

5703-9-07 Application for refund of sales and use taxes.

(A)

(1) An application for refund of sales or use tax illegally or erroneously paid shall be made on a form "ST-AR Application for Sales/Use Tax Refund" and filed with the department in accordance with instructions thereon. The application may be filed by a vendor, seller, or consumer, or by a tax representative designated on a form prescribed or approved for such purposes, e.g., form "TBOR 1 Declaration of Tax Representative." The application must state the basis for the refund, i.e., why the payment of tax was illegal or erroneous.

(2) The department will deny applications if ~~questions one through nine~~ the first three sections of the form "ST-AR" are not fully answered and a complete listing of every invoice included in the refund application is not provided. If the refund application includes 25 or more invoices, the listing must be provided in an electronic spreadsheet.

(3) An application filed by a vendor or seller must show that the tax was remitted to the state. The vendor or seller must submit one original ~~and a copy of the~~ fully completed form "ST-AR Application for Sales/Use Tax Refund" and one set of the following supporting documentation:

(a) Copies of original invoices or similar documents.

(b) Copies of credit memos, a statement from the customer, signed by the customer with specified amounts, agreeing to await reimbursement of the tax until final determination of the refund claim, or some other proof that the accounts receivable was adjusted for the tax or account activity.

(c) A computer disc or drive containing a Microsoft Excel or ~~microsoft~~ Microsoft-compatible spreadsheet for all claims containing twenty-five or more invoices. The spreadsheet must list every invoice separately and the total should equal the amount requested on the refund application.

(d) Copies of fully-completed exemption certificates or letters of usage.

(e) If the claim is due to an amended return, proof must be provided of the original and amended figures for the period(s) claimed on the refund application. The proof may consist of sales journals, cash register receipts, summary reports or any other document used to prepare the tax return.

(f) If the invoices included with the refund request are for capitalized research and development equipment, proof that the equipment purchased is capitalized research and development equipment. Proof may consist of asset ledgers, depreciation schedules, etc.

(g) Copies of accrual sheets for the periods referenced on the refund application, if tax was erroneously accrued on purchases.

(4) An application filed by a consumer must show that the consumer paid the tax to the vendor or seller or directly to the state. The consumer must provide one original ~~and a copy of the~~ fully completed form "ST-AR Application for Sales/Use Tax Refund" and one set of the following supporting documentation:

(a) Copies of original invoices or similar documents.

(b) Copies of canceled checks or some other proof that the invoices were paid in full, including the tax.

(c) A computer disc or drive containing a Microsoft Excel or Microsoft-compatible spreadsheet for all claims containing twenty-five or more invoices. The spreadsheet must list every invoice separately and the total should equal the amount requested on the refund application.

(d) The reason why the payment of the tax was illegal or erroneous. If the consumer is claiming a use-based exemption, the consumer must supply a detailed description of how the tangible personal property or service was used. References to the Revised Code or legal opinions alone are insufficient to substantiate a refund request.

(5) An application for refund of sales or use tax must be filed within the period specified by divisions (D) and (E) of section 5739.07 of the Revised Code. Tax is paid on the date it is remitted to the state and not on the date it is collected by a vendor or seller from a consumer.

(B)

(1) A consumer seeking refund of over-collected sales or use tax must either:

(a) File an application for refund directly with the tax commissioner pursuant to paragraph (A)(4) of this rule; or

(b) Request a refund from the vendor or seller that collected the tax in question. A request for refund from a vendor or a seller is not an application for refund to the commissioner.

(2) If a vendor or seller denies a consumer's refund request, the consumer may file an application for refund with the ~~tax~~ commissioner pursuant to paragraph (A)(4) of this rule. That Requesting a refund directly from the commissioner is the consumer's sole remedy to claim refund of the tax. Any such application must be filed with the commissioner within the time prescribed in paragraph (A)(5) of this rule.

(C) Any refund amount that is determined to be due a taxpayer based on an application for refund of sales or use tax shall first be applied to any outstanding indebtedness of that taxpayer

pursuant to section 5739.072 of the Revised Code. Any amount remaining after the satisfaction of such outstanding indebtedness shall be paid to the taxpayer.

(D) The following forms, located on the department's website at <http://www.tax.ohio.gov/Forms>, are incorporated in this rule by reference:

(1) "ST-AR Application for Sales/Use Tax Refund," revised ~~January 2014~~ May 2016.

(2) "TBOR 1 Declaration of Tax Representative," revised December 2013.