
REFUNDS

The *Arvada Municipal Code* requires taxpayers to sign and submit a Claim for Refund form in order 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. 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.

Overpayments by Purchasers

Normally, the Code requires the person who actually paid the tax to the City to claim and receive a refund of any overpayment. The Code permits purchasers – who paid the tax to a retailer who, in turn, paid it to the City – to claim a refund directly from the City for a limited time from the date of the purchase. The purpose of this limitation is to prevent duplicate refunds from being issued both to the purchaser and the retailer for the same transaction. Purchasers who paid tax to a licensed, Arvada retailer, but claim that a sale is exempt from or not subject to tax must submit a Claim for Refund within 60 days of the date of the purchase along with adequate documentation of the claim. Claims made more than 60 days after the purchase date will be denied. Beyond 60 days, the purchaser may seek a refund from the retailer, who may then file a claim for refund for up to three years from the date of the return reporting the claimed transaction. Note that, while the Code permits refunds to retailers for up to three years, retailers may establish their own timeframes that may be shorter. The Revenue Office cannot obligate a retailer to refund tax paid in error.

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. Such excess tax must be refunded to the purchaser or reported and paid to the City. Retailers are encouraged to refund tax overpayments to purchasers, as the purchaser only has a limited time to seek refund directly from the City (see above). A retailer may submit a Claim for Refund on or before three years after such overpayment was paid to the city. Such claim must include adequate documentation. Refunds to retailers will not be allowed unless the 60 day time for purchasers to claim a refund has expired. As part of the claim, the retailer must document that the tax has been refunded to the purchaser or credited to the purchaser's account. Retailers can request contingent approval of a refund claim in order to the risk of issuing a refund to the purchaser that is ultimately denied by the City.

Right of Appeal of Denial of Refund

If the Director denies a claim for refund, the taxpayer may appeal the Director's decision. An appeal of a denial of a refund must be submitted in writing to the director within thirty (30) calendar days from the date of the Notice of Denied Refund Letter. The taxpayer must identify the amount of refund requested and the basis for the appeal. Failure to appeal a denial of a refund and demand an administrative hearing shall constitute a waiver of the right to contest such denial. See - *Rules Governing Tax Code Administrative Hearings*.

Taxes Paid to the Incorrect Municipality fund

When it is determined by the Finance Director that sales/use taxes owed to the City of Arvada have been erroneously paid by a taxpayer (vendor) to another municipality, the City shall promptly notify the taxpayer (vendor) that taxes are being improperly collected and remitted. In order to recover such taxes improperly remitted to another municipality, the City may either:

- 1) Make a written Claim for Recovery directly to the municipality that received the tax, penalty, or interest owed to the City of Arvada, or
- 2) Institute procedures for collection of the tax, penalty, or interest from the taxpayer (vendor).

See – Intercity Claim for Recovery

EXAMPLE

1. ABC Furniture Company, which is a licensed Arvada business, delivered a futon to a residence in Wheat Ridge and charged Arvada sales tax in error. ABC Furniture Company reported the sale on their monthly sales tax return. The following month the Wheat Ridge customer called ABC Furniture Company and advised them of the error in the tax collected. ABC Furniture Company refunded the customer 3.46% of the sales tax collected and then filed a Claim for Refund with the City of Arvada for the sales tax that had been refunded. ABC Furniture Company must also provide documentation that reflects the tax adjustment that was given to the customer.
2. Joe, who lives in Arvada, is a regular customer at the Arvada Hardware Store. Joe was issued a permit in the building department and paid use tax on 58% of the valuation of the deck that was to be built. Joe then went to the hardware store and purchased all of his lumber and paid Arvada sales tax on the purchase. Since Joe failed to provide his permit when purchasing the materials he has paid tax twice. Joe can apply for a refund of the sales/use tax up to the amount of tax on the actual costs of the materials. Joe is limited to a three-year period (on the later of) the date the permit was issued or the certificate of occupancy.

3. Fred is a home improvement guy who built a fence and has also purchased materials at the Arvada Hardware Store. However, Fred lives in Thornton and has just been issued a Thornton building permit for his fence. Fred purchased materials approximately 5 months before getting the permit and contacting the City of Arvada about getting a refund of the Arvada sales tax that he had paid on the purchase of the fence materials. Fred has also paid tax twice, however, since the purchase took place more than 60 days prior to contacting the City for a refund the refund is denied.

ARVADA MUNICIPAL CODE – Chapter 98 – Taxation

Sec. 98-74. Disputes; refunds.

Should a dispute arise between the seller and the purchaser as to whether or not any sale, service or commodity is exempt under this article, nevertheless the seller shall collect and the purchaser shall pay such tax, and the seller shall thereupon issue to the purchaser an appropriate receipt showing the details of the transaction. The purchaser thereafter may apply to the finance director for a refund in the manner prescribed in this section for refunds. Refunds may be applied for by submittal to the finance director on forms prescribed and furnished by the enforcement officer within 60 days of the date of purchase in instances of dispute, unintentional payment of tax on exempt purchases or an overpayment of taxes reported and paid by any taxpayer to the finance director. The finance director shall forthwith, after receipt of the application for refund, submit same to the enforcement officer for a determination of applicability. The finance director shall disburse to the applicant a refund when, such has been approved by the enforcement officer, or notify the applicant in instances of disapproval by the enforcement officer.

(Code 1981, § 31-49; Ord. No. 3783, § 2, 12-16-2002)

Sec. 98-99. Appeal and demand for hearing.

In the event that the taxpayer or vendor disputes a notice of assessment issued to the vendor or taxpayer for failure to file a return, underpayment of tax owed or as a result of an audit, or disputes a denial of a refund, he shall no later than 30 calendar days after the date of the notice of assessment or denial of refund file a written appeal and demand for an administrative hearing which demand will stay the sale under any pending distraint warrant (until the conclusion of the hearing). Any such appeal and demand for hearing shall identify the amount of tax disputed and the basis for the appeal. In the event that it is determined at the hearing that the taxpayer's liability is less than the amount in the possession of the finance director, if any, such excess shall be paid to the taxpayer forthwith. Failure to file a written appeal and demand for an administrative hearing shall constitute a waiver of the right to contest such liability; however, when such hearing is requested, the final decision rendered therein shall be appealable to the district court as provided by law.

(Code 1981, § 31-68; Ord. No. 3783, § 2, 12-16-2002)

RELATED TOPICS

INTERCITY CLAIM FOR RECOVERY

THE ABOVE INFORMATION IS A SUMMARY IN LAYMAN'S TERMS OF THE RELEVANT ARVADA TAX LAW FOR THIS SUBJECT, INDUSTRY OR BUSINESS SEGMENT. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE ARVADA MUNICIPAL CODE. HOWEVER, THE TAX GUIDE SHALL BE USED IN CONJUNCTION WITH THE ARVADA MUNICIPAL CODE (CHAPTER 98) IN DETERMINING TAX LIABILITY.