

CHAPTER 12 – SALES TAX CODE

Sec. 12-578. Reimbursement of fees and other costs; definitions.

- (a) A taxpayer who is a prevailing party may be reimbursed for reasonable fees and other costs related to any administrative proceeding brought by the taxpayer pursuant to Section 12-570(b). For purposes of this Section, a taxpayer is considered to be the prevailing party only if both of the following are true:
 - (1) the Tax Collector's position was not substantially justified.
 - (2) the taxpayer prevails as to the most significant issue or set of issues.
- (b) Reimbursement under this Section may be denied if any of the following circumstances apply:
 - (1) during the course of the proceeding the taxpayer unduly and unreasonably protracted the final resolution of the matter.
 - (2) the reason that the taxpayer prevailed is due to an intervening change in the applicable law.
- (c) The taxpayer shall present an itemization of the reasonable fees and other costs to the Taxpayer Problem Resolution Officer within thirty (30) days after receipt by the taxpayer of a notice of refund or recalculated assessment issued by the Tax Collector pursuant to Section 12-570(b)(8). The Taxpayer Problem Resolution Officer shall determine the validity of the fees and other costs within thirty (30) days after receiving the itemization. The Taxpayer Problem Resolution Officer's decision is considered a final decision. Either the taxpayer or the Tax Collector may seek judicial review of the Taxpayer Problem Resolution Officer's decision. An action for judicial review, however, shall not be commenced more than thirty (30) days after receipt of the Resolution Officer's decision.
- (d) In the event judicial review is not sought pursuant to subsection (c) above, the City shall pay the fees and other costs awarded as provided in this Section within thirty days after demand by a person who has received an award pursuant to this Section.
- (e) Reimbursement to a taxpayer under this Section shall not exceed twenty thousand dollars or actual monies spent, whichever is less. The reimbursable attorney or representative fees shall not exceed one hundred dollars per hour or actual monies spent, whichever is less, unless the Taxpayer Problem Resolution Officer determines that an increase in the cost of living or a special factor such as the limited availability of qualified attorneys or representatives for the proceeding involved justifies a higher fee.
- (f) For 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, but not exceeding the amounts actually spent for expert witnesses, the cost of any study, analysis, report, test or project that is found to be necessary to prepare the party's case and necessary fees for attorneys or other representatives.

(Code 1977, § 9A-580)

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(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2