

Rule 006 – Refunds & Credits; Taxes Paid Other Jurisdictions

Refunds or credits are granted for taxes paid to other jurisdictions according to R.S. 47:337.86. When requesting a refund, the taxpayer is to follow the procedural steps listed in R.S. 47:337.86 (E). If the procedural steps are followed, a credit memo or refund is issued.

R.S. 47:337.86 Credit for monies paid

A. A credit against the sales and use tax imposed by any taxing authority of the state shall be granted to a taxpayer who paid monies, whether or not paid in error, absent bad faith, based upon a similar tax, levy, or assessment upon the same tangible personal property in a taxing jurisdiction of this state or another state. The credit granted herein shall be applicable only when a similar taxing authority is seeking to impose and collect a similar tax, levy or assessment from a taxpayer upon the same tangible personal property for which the taxpayer has paid a similar tax, levy or assessment to a similar taxing authority.

B.(1) The credit provided herein for monies paid to a taxing authority of another state shall be granted only in the case where such authority of another state to which monies have been paid grants a similar credit.

(2) The credits granted by this provision shall not exceed the amount of money paid to the taxing authority of this state or another state.

C.(1) The proof of payment to a taxing authority shall be made in accordance with the rules adopted by the secretary of the Department of Revenue under R.S. 47:303(A). Except as provided in Paragraph (2) of this Subsection, in no event shall the credit be greater than the tax imposed by the taxing authority upon the particular tangible personal property that is subject of the sales and use tax.

(2) The credit granted for taxes in any taxing jurisdiction of a parish in which no local sales and use tax is levied and imposed shall be the amount of taxes that would have been collected by the taxing authority at the tax rate imputed to that taxing authority. The imputed tax rate shall be the lowest tax levied and imposed by a similar taxing authority in this state as determined by the Department of Revenue.

D. For purposes of this Section, "taxpayer" shall mean the final consumer who has paid the applicable local tax directly to the collector or the vendor or seller who has collected the tax from the final consumer and remitted the tax to the taxing authority. In no instance shall a vendor or seller be denied a credit for taxes paid in error to a political subdivision.

E.(1) Notwithstanding any other law to the contrary, no person shall be taxed with respect to a particular event more than once, provided that the person collecting and remitting taxes can produce to the collector documentary evidence to show a good faith effort to recover taxes paid to the incorrect taxing authority. Such documentary evidence shall consist of the following:

(a) A formal request for refund by certified mail which includes all evidence supporting such claim to the taxing authority paid in error.

(b) A second request for refund by certified mail if no response was received within sixty days of the first refund request.

(c) Either the response approving or denying the first or second refund request, whichever may be applicable, or an affidavit from the person stating that no response was received within sixty days of the second refund request.

(2)(a) The collector shall not impose penalties or interest on taxes erroneously paid to another taxing authority unless the erroneous payment was the result of intentional conduct of gross negligence on the part of the persons collecting and remitting taxes. In instances where a legitimate disagreement exists as to which taxing authority is owed, the involved taxing authorities shall resolve the dispute among themselves through any legal means.

(b) For the purposes of this Section, a "similar taxing authority" means a political subdivision having and performing the same governmental functions as the political subdivision seeking to impose the sales or use tax.

BAD FAITH - Dishonesty or fraud in a transaction, such as entering into an agreement with no intention of ever living up to its terms, or knowingly misrepresenting the quality of something that is being bought or sold.

Intent to deceive. A person who intentionally tries to deceive or mislead another in order to gain some advantage.