

8130.8100 CLAIM FOR REFUND.

Subpart 1. **In general.** A person, as defined in Minnesota Statutes, section 297A.01, subdivision 2, who has overpaid sales or use tax for any period, may file a claim for refund with the commissioner for the amount of the overpayment. The claim for refund must be submitted on a department form as prescribed by the commissioner and be completed in the manner prescribed therein. The claim must set forth in detail the grounds for each adjustment and the facts supporting those grounds.

Subp. 2. **Requirements for refund claim.** Conditions to be met before the commissioner will entertain a claim for refund:

A. The person filing a claim for refund must have paid the tax and filed the sales and use tax return upon which the claim is based directly to the commissioner (or the tax was collected from such person other than by means of court action in district court, either at law or in equity by the commissioner), except the following:

(1) A person who has paid tax on electricity used in agricultural production that is exempt from taxation under Minnesota Statutes, section 297A.25, subdivision 9, may file a claim for refund with the commissioner if the tax was paid to the retail rural electric cooperative association based in Aitkin County. See Laws of Minnesota 1986, chapter 399, article 1, section 5.

(2) A veteran with a disability who purchases building materials or on whose behalf a contractor, subcontractor, or builder purchases building materials for use in the construction or remodeling of the veteran's residence, when the construction or remodeling is financed in whole or in part by the United States in accordance with United States Code, title 38, sections 801 to 805, as amended, may claim a refund directly from the commissioner. A veteran's claim for refund form is available upon request from the Department of Revenue for use by veterans with a disability in making claims. See part 8130.6400, and Minnesota Statutes, section 297A.25, subdivision 20.

(3) Since July 1, 1984, the sales and use tax on capital equipment is initially paid at the six percent rate. In order to obtain the refund of sales and use tax paid on the purchases of qualifying capital equipment, the purchaser must file a claim for refund form with the commissioner. The claim is filed with the Business Trust Tax Unit, Department of Revenue. No adjustment for the tax paid on capital equipment will be allowed as credit against tax due on current sales and use tax returns being filed by a Minnesota sales and use tax permit holder.

Refund claims may include more than one purchase of machinery or equipment. However, no more than two claims will be accepted from a purchaser in a calendar year. See Minnesota Statutes, section 297A.15, subdivision 5.

Interest on capital equipment refunds or credits begins to accrue on the date the claim is filed. See Minnesota Statutes, section 289A.56, subdivision 4. For purposes of calculating the interest due, a claim is not considered filed until sufficient documentation to process the claim is submitted to the commissioner.

When filing a claim for refund for purchases of qualifying capital equipment, the purchaser must provide sufficient documentation to substantiate the allowance of the requested refund. The following information must be submitted with the completed claim for refund form:

(a) a Minnesota tax identification number or, if none, the purchaser's social security number;

(b) a description of the business activity including an explanation of the circumstances (for example, opening a new production facility, expansion of an existing facility, or whether or not the equipment purchased replaces existing equipment) under which the claim is filed;

(c) a description of the property purchased and how it will be used in the production process;

(d) a copy of the purchase invoice for each equipment purchase and written evidence of payment of the six percent tax or such other evidence as the commissioner deems necessary;

(e) for leased equipment, a copy of the invoice showing sales tax paid on the lease payments and a copy of the lease agreement; and

(f) if a use tax was accrued and reported for the equipment purchase, verification that the use tax was reported to the state of Minnesota, including evidence of payment of the six percent tax.

(4) The owner of homestead property may file a refund claim directly with the commissioner if a chair lift, ramp, or elevator was installed or constructed on the owner's homestead pursuant to Minnesota Statutes, section 297A.25, subdivision 43.

(5) A common carrier that has applied for a direct pay certificate under the provisions of Minnesota Statutes, section 297A.211, may file a claim for refund of tax previously paid to a seller. This refund will be calculated according to the provisions of Minnesota Statutes, section 297A.211, subdivision 3, and interest will be calculated according to the provisions of Minnesota Statutes, section 289A.56, subdivision 5.

B. A claim for refund must be filed within two years after the tax was paid in full, or within three and one-half years from the date prescribed for filing the return, whichever period expires later. See Minnesota Statutes, section 289A.40, subdivision 1. If the commissioner and the claimant have consented to extend the time for assessment of tax under Minnesota Statutes, section 289A.42, subdivision 1, the claim may be filed within the extended period. For purposes of ascertaining whether a claim for refund is timely filed with the commissioner, a return filed before the date on which the return was due will be determined to have been filed on the date when due. A return postmarked on the date due will be determined to have been filed as of that date.

C. A claim filed by a corporation must bear the signatures and titles of the officers having the authority to sign for the corporation.

Whenever it is necessary to have the claim executed by an attorney or agent on behalf of the claimant, an original, executed power of attorney specifically authorizing the agent or attorney to sign the claim on behalf of the claimant must accompany the claim.

If a return is filed by a person who dies after filing a return, and a refund claim is filed by a legal representative of the decedent, certified copies of the letters testamentary, letters of administration, or other similar evidence must be filed with the claim to show the authority of the executor, administrator, or other fiduciary by whom the claim is filed. If an executor, administrator, or other fiduciary files a return and thereafter a refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made on the claim showing the return was filed by the fiduciary and that the latter is still acting in such capacity.

If a vendor has collected from a purchaser and remitted to the state a tax on a transaction that is not subject to tax under Minnesota Statutes, chapter 297A, the tax, and any interest earned on the tax, is refundable to the vendor only if and to the extent that the vendor submits written evidence that the tax and interest will be returned by the vendor to the purchaser or credited to amounts due to the vendor by the purchaser.

Subp. 3. **Commissioner action.** Action taken by the commissioner after a claim for refund is filed:

A. Upon receipt of a claim for refund, the commissioner will examine the return and make any investigation or examination of any of the accounts and records pertaining to the claim that the commissioner considers necessary. The commissioner will then prepare written findings, either denying or allowing the claim, in whole or in part, and will mail a notice to the person filing the claim at the address stated on the return or to any other address furnished by the claimant in writing.

B. The amount allowed by the commissioner as a refund is first applied against any sales or use tax owed to the commissioner by the claimant, and any remaining balance due the claimant may be applied against any other delinquent tax liability owed by the claimant. Interest will be computed on the amounts refunded or credited from the date of overpayment to the date when the refund or credit is authorized by the commissioner, except for capital equipment claims and claims pursuant to Minnesota Statutes, section 297A.25, subdivision 43. See Minnesota Statutes, sections 289A.56, subdivision 4, and 297A.15, subdivisions 5 and 6.

The interest rate on overpayments will be the interest rate that the commissioner establishes under Minnesota Statutes, section 270C.40, subdivision 5, to be charged on unpaid taxes. The interest rate will be adjusted annually and will become effective annually when the interest rate on unpaid taxes changes. See Minnesota Statutes, sections 270C.405 and 289A.56, subdivision 1.

C. If a claim for refund made by a vendor is based upon overpayment of sales tax by a purchaser to the vendor, the commissioner, for purposes of ascertaining the validity of the claim, may request substantiation of the overpayment by the purchaser, or examine the purchaser's records. If the commissioner is unable to establish the validity of the overpayment after conducting an examination of the purchaser's records, the commissioner will deny the claim.

Subp. 4. [Repealed, 15 SR 693]

Subp. 5. **One dollar limitation.** No refund will be made where the amount is \$1 or less.

Statutory Authority: *MS s 14.388; 270C.06; 297A.25; 297A.27; 297A.29*

History: *15 SR 693; L 2005 c 151 art 1 s 114,116; 46 SR 1363*

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