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NOTICE 22-04

COVID-19 RETAIL STOREFRONT PROPERTY TAX RELIEF ACT

(OCTOBER 3, 2022: *UPDATED* APRIL 15, 2023)

During the 2022 Legislative Session House Bill 2136 was passed and signed into law. New Sections 1-13 of the Bill create the COVID-19 Retail Storefront Property Tax Relief Act. The purpose of the act is to provide assistance to certain claimants impacted by COVID-19 related shutdowns and restrictions during tax years 2020 and 2021, based on a portion of property taxes accrued on retail storefront property.

Eligibility

Generally Eligible

To submit a claim, certain eligibility requirements must be met. To be eligible, the business must operate in a "retail storefront." A "retail storefront" is defined as real property where the claimant conducts retail sales through customers' physical, on-site presence. It can be part of a multi-purpose or multi-retail storefront building. In addition, the business must have been operationally shut down or restricted at their retail storefront by a COVID-19 related order or action imposed by the state, a local unit of government, or a local health officer.

Claimants must be for-profit businesses in operation as of July 1, 2019, March 1, 2020, and must be currently in active operations. Claimants must have filed a 2019 tax return with annual revenues of at least $10,000 in tax year 2019, and must have less gross revenue in tax year 2020 or 2021 than in tax year 2019. Businesses are not permitted to be claimants if they received more than a total of $150,000 in prior COVID-19 related local, state, or federal funding, or any combination thereof.

Not Eligible

Certain businesses are **not** eligible to file a claim. The bill excludes businesses that are:

- grocery stores and pharmacies
- hardware stores or home improvement businesses
- retail liquor stores
- manufacturers and food processors
- schools such as pre-kindergarten, kindergarten through grade 12, post-secondary, higher education, technical education and training

- hospitals and health care providers including, but not limited to, physicians, surgeons, psychologists and psychoanalysts, but not including personal services providers such as massage therapists and chiropractors
- property management and real estate services, including owners and operators of short-term rental properties.
- professional services, including, but not limited to, accounting, insurance, legal, financial services and firms, information technology, engineering, and architecture
- agriculture and aquaculture producers, including farms, ranches, and fisheries, but not including their retail storefronts used to conduct retail sales to customers
- hosts or operators of vacation or short-term rental units
- passive businesses, investment companies, and investors who file a schedule E on their federal income tax returns
- financial businesses primarily engaged in the business of lending, such as banks, finance companies and factoring companies
- cable companies, telephone companies, utilities, and other similar businesses
- energy production, generation, and distribution companies.

If there are delinquent property taxes for a tax year commencing prior to January 1, 2020, on a retail storefront owned by the claimant, the claimant is not eligible for assistance for such retail storefront.

Amount of Assistance

The assistance is equal to 33.0 percent of the sum of the COVID-19 ordered shutdown days gross rebate amount and the COVID-19 ordered restricted operations days gross rebate amount.

The COVID-19 ordered shutdown days gross rebate amount is the amount of property taxes accrued or 15.0 percent of gross rent actually paid in cash or its equivalent for the tax year, divided by 3 for businesses shut down for 91 or more days, divided by 4 for businesses shut down for 61 to 90 days, divided by 6 for businesses shut down for 31 to 60 days, and divided by 12 for businesses shut down for 1 to 30 days.

The COVID-19 ordered restricted operations days gross rebate amount is the amount of property taxes accrued or 15.0 percent of gross rent actually paid in cash or its equivalent for the tax year, divided by 2 for businesses restricted for 211 or more days, divided by 2.289 for businesses restricted for 181 to 210 days, divided by 2.667 for businesses restricted for 151 to 180 days, divided by 3.2 for businesses restricted for 121 to 150 days, divided by 4 for businesses restricted for 91 to 120 days, divided by 5.333 for businesses restricted for 61 to 90 days, divided by 8 for businesses restricted for 31 to 60 days, and divided by 16 for businesses restricted for 1 to 30 days.

Only one claimant per retail storefront is permitted to receive assistance per tax year. Assistance is limited to $5,000 per tax year per retail storefront. All assistance payments will be in the form of paper checks. No assistance will be granted for less than $5. Assistance will be paid out of the American Rescue Plan-State Fiscal Relief-Federal Fund.

Claiming Assistance

Assistance through the COVID-19 Retail Storefront Property Tax Relief Act may be claimed by filing and submitting an application provided by the Department of Revenue. The application must be filed with the Department on or before April 15, 2023. However, the Director of Taxation may extend the time for filing an application or may accept an application filed after the filing deadline when good cause exists if the application is filed within four years of the deadline.

An on-line application may be submitted through the Department of Revenue's website at: www.ksverenue.gov. The Department will begin accepting applications October 3, 2022.

Updated Information

As noted above, the deadline to submit applications under the COVID-19 Retail Storefront Property Tax Relief Act is April 15, 2023. However, the Director of Taxation may extend the time for filing an application or may accept an application filed after the filing deadline when good cause exists if the application is filed within four years of the deadline. An application filed after April 15, 2023, must be submitted using the paper form found at https://www.ksrevenue.gov/pdf/Cov-19RetPTRelief.pdf. *Late applications will be processed only if good cause exists for the late filing of the application.*

Because this program is being funded with American Rescue Plan Act funds (federal funds), each applicant must be qualified and receive a unique entity identifier (UEI) from the federal government. The UEI is a unique 12-character identifier (a combination of letters and numbers) assigned to all entities and is used as the primary means of entity identification for Federal awards and for those doing business with the federal government. The UEI is issued at no cost through the federal System for Award Management website (SAM.gov).

Each applicant submitting an application through the COVID-19 Retail Storefront Property Tax Relief program, must first obtain a UEI from the SAM.gov website. Applicants will need to "Register Your Entity or Get a Unique Entity ID" (if not done so already) by selecting the green box marked "Get Started." The data files required to get a UEI on the SAM.gov website include your legal business name and physical address. The system may also ask for your entity's start year and state or country of incorporation or establishment. If your entity is not found on SAM.gov, you will be required to provide documents to prove your entity information.

Payment of Assistance

Assistance will be paid directly to a claimant. However, the amount of any assistance otherwise payable may first be applied against any liability to the Department of Revenue outstanding against the claimant in the year to which the assistance relates. In addition, if there are any delinquent property taxes for tax year 2020 or 2021 on a retail storefront owned by the claimant, the assistance shall be paid to the county treasurer of the county in which such retail storefront is located and applied to the delinquent property taxes.

Disallowance or Reduction of Assistance

If it is determined an application is or was excessive and was filed with fraudulent intent, the application will be disallowed in full and, if assistance has been paid, the amount of the assistance will be recovered by assessment as an income tax. Preparing or filing a fraudulent application is a class B misdemeanor, and any assistance paid for a fraudulent application bears interest at a rate of 1% per month until the assistance is repaid or recovered (in addition to penalty and interest normally imposed on income tax assessments).

If it is determined assistance granted is or was excessive due to negligence, 10% of the corrected assistance shall be disallowed and any overpayment will be recovered by assessment as an income tax.

Appeals

Any applicant whose application is adjusted or denied has the right to request an informal conference and may appeal any position taken by the Department at the conclusion of that conference to the State Board of Tax Appeals.

TAXPAYER ASSISTANCE

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

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