the item from sales tax;

(ix) documentation that verifies that the item qualifies for a sales tax exemption or exclusion;

(x) the amount of sales tax overpaid;

(xi) proof of payment of sales tax, such as a canceled check, bank statement, credit card statement or receipt, letter from the seller, or other books and records that demonstrate payment was made;

(xii) if an agent applies for the refund on behalf of a purchaser, a power of attorney;

(xiii) the name and address of the seller; and

(xiv) a signed statement that the seller that calculated and remitted the sales tax:

(A) has not provided a sales tax refund or credit; and

(B) will not be asked to provide a sales tax refund or credit.

(2)(a) Except as provided in Subsection (3), a person submitting a purchaser refund request shall include the required information and documents with the application to the division.

(b) The items described in Subsection (2)(a) shall be provided to the division in the format and manner prescribed by the division.

(c) If the application is not accompanied by all of the required information and documents, the division shall send a notice to the person that submitted the purchaser refund request.

(d) The notice described in Subsection (2)(c) shall:

(i) indicate the required information and documents that are missing; and

(ii) allow the person submitting the purchaser refund request 30 days to provide the missing required information and documents to the division.

(e)(i) A person submitting a purchaser refund request who is unable to provide the information and documents described in Subsection (2)(d)(i) within the time period described in Subsection (2)(d)(ii) may contact the division to request an extension of time to provide the required information and documents that are missing.

(ii) The division shall grant reasonable requests for extension that will not unnecessarily prolong the processing of the refund request. If an extension is granted, the division shall provide written notice to the person submitting the purchaser refund request of the length of an extension of time granted under Subsection (2)(e)(i).

(f) If the division has not received all of the required information and documents within the time period described in Subsection (2)(d), or if applicable, within an extension of time granted under Subsection (2)(e), the division shall:

(i) evaluate the purchaser refund request based solely on the required information and documents received; and

(ii) dismiss for lack of evidence requests for refunds on items for which the division has not received the required information and documents.

(g)(i) Dismissals under Subsection (2)(f) may be appealed to the commission.

(ii) On an appeal under Subsection (2)(g)(i), the commission shall review whether information and documents adequate to determine the validity of the purchaser refund request were received by the division within the time period prescribed under Subsection (2)(d), or if applicable, within an extension of time granted under Subsection (2)(e).

(iii) If a person prevails on an appeal under Subsection (2)(g)(i), the commission shall hold a hearing for disposition of the underlying tax issue.

(3)(a) A person who submits a purchaser refund request may, at the time the application for the refund is filed, request the division use a sampling method in its review of the purchaser refund request.

(b) A person requesting a sampling method of review under Subsection (3)(a) shall include the following information for each transaction included in the purchaser refund request with the application to the division:

(i) the invoice number;

(ii) the invoiced transaction date;

(iii) the taxable purchase amount;

(iv) the tax rate applied to the purchase amount;

(v) the sales tax paid;

(vi) the amount of sales tax overpaid;

(vii) the name and address of the seller

(viii) a description of the item for which a refund is requested; and

(ix) the reason and basis in Utah law the item is exempt or excluded from sales tax.

(c) The items described in Subsection (3)(b) shall be provided to the division in the format and manner prescribed by the division.

(4)(a) If the division and a person submitting a purchaser refund request agree to the division's use of a sampling method in its review of the purchaser refund request, the division shall:

(i) determine the items that will be included in the sample;

85 (ii) notify the person submitting the purchaser refund request of the items that will be included
86 in the sample and the information and documents that must be submitted to the division; and

87 (iii) allow the person submitting the purchaser refund request 30 days to provide the
88 information and documents to the division in the format and manner prescribed by the division.

89 (b)(i) A person submitting a purchaser refund request who is unable to provide the
90 information and documents described in Subsection (4)(a)(ii) within the time period described in
91 Subsection (4)(a)(iii) may contact the division to request an extension of time to provide the
92 information and documents that are missing.

93 (ii) The division shall grant reasonable requests for extension that will not unnecessarily
94 prolong the processing of the refund request. If an extension is granted, the division shall provide
95 written notice to the person submitting the purchaser refund request of the length of an extension of
96 time granted under Subsection (4)(b)(i).

97 (c) Information and documents described in Subsection (4)(a)(ii) that are not received by the
98 end of the period described in Subsection(4)(a), or if applicable, within an extension of time granted
99 under Subsection (4)(b), shall be:

100 (i) considered errors; and

101 (ii) included in the overall error factor by which the purchaser refund request is decreased.

102 (d)(i) Errors under Subsection (4)(c) may be appealed to the commission.

103 (ii) On an appeal under Subsection (4)(d)(i), the only matter that will be reviewed by the
104 commission is whether information and documents adequate to determine the validity of the
105 purchaser refund request were received by the division within the time period prescribed under
106 Subsection (4)(a), or if applicable, within an extension of time granted under Subsection (4)(b).