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Tax Compliance Guide

Statute of Limitations

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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 statute of limitations under the Aurora tax code establishes a three year, or 36 month, look back period that restricts the City from assessing or collecting municipal taxes. Additionally, the statute of limitations also limits a taxpayer's ability to file a claim for refund for overpaid taxes or to amend a previous city tax return to the same three year look back period.

When seeking to establish if a sale or purchase is within or outside the statute of limitations lookback period, the best way to do so is to identify when said taxes were paid to the city. For purchases by individuals, if the transaction date is within three years of the current date, the transaction is within statute.

For tax returns filed with the City, if the return **filing date** is within three years of the current date, that return and all sales and purchases that are included or would have been required to be reported on that return are considered within statute. This includes late filed returns that are received after their due date.

Tax returns filed before their due date are treated as if received on their due date. For example, a tax return due January 20th but received on January 15th is considered received on the January 20th due date.

Important note: If a tax return was filed on a date that is within the look-back period, and that return is reporting sales or purchases for dates that are more than three years prior, all dates that are included on that return, even those that are more than three years prior, are considered within statute for both the taxpayer and the city. For more information see "Initial Returns and Start-up Costs" later in this guide.

Audits

If the finance director initiates an audit, the periods covered under that audit do not fall out of statute until the audit is completed and a final assessment or notice of final determination is issued. The City, however, cannot select periods that have a return due date greater than three years (36 months) from the date of the notice of audit except in cases where the business was not licensed with the city or where tax returns were late filed after their due date

Unlicensed Vendors

In cases where a business has been operating in the city without an Aurora business license, the city of Aurora is not limited to a three

year look back period and the city can assess taxes or engage the business in an audit for the entirety of its operation in the city.

The City of Aurora operates a voluntary disclosure agreement program for businesses to voluntarily come forward and license with the City and pay any delinquent taxes owed. Voluntary disclosure agreements are filed through the Aurora Tax Portal under "Submit a Voluntary Disclosure Agreement".

Refunds

If an individual or business overpaid taxes on a purchase from a licensed Aurora vendor, the statute of limitations for requesting a refund is three years from the date that the purchase took place. Those seeking a refund should file a claim for refund with the city and include all documentation to support the claim.

Businesses that overpaid taxes on a previously filed sales tax return and are seeking a refund are instructed to file an amended return for the period in question within three years of the return due date. Doing so will establish a credit on their account which they may then file a refund claim for. Both the filing of the amended return and the claim for refund are done online through the Aurora Tax Portal. Depending on the claim and the circumstances surrounding it, the city may request additional documentation to support the refund claim.

A refund claim for an overpayment of use tax on a City of Aurora building permit must be remitted within one year of the Certificate of Occupancy, final inspection, or the date the work was abandoned or otherwise terminated.

Initial Returns and Start-up Costs

Businesses filing their first tax return with the city should include their sales and purchases subject to tax since becoming a resident of the city. Subsequent tax returns cover all sales and purchases since the previous filing, so the first return for new businesses encompasses all transactions since their inception including initial start-up costs. For established businesses, the initial return covers all transactions subject to Aurora tax since becoming a resident of the City

If a business is audited including the period of the first return, records of start-up expenses or purchases subject to use tax since becoming a resident of the city must be provided, even if they

occurred more than three years prior, as they would have been included in the initial return.

Examples

- 1) The current date is June 23, 2023. Business A is an annual filer of sales tax and filed their last return, which covered January 1, 2022 through December 31, 2022, on January 10, 2023. How far would the look-back period be for any refund request initiated by the business via amending a return or audit review period initiated by the city of Aurora?

Answer: Three years from the current date is June 23, 2020. Periods eligible for a claim for refund due to amending the return include the 2020, 2021, and 2022 annual returns. The 2019 annual return, originally due January 20, 2020, could no longer be amended since the statute of limitations expired prior to June 23, 2020.

- 2) Person B was shopping at a licensed Aurora business and purchased consulting services on March 3, 2021, and was charged Aurora sales tax on the service. Recently, Person B became familiar with local sales tax laws and learned that consulting services were not subject to city sales tax. Person B determined that the business did in fact charge him sales tax for a non-taxable transaction. Is Person B still within statute to claim a refund if he requested it today, June 23, 2023?

Answer: The date of purchase was March 3, 2021. The Aurora Municipal Code gives taxpayers three years from the date of purchase to file a claim for refund for any overpaid taxes. Person B would have until March 3, 2024, to file a claim for refund with the city. This claim would need to include proof of taxes paid such as a copy of the check and the original purchase receipt. Therefore, yes, person B is within statute to file a claim for refund with the city of Aurora.

- 3) Business C has been in operation for two years and is a monthly filer of sales taxes. They received a notice of audit from the City of Aurora stating that they will be reviewing all returns filed in the past two years including the first return filed with the city. How far is the look-back period for the Aurora audit?

Answer: Aurora audits initiated by the city can go back up to three years. In this example, Business C is a monthly filer and has been in business for two years, meaning all the returns would be within statute. Additionally, the first return is also included meaning that any start-up costs or purchases associated with opening the business in Aurora would be within the audit period. Therefore, the audit period would cover from the inception of the business to the date of the last return filed.

Related Topics

Refund Claims
Vendor Assessments
Voluntary Disclosure:
https://www.auroragov.org/business_services/taxes/voluntary_disclosure

Citations

Aurora Municipal Code
§ 130-61. Tax on Construction Materials
§ 130-62. Examination of Returns, Refunds, Credits, and Deficiencies
§ 130-63. Collection and Refund of Disputed Tax
§ 130-90. Statute of limitations
§ 130-471. Refund of disputed tax

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