

CHAPTER 12 – SALES TAX CODE

Sec. 12-560. Erroneous payment of tax; credits and refunds; limitations.

- (a) The Tax Collector may authorize either credits or payments of refunds for any taxes, penalties or interest paid in excess of the amount actually due. Any credit authorized by the Tax Collector shall be canceled from the accounts of the City if no timely filed request for credit or refund is made by the claimant claiming same within one (1) year following the date of determination and notice by the Tax Collector of the excess payment. For purposes of this Section, “Claimant” means a taxpayer that has paid a tax imposed under this Article and has submitted a credit or refund claim under this Section. Except where the taxpayer has granted a customer a power of attorney to pursue a credit or refund claim on the taxpayer’s behalf, “claimant” does not include any customer of such taxpayer, whether or not the claimant collected the tax from customers by separately stated itemization.
- (b) No credit shall be allowed or refund paid except under one of the following conditions:
 - (1) as provided in Section 12-565.
 - (2) upon examination of filed returns for any period not excluded by Section 12-550, and not to exceed the tax, penalty, or interest actually paid with such returns.
 - (3) upon audit or other examination of the books and records of the taxpayer, but only for periods as provided in Section 12-550. In the case of an examination performed at the taxpayer’s request, credit shall be allowed or refund paid only for any excess taxes, penalties, or interest actually paid within the limitation period provided in Section 12-550, such period to be calculated from the date of receipt of the taxpayer’s request by the Tax Collector. Requests by taxpayers for audits to authorize credits shall be honored unless, in the opinion of the Tax Collector, the taxpayer has made excessive requests for audits.
 - (4) Upon the claimant’s submission of a written claim for credit or refund of any taxes, penalties, or interest paid to the City by the claimant.
- (c) A credit or refund submitted by a claimant pursuant to subsection (b)(4) of this Section must identify:
 - (1) The name, address and city tax identification number of the taxpayer; and
 - (2) The dollar amount of the credit or refund requested; and
 - (3) The specific tax period involved; and
 - (4) The specific grounds upon which the claim is based.
- (d) When a written claim for credit or refund is submitted pursuant to Subsection (b)(4) of this Section, no credit shall be allowed or refund paid except for those taxes, penalties, or interest paid in excess of the amount due within the limitation period provided Section 12-550. The credit or refund limitation period shall be calculated from the date the tax collector receives the claimant’s written claim meeting the requirements of Subsection (c) of this Section.
- (e) The following additional requirements apply to the Tax Collector and the claimant for claims for credit or refund submitted pursuant to Subsection (b)(4) of this Section:
 - (1) The tax collector shall notify the claimant that the claim for credit or refund has been received and shall indicate whether the claim meets the requirements of

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Subsection (c) of this Section. If the claim does not meet the requirements of Subsection (c) of this Section, the tax collector shall identify the deficiency in writing. Any claim that does not meet the requirements of Subsection (c) of this Section shall not secure the limitation period pursuant to Section 12-550.

- (2) The tax collector may request, in writing, additional information or documentation from the claimant to support the requested credit or refund. Such information or documentation must be reasonably related to the claim and required to be maintained under this chapter in the normal course of business.
 - (A) The claimant may request in writing one or more extensions to supply the requested information or documentation. The tax collector may reject an extension request only by denying the claim in whole or in part, subject to appeal by the claimant pursuant to Section 12-570.
 - (B) A claimant aggrieved by a request for information or documentation under this Subsection may file an appeal in the manner provided for in Section 12-570 regarding the scope of the request for information or documentation. Such petition must be filed no later than the last day by which requested information or documentation must be provided to the tax collector, including any extensions. The decision of the hearing officer regarding a request for information or documentation may not be appealed by either party until the claim has been approved or denied, in whole or in part, under Subsection (h) of this Section or through Subsubsections (e)(3) or (e)(4) of this Section. A claimant shall not be barred from raising the issue of the reasonableness of the tax collector's information or documentation request in an appeal filed under Subsection (h) of this Section or through Subsubsections (e)(3) or (e)(4) of this Section through a lack of filing a petition under this Subsubsection.
- (3) If the tax collector fails to request additional information or documentation pursuant to this Section and fails to issue a determination on any claim for credit or refund within six (6) months after the claim is filed, the claimant may consider the claim denied and may file an appeal pursuant to Section 12-570.
- (4) If the tax collector fails to issue a determination within six (6) months of receiving all requested additional information or documentation, the claimant may consider the claim for credit or refund denied and may file an appeal pursuant to Section 12-570.
- (5) The burden of proof to show that a notice, request, determination, or other communication was received by the claimant in this Section is on the tax collector, and will be satisfied by receipt of notice. The burden of proof to show that a claim or additional information or documentation was received by the tax collector is on the claimant and will be satisfied by receipt of notice.
- (f) Interest shall be allowed on the overpayment of tax for any credit or refund authorized pursuant to this Section at the rate and in the manner set forth in Section 12-540(a). Interest shall be calculated from the date the tax collector receives the claimant's written claim meeting the requirements of subsection (c) of this section.

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- (g) The tax collector shall give the claimant a written notice of determination for a claim made under Subsection (b) of this Section. If the determination is a denial of a claim, in whole or in part, the determination must state that the claim for credit or refund has been denied in whole or in part, with the reason for denial, and must include the claimant's rights of appeal pursuant to Section 12-570.
- (h) A determination by the tax collector under this Section, whether an approval of a claim or a denial of a claim, in whole or in part, shall become final forty-five (45) days from the date of receipt of the notice by the claimant, unless an appeal is made pursuant to Section 12-570. If the claimant is the prevailing party in an appeal of a determination under this section, Section 12-578 shall apply, except that reasonable fees and other costs may be awarded either by the hearing officer or court and are not subject to the monetary limitations of Subsection 12-578(e) if the tax collector's position was not substantially justified or was brought for the purpose of harassing the claimant, frustrating the credit or refund process, or delaying the credit or refund. For the purposes of this Section, "Reasonable Fees and Other Costs" means fees and other costs that are based on prevailing market rates for the kind and quality of the furnished services, not to exceed the amounts actually paid for expert witnesses, the cost of any study, analysis, report, test, project or computer program that is found to be necessary to prepare the claimant's case, and necessary fees for attorneys or other representatives.
- (i) The amendments to this Section as enacted shall be effective as follows:
 - (1) For any claim for refund or credit received by the tax collector before October 1, 2005:
 - (A) The provisions of this Section as it existed prior to March 20, 2007 shall apply, except that interest shall be allowed from and after October 1, 2005 as provided in Subsection (f) of this Section.
 - (B) Except as noted in Subsection (1)(a) above, the amendments to this section as enacted on March 20, 2007 shall not be cited or considered in the construction or the interpretation of the City tax refund or credit provisions, interest provisions, or appeal provisions in effect prior to October 1, 2005.
 - (2) The provisions of this Section enacted on March 20, 2007 shall apply to all claims for refund or credit, for any periods as determined by Subsections (d) or (e) of this Section, received by the tax collector from and after October 1, 2005, except for claims that, in whole or in part, had been received by the tax collector prior to October 1, 2005.
- (j) Any refund paid under the provisions of this Section shall be paid from the Privilege Tax revenue accounts.
(Code 1977, § 9A-560)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 07-07, 3/20/07, amended (a),(b),(c),(d),(e), enacted (f),(g),(h),(i),(j)) SUPP 2007-1
(Ord. 2014-17, 4/22/14, Amended) SUPP 2014-2