



Tax Division
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Tax Compliance Guide

Refund Claims

(09/2023)

THIS GUIDANCE IS A SUMMARY IN LAYMEN'S TERMS OF THE RELEVANT AURORA TAX LAW FOR THIS TOPIC, INDUSTRY, OR BUSINESS SEGMENT. IT IS PROVIDED FOR THE CONVENIENCE OF TAXPAYERS AND IS NOT BINDING UPON THE CITY. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE AURORA MUNICIPAL CODE AND APPLICABLE RULES AND REGULATIONS. THIS GUIDE DOES NOT CONSTITUTE A CITY TAX POLICY.

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The *City of Aurora Municipal Code* requires taxpayers to sign and submit a *Claim for Refund* to receive a refund of a tax overpayment. Overpayments can result from a variety of circumstances. The specific procedures and limitations for obtaining a refund depend upon the nature of the overpayment. All refund claims must include adequate documentation of the claim and be submitted through the tax portal via the City of Aurora website. In general, such documentation must prove that (1) the tax in question was actually paid to the City; (2) the tax was not due to the City; (3) the claim is timely; and (4) the person making the claim is due a refund of the overpayment. Refund claims cannot be assigned to another person.

Overpayment on a Return

If the amount remitted with a tax return is more than the total tax liability as computed from the information provided on the return, the City's tax system automatically generates a credit on the account. To utilize the credit on a future filing period, taxpayers should contact the Tax Division. If the credit cannot be utilized timely, and a payment is desired for the refund, a *Claim for Refund* should be submitted through the account holder's City tax portal.

If a previously filed return requires an adjustment, an amended return should be filed in the tax portal and *Claim for Refund* submitted along with adequate documentation to support the claim.

Overpayments by Purchasers

Purchasers who paid tax to a licensed City of Aurora retailer, but claim that a sale is exempt from or not subject to tax must submit a *Claim for Refund* within 3 years of the date of the purchase, along with adequate documentation of the claim. Claims made more than 3 years after the purchase date will be denied.

This includes claims for refund related to disputed tax, where the customer and retailer do not agree that a sale qualifies for a sales tax exemption. In these instances, the retailer should collect and remit the tax and the purchaser may file a claim for refund directly with the City.

Refunds to Retailers

Licensed retailers collect sales, admissions, and accommodations taxes on the City's behalf and hold it in trust for the sole benefit of the City.

Retailers are not permitted to retain any tax collected in error from any purchaser. Any excess tax collected must be reported and paid to the City.

Inter-period Credits Not Permitted

A retailer should not refund tax to a purchaser that was paid to the City on a previously filed tax return. The purchaser should be directed to complete a *Claim for Refund* form to obtain a refund of the overpayment. Retailers are not permitted to take credit against future liabilities for such tax, for example, by taking a deduction for the amount of the sale or reporting no tax due. Retailers taking inter-period credits will be assessed for the actual tax due plus penalties and interest.

Similarly, retailers are not permitted to take deductions for returned goods or bad debts if the deduction exceeds the current period gross sales. If this occurs, the retailer must submit a *Claim for Refund*.

The City does not consider issuing a refund or a credit memo for the tax invoiced on sales that are documented as exempt at a later date a "returned good" eligible for deduction on a subsequent return. Retailers should instead amend the tax return for the period that the tax was remitted to the City in error and submit a *Claim for Refund*.

Construction Materials – Building Permit Use Tax

The person responsible for obtaining the building permit is liable for use tax on all materials used on the project jointly and severally with the project owner. Use tax is due upon construction materials used to build, reconstruct, alter, or improve land or improvements to land.

When a building permit is issued for a construction project within the City, the general contractor will make an estimated prepayment of use tax. Such permits must be used by the contractor and any sub-contractor when purchasing permitted construction materials subject to this exemption. For more information, see Tax Guide: Construction Materials.

Project Reconciliation

The general contractor must determine the actual cost of all materials used at the conclusion of the project within 90 days of the issuance of the certificate of occupancy. The actual use tax due is computed based upon such cost. If the actual use tax due is less than

the estimated pre-payment, the general contractor may complete a *Project Reconciliation Spreadsheet* and submit it along with a *Claim for Refund* form to claim the overpayment.

The claim must be submitted within one year of final inspection, written acceptance, or the issuance of a *Certificate of Occupancy* depending upon the specific procedure required for the project. The claim must include documentation supporting the actual cost, including documentation showing the cost of materials used by subcontractors and materials furnished by the owner.

Accounting for Overpaid Sales Taxes

When reconciling the actual use tax due with the estimated pre-payment, the general contractor is not allowed to take credit against the use tax due for sales tax paid upon the materials used unless all the following conditions are met:

1. The sales tax was Aurora sales tax paid to a licensed, Aurora retailer;
2. The general contractor paid the sales tax directly; and
3. Proof of payment is provided.

If the sales tax was paid to a vendor collecting on behalf of another city, the general contractor will need to contact the vendor or such other city about obtaining a refund. Taxes paid (including properly collected state, RTD, and county taxes) should not be included in the computation of the cost of materials.

If the sales tax was paid by a subcontractor, the party who, in fact, paid the tax must seek a refund directly from the taxing jurisdiction. (see “Overpayments by Purchasers” above). These materials must be included in the actual cost computation.

All building permit use tax *Claim for Refunds* must be submitted to the Tax Audit section directly. They cannot be requested via the City tax portal.

Review and Determination

All refund claims, aside from building permit use tax, should be remitted through the business’ tax portal accessed via the City of Aurora website whenever possible. Persons due a refund that do not have an account on the Aurora Tax Portal may submit the claim for refund via mail or email. Documentation to support the claim should be uploaded at the time of submittal. This includes, but is not limited to:

1. Proof of payment related to the claim in question
2. Copies of receipts or invoices
3. A workpaper listing all receipts, checks, etc. specifically outlining amounts owed and paid, refund requested, etc. and copies of applicable tax-exempt certificates, credit memos, etc.
4. Power of Attorney (if an agent is applying for a refund on behalf of the taxpayer)

Depending upon the complexity of the claim, review of completely documented claims can take as little as 7 days or as many as 90 days. If additional information or documentation is needed, the claimant will be contacted by the City official reviewing the claim.

If the claim is approved, a check will be issued to the claimant within 14 days of approval. If the claim is denied, in whole or in part, the claimant will receive written notice of the denial.

Refund Denials and Right to Appeal

If a claim for refund is denied by the Tax Division, the City will issue a written notice of denial. Upon denial, the applicant has the right to appeal and request a hearing before the City of Aurora finance director. Any appeal must be received in writing within 30 days of the City’s Notice of Denial.

Following the hearing, an aggrieved applicant may seek de novo review of the final decision of the finance director by either the district court or the executive director of the state department of revenue in the manner provided by section 164(e) of the Aurora Municipal Code.

Related Topics

Bad Debts
 Construction – Materials
 Construction Projects Not Requiring City Building Permits
 Contractors Brochure
 Statute of Limitations
 Wholesale Sales

Citations

Aurora Municipal Code
 § 130-31. Definitions
 § 130-33 Legislative Intent
 § 130-156 Taxable Items
 § 130-62(c) Examination of Returns, Refunds, Credits, and Deficiencies
 § 130-62 Tax on Construction Materials
 § 130-63 Collection and Refund of Disputed Tax
 § 130-64 Review Procedure for Aggrieved Taxpayers.
 § 130-157 Items Exempt from Taxation

Contact Us

For additional assistance, please contact us:

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