Kansas Department of Revenue

Notice 09-07

KANSAS RETAILERS' SALES OR COMPENSATING USE TAX

Sales and Use Tax Refund Statute of Limitations Reduced to One Year

During the 2009 session, the Kansas legislature enacted Senate Substitute for House Bill 2365 (HB 2365). The bill became law on May 28, 2009. Section 9 of this bill shortens the statute of limitations period for filing sales and use tax refund claims from three years to one year from the due date of the return. The one-year refund period applies to all sales and use tax refund claims that are filed after June 15, 2009. Refund claims filed on or before June 15, 2009 are subject to the three-year statute of limitations. Refund claims filed after June 15, 2009 are subject to the one-year statute of limitations. Refund claims filed after expiration of the statute of limitations are time-barred.

This Notice explains how the Department of Revenue is implementing Section 9 of 2009 HB 2365 and addresses issues that may be encountered by registered retailers and consumers.

Claims for sales and use tax refunds and credits that are submitted to the department.

A claim for a sales or use tax refund or credit that is filed with the department and postmarked on or before June 15, 2009 is subject to the three-year statute of limitations that was in effect when the claim was filed. All claims that are filed and postmarked after June 15, 2009 are subject to the one-year statute of limitations enacted in 2009 HB 2365.

The statute of limitations starts to run on the statutory due date of the return for the reporting period that contained the tax underpayment or overpayment. Sales tax returns for monthly filers are due on the 25th day of the month following the month that the return pertains to. This means that if a taxpayer is a monthly filer and files a refund claim that is postmarked on or before September 25, 2010, the refund claim will be considered timely for any overpayments that were reported on the taxpayer's August 2009 return (due on September 25, 2009) or later returns. K.S.A. 2008 Supp. 79-3607 prescribes rules that determine whether a taxpayer is required to file monthly, quarterly, or annual tax returns.

A taxpayer may not file an amended sales or use tax return after June 15, 2009 that reduces the amount of tax that was reported for any reporting period that is outside the one-year statute of limitation. For any such return, any refund or credit claim is time-barred.

Sales and use tax refunds and credits that are discovered or claimed during a field audit.

See Revenue Ruling 19-2009-02, which provides in part:

The statute of limitations on sales and use tax assessments remains at three years from the date the return is filed for the tax period in question and is unaffected by this legislation.

Questions have been asked concerning the manner in which the Department of Revenue will allow sales and use tax refunds and credits identified during the course of a field audit. Consistent with the discussions that took place during the legislative process leading up to the enactment of the bill, effective as of June 16, 2009, the Department of Revenue will allow overpayments of sales and use tax made during the audit period to offset any tax assessment, not to exceed the amount of such assessment. To receive a refund, the taxpayer under audit must file a refund claim pursuant to K.S.A. 2008 Supp. 79-3693 within the one-year statute of limitations applicable under Section 9 of Senate Substitute for House Bill 2365.

Refund claims submitted to retailers by consumers.
A claim for a sales or use tax refund or credit that is filed by the consumer with the retailer and postmarked on or before June 15, 2009 is subject to the three-year statute of limitations. Refund claims that are filed and postmarked after June 15, 2009 are subject to the one-year statute of limitations enacted in 2009 HB 2365, and claims seeking refunds on transactions reported on returns due prior to the one-year limitations period are therefore time-barred.

A refund claim that a customer submits to a retailer that is barred by the one-year statute of limitations will not generate a credit for the retailer or consumer. For a refund claim that a customer submits to a retailer within the one-year statute of limitations, a credit will be allowed to the retailer if the tax is correctly refunded or credited by the retailer to the customer.

Claims for bad debt deductions made pursuant to K.S.A. 2008 Supp. 79-3674 and claims for returned goods.

A claim for a bad-debt deduction that is filed after June 15, 2009 will be subject to the one-year statute of limitations, measured from the due date of the sales tax return for the reporting period in which the bad debt could have first been written off for federal income tax purposes. *K.S.A. 2008 Supp. 79-3674(e).*

The statute of limitations for returned goods is measured from the due date of the tax return for the reporting period in which the goods are returned to the retailer. A claim made to the department for goods that are returned to a retailer after June 15, 2009 shall be subject to the one-year statute of limitation.

Taxpayer Assistance

Additional copies of this notice, other forms or publications are available from our web site, **www.ksrevenue.org**. If you have questions about this notice, please contact:

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