**Section 150.1401 Claims for Credit – Limitations – Procedure**

a) When Purchasers May File Claims

*If it shall appear that an amount of tax or penalty or interest has been paid in error under* the Act *to the Department by a purchaser, as distinguished from the retailer, whether such amount be paid through a mistake of fact or an error of law, such purchaser may file a claim for credit or refund with the Department in accordance with Sections 6, 6a, 6b, 6c, and 6d of the Retailers' Occupation Tax Act.* [35 ILCS 105/19]

b) When Retailers May File Claims – Unjust Enrichment Prohibited

1) *If it shall appear that an amount of tax or penalty or interest has been paid in error to the Department under* the Act *by a retailer who is required or authorized to collect and remit the use tax, whether such amount be paid through a mistake of fact or error of law, such retailer may file a claim for credit or refund with the Department in accordance with Sections 6, 6a, 6b, 6c, and 6d of the Retailers' Occupation Tax Act, provided that no credit or refund shall be allowed for any amount paid by any such retailer unless it shall appear that* the retailer *bore the burden of such amount and did not shift the burden* of the amount *to anyone else (as in the case of a duplicated tax payment which the retailer made to the Department and did not collect from anyone else), or unless it shall appear that* the retailer *or* the retailer's *legal representative has unconditionally repaid such amount to* the retailer's *vendee:*

A) *who bore the burden and has not shifted such burden directly or indirectly in any manner whatsoever*;

B) *who, if* the retailer *has shifted such burden, has repaid unconditionally such amount to* the retailer's *vendee*; *and*

C) *who is not entitled to receive any reimbursement from any other source than from* the retailer's *vendor, nor to be relieved of such burden in any other manner whatsoever.* [35 ILCS 105/19]

2) *If it shall appear that an amount of tax has been paid in error under* the Act *by the purchaser to a retailer, who retained such tax as reimbursement for* the retailer's *tax liability on the same sale under the Retailers' Occupation Tax Act, and who remitted the amount involved to the Department under the Retailers' Occupation Tax Act, whether such amount be paid through a mistake of fact or an error of law, the procedure for recovering such tax shall be that prescribed in Section 6, 6a, 6b, 6c, and 6d of the Retailers' Occupation Tax Act.* [35 ILCS 105/19]

3) The retailer will be considered to have satisfied the unconditional repayment requirement where it provides its purchaser with an instrument upon which the purchaser can make a demand upon the retailer/claimant for payment of the tax recovered if the claim is allowed. The retailer's provision of unconditional promissory notes or irrevocable credit memoranda to its purchasers who paid tax in error would satisfy this requirement. The purpose of requiring the retailer to make an unconditional repayment to its purchasers is to prevent unjust enrichment on the part of the retailer. Therefore, in order to establish that it was not unjustly enriched, the retailer filing a claim for credit must be able to demonstrate that it gave unconditional promissory notes or irrevocable credit memoranda to its purchasers who paid tax in error to the retailer.

c) Time Limit on the Filing of Claims

*As to any claim for credit or refund filed with the Department on and after January 1 but on or before June 30 of any given year, no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or interest under* the Act) *more than 3 years prior to such January 1 shall be credited or refunded, and as to any such claim filed on and after July 1 but on or before December 31 of any given year, no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or interest under* the Act) *more than 3 years prior to such July 1 shall be credited or refunded.* [35 ILCS 105/21] *Except that if both the Department and the taxpayer have agreed to an extension of time to issue a notice of tax liability as provided in Section 4 of* the Retailers' Occupation Tax Act, *such claim may be filed at any time prior to the expiration of the period agreed upon.* [35 ILCS 120/6] *No claim shall be allowed for any amount paid to the Department, whether paid voluntarily or involuntarily, if paid in total or partial liquidation of an assessment which had become final before the claim for credit or refund to recover the amount so paid is filed with the Department, or if paid in total or partial liquidation of a judgment or order of court.* [35 ILCS 105/21] (See also 86 Ill. Adm. Code 130.1501(a)(4)(A)-(E) for examples).

d) Beginning June 25, 2021, *for any period included in a claim for credit or refund for which the statute of limitations for issuing a notice of tax liability under* the Act *will expire less than 6 months after the date a taxpayer files the claim for credit or refund, the statute of limitations* for issuing a notice of tax liability *is automatically extended for 6 months from the date it would have otherwise expired.* [35 ILCS 105/21]

e) Procedure for Filing of Claims

1) Claims for credit shall be prepared and filed upon forms provided by the Department and available at https://tax.illinois.gov/. *The claim shall be signed by the claimant (or by the claimant's legal representative if the claimant shall have died or become a person under legal disability), or by a duly authorized agent of the claimant or* the claimant's *legal representative.* [35 ILCS 105/19] Where the claimant is a corporation, the claim filed on behalf of the corporation shall be signed by the president, vice-president, secretary, or treasurer or by the properly accredited agent of the corporation.

2) *A claim for credit or refund shall be considered to have been filed with the Department on the date upon which it is received by the Department.*

3) *Upon receipt of any claim for credit or refund filed under* the Act*, any officer or employee of the Department, authorized in writing by the Director of Revenue to acknowledge receipt of the claims on behalf of the Department, shall execute on behalf of the Department, and shall deliver or mail to the claimant or* the claimant's *duly authorized agent, a written receipt, acknowledging that the claim has been filed with the Department, describing the claim in sufficient detail to identify it and stating the date upon which the claim was received by the Department.*

4) *Such written receipt shall be prima facie evidence that the Department received the claim described in such receipt and shall be prima facie evidence of the date when such claim was received by the Department.*

5) *In the absence of a written receipt, the records of the Department as to when the claim was received by the Department, or as to whether or not the claim was received at all by the Department, shall be deemed to be prima facie correct upon these questions in the event of any dispute between the claimant (or* the claimant's *legal representative) and the Department concerning these questions.* [35 ILCS 105/19]

f) Procedure After Filing of Claims

1) *As soon as practicable after a claim for credit or refund is filed, the Department shall examine* each claim *and determine the amount of credit or refund to which the claimant or the claimant's legal representative, in the event that the claimant shall have died or become a person under legal disability, is entitled and shall, by its Notice of Tentative Determination of Claim, notify the claimant or* the claimant's *representative of such determination, which shall be prima facie correct.* [35 ILCS 105/20]

2) *If such claimant, or the legal representative of a deceased claimant or a claimant who is under legal disability shall, within 60 days after the Department's Notice of Tentative Determination of Claim, file a protest and request a hearing, the Department shall give notice to such claimant, or the legal representative of a deceased claimant, or a claimant who is under legal disability of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of* the Act. *On or after July 1, 2013, protests concerning matters that are subject to the jurisdiction of the Illinois Independent Tax Tribunal shall be filed with the Tax Tribunal in accordance with the Illinois Independent Tax Tribunal Act of 2012, and hearings concerning those matters shall be held before the Tribunal in accordance with that Act. The Department shall issue its Final Determination of the amount, if any, found to be due as a result of a hearing before the Department or the Tribunal, to such claimant, or the legal representative of a deceased claimant or a claimant who is a person under legal disability.*

3) *If a protest to the Department's Notice of Tentative Determination of Claim is not filed within 60 days and a request for hearing is not made as provided in* subsection (f)(2), *the Notice shall become and operate as a Final Determination.* [35 ILCS 105/20]

g) Use of Credit Memoranda to Satisfy Prior Rights of Department

1) If, following the above procedure, a credit is found to be due, a credit memorandum for the amount shall be issued in the name of the claimant. If there is an established unpaid assessment or an admitted unpaid liability under the Use Tax Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act, or the Service Use Tax Act, or under a local Retailers' Occupation Tax or Service Occupation Tax administered by the Department against the claimant, or unpaid penalty, or unpaid interest, the amount of the credit shall be credited against the tax or penalty or interest due. If the credit is in an amount less than that of the unpaid liability, it shall be applied to the extent it reduces such liability.

2) If the amount of the credit exceeds that of the unpaid liability, after crediting an amount sufficient to liquidate or cancel out the unpaid liability, a new credit memorandum shall be issued for an amount representing the difference between that of the original credit found to be due and that of the liability liquidated or paid, and the new credit memorandum shall be delivered to the person entitled to receive delivery thereof, provided that no proceeding is pending against the claimant to establish an unpaid liability under the Act or under the Retailers' Occupation Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, or under a local retailers' occupation tax or service occupation tax administered by the Department.

3) *If proceedings are pending to determine whether or not any tax or penalty or interest is due under* the Act *or under the Retailers' Occupation Tax Act, the Service Occupation Tax Act, the Service Use Tax Act,* or *any local occupation or use tax administered by the Department, from such person, the Department may withhold issuance of the credit or refund pending the final disposition of such proceedings and may apply such credit or refund against any amount found to be due to the Department as a result of such proceedings. The balance, if any, of the credit or refund shall be issued to the person entitled thereto.* [35 ILCS 105/22]

4) If a taxpayer is notified that due to overpayments, a verified credit balance is available, the taxpayer may file a claim for credit.

(Source: Amended at 48 Ill. Reg. 6836, effective April 24, 2024)