

Chapter 07 Sales and Use Tax - Returns, Amended Returns, Credits and Refunds

100 General

101 Miss. Code Ann. Sections 27-65-33 and 27-67-17 require taxpayers to file a return on the twentieth day of each month with the amount of tax due by such taxpayer for the preceding calendar month. The Commissioner of Revenue may permit filing periods of a different duration.

102 All returns must be sworn to by the taxpayer to be a true, correct and complete return as required by Miss. Code Ann. Section 27-65-33(3).

103 If the taxpayer fails to timely file a return, the Commissioner shall issue an assessment estimating the amount of tax due as required under Miss. Code Ann. Section 27-65-35.

104 (Reserved)

200 Requesting an Examination of a Return or Returns

201 If a taxpayer determines that the amount of tax due on a previously filed return is incorrect, the taxpayer may request an examination of such by filing an amended return.

202 Amended returns must be sworn to by the taxpayer to be a true, correct and complete return as required by Miss. Code Ann. Section 27-65-33(3). Single adjustment or transaction requests will not be granted. The taxpayer must attest to the accuracy of the entire tax amount for the period.

203 Miss. Code Ann. Section 27-65-42 provides thirty-six (36) months for the Commissioner to determine and assess the amount of taxes due on any return which has been filed. Any amended return which is filed is also subject to audit and assessment in the same manner.

204 Amended returns resulting in an increase in the taxpayer's liability will result in the loss of the discount previously allowed under Miss. Code Ann. Section 27-65-33. The additional amount due will be subject to applicable penalty and interest.

205 (Reserved)

300 Authorized Tax Credits or Refunds

301 Tax Credits or Refunds will only be granted to the taxpayer having paid the tax to the State of Mississippi.

- 302 Tax collected by a vendor cannot be refunded by the Department directly to the customer of the vendor. Retail customers believing they were charged the incorrect tax should contact the vendor to pursue any available refund.
- 303 If the overpayment can be used within a twelve (12) month period, the Department will allow a credit to be used against the account for future periods as authorized in Miss. Code Ann. Section 27-65-53. Refund claims for an overpayment that cannot be used within a twelve (12) month period will be granted. The determination as to whether the credit can be used within a twelve (12) month period will be based on the amount of tax paid on the account within the twelve (12) months preceding the date the amended return reflecting the claim for overpayment received.
- 304 If the taxpayer wants a refund in lieu of a credit on the account, the taxpayer should send a written request that states, in detail, the basis for the refund request after filing amended returns.
- 305 The Department, at its discretion, may still issue a refund as requested in the taxpayer's claim under extenuating circumstances when the credit of the overpayment can be used within a twelve (12) month period. The determination to not issue a refund on an account where a credit can be used within a twelve (12) month period is not subject to appeal under Miss. Code Ann. Section 27-77-5 so long as the credit was issued in the amount requested.
- 306 (Reserved)

Chapter 07 Sales and Use Tax - Returns, Amended Returns~~Corrections~~, Credits and Refunds ~~and Credits~~

100 DefinitionsGeneral

101 “Department” means the Department of Revenue of the State of Mississippi. Miss. Code Ann. Sections 27-65-33 and 27-67-17 require taxpayers to file a return on the twentieth day of each month with the amount of tax due by such taxpayer for the preceding calendar month. The Commissioner of Revenue may permit filing periods of a different duration.

102 All returns must be sworn to by the taxpayer to be a true, correct and complete return as required by Miss. Code Ann. Section 27-65-33(3).

103 If the taxpayer fails to timely file a return, the Commissioner shall issue an assessment estimating the amount of tax due as required under Miss. Code Ann. Section 27-65-35.

104 (Reserved)

200 Requesting an Examination of a Return or Returns

201 If a taxpayer determines that the amount of tax due on a previously filed return is incorrect, the taxpayer may request an examination of such by filing an amended return.

~~202 — When a taxpayer accepts merchandise being returned, that taxpayer should deduct the sales price being refunded to the customer from that month’s gross sales instead of filing an amended return for the month in which the original sale took place. In addition to the sales price being refunded, sales tax must also be refunded to the customer on the sales price.~~

2023 Amended returns must be sworn to by the taxpayer to be a true, correct and complete return as required by Miss. Code Ann. Section 27-65-33(3). Single adjustment or transaction requests will not be granted. The taxpayer must attest to ~~T~~the accuracy of the entire tax amount ~~o~~for the period. ~~must be attested to.~~

~~204 — An amended return must be filed using the same methodology used to file the original return, whether that be electronically filed or filed through a paper form.~~

2035 Miss. Code Ann. Section 27-65-42 provides thirty-six (36) months for the Commissioner to determine and assess the amount of taxes due on any return which has been filed. Any amended return which is filed is also subject to audit and assessment in the same manner.

~~2046~~ Amended returns resulting in an increase in the taxpayer's liability will result in the loss of ~~the any 2%~~ discount previously allowed under Miss. Code Ann. Section 27-65-33. The additional amount due will be subject to applicable penalty and interest.

~~2057~~ (Reserved)

~~102~~ "Commissioner" means the Commissioner of Revenue of the Department of Revenue.

~~103~~ "Taxpayer" means any person liable for or having paid any tax to the Department of Revenue State of Mississippi under the provisions of Miss. Code Ann. Section 27-65-1 et seq. and Section 27-67-1 et seq.

~~104~~ An "original return" refers to the first return filed by taxpayer for a given period, which shall be due or payable on or before the twentieth day of the month next succeeding the month in which the tax accrues.

~~105~~ An "estimate return" refers to an estimate of the taxpayer's liability for a given period issued to a taxpayer by the Department when no return has been filed by the taxpayer. Taxpayers are encouraged to file an original return in response to the estimate posting to their account.

~~1065~~ An "amended return" refers to a return filed by the taxpayer to replace the original return. An amended return may be filed to correct an error made in the original return that was discovered subsequent to the original filing date. Errors may include, but are not limited to, valid credit or refund issued to customers, reporting sales or purchases taxing at the incorrect rate, reporting incorrect figures, duplicating previous month's figures, etc.

~~1076~~ (Reserved)

~~200~~ Returns

~~201~~ A taxpayer is required to obtain a sales tax permit pursuant to Section 27-65-27 before engaging in business in this state. Miss. Code Ann. Section 27-65-33 states, "The taxpayer shall make a return showing the gross proceeds of sales or the gross income of the business, and any and all allowable deductions, or exempt sales, and compute the tax due for the period covered." All returns shall be sworn by the taxpayer, Section 27-65-33(3).

~~202~~ Pursuant to Miss. Code Ann. 27-67-5, "There is hereby levied, assessed and shall be collected from each person a tax for the privilege of using, storing or consuming, within this state, any tangible personal property or specified digital product possession of which is acquired in any manner." The taxpayer shall make a return

~~showing the purchases made and the associated tax liability due under each tax requirement including exempt purchases for the period covered.~~

~~203—The amount of taxes due on any return which has been filed by the taxpayer may be reviewed by the Ddepartment and the Ccommissioner shall make a final determination of the tax liability due. In the event of an amended return, the eCommission will consider the liability finally determined at which time the taxpayer provides valid documentation to determine the tax liability due. If the taxpayer is unable to provide documentation, the Commissioner will determine the liability due with the best information made available, including the denial of an amended return.~~

~~204—The amount of taxes due on any return which has been filed with the dDepartment may be adjusted by the taxpayer within thirty six (36) months from the date the return was filed by submitting an amended return to the dDepartment for review and final determination of the tax liability due. An amended return must include valid documentation to support a change in tax liability. Without valid supporting documentation the return is incomplete and cannot be accepted or processed. Amended returns submitted online or by paper will be reviewed to determine necessary documentation needed. If requested documentation is not provided, a credit lock will be placed on the credit for the period amended so that the credit cannot be used against subsequent liability. Short paying subsequent liability thought to be covered by an unapproved credit balance will create a balance for that period subject to penalty.~~

~~205—Most sales, use and other tax returns are filed electronically with the dDepartment. The taxpayer has the ability to create a Taxpayer Access Point (TAP) account via the internet @www.dor.ms.gov to communicate and file returns directly with the Department's of Revenue's tax system. The taxpayer has the ability to view tax accounts, pay tax liabilities, file and amend tax returns and send various correspondence to the DepartmentOR by electronic delivery to and from this account.~~

~~206—An amended return must be filed using the same methodology used to file the original return. To submit an amended return electronically the taxpayer must sign onto the TAP account, select the account requiring correction and submit an amended return for the tax period affected by the change.~~

~~207—An amended return resulting in an increase in the taxpayer's liability will result in the loss of any 2% discount posted for a return that was previously considered to be filed timely . Applicable penalty and interest will also post to the period after such an amended return is filed.~~

~~208—(Reserved)~~

300—Statute of Limitations

~~301~~ The statute of limitations for amending review or change of a tax return will begin on the date the original return is received by the dDepartment. The ability to amend a return will expire thirty six (36) months from the date the original return was filed.

~~302~~ If an amended return is filed within the statute of limitation time frame, the dDepartment will accept the return as a complete and finally determined liability if valid supporting documentations substantiates the amendment change. A thirty six (36) month statute for the correction of an amended return will begin at which time to the dDepartment approves the amend return. The amended return may be reviewed for correction by the taxpayer or dDepartment within thirty six months from the date of approval.

~~303~~ The statute of limitations allows the review of a return within thirty six (36) months from the date the return was filed, with limitations as addressed in Miss. Code Ann. Section ~~27-65-42~~ et seq. Once an engagement letter is issued and the statute period is arrested, the correct tax liability shall be made by the eCommissioner within one (1) year after the expiration of the thirty six month examination period; however, this limitation shall not apply under certain conditions as addressed in Section ~~27-65-42~~(2)(a)(b)(c) and (d).

~~304~~ (Reserved)

~~3400~~ Authorized ~~When~~ Tax Credits or Refunds ~~are~~ Authorized

~~3401~~ Most credits or refunds are the result of incorrect tax calculated ~~accrued~~ and paid in the form of a sales tax or the incorrect tax accrued ~~assessed~~ and paid in the form of use tax by a direct pay permit holder. The credit or possible refund is the result of an amended return filed to correct the overpayment and adjustment has been approved by the eCommissioner.

~~42021~~ Taxpayers are required to remit all taxes collected to the Department ~~State~~ of Mississippi under Miss. Code Ann. Section 27-65-31. If a taxpayer collected the incorrect rate of tax on a sale and previously remitted such tax, the taxpayer must refund the tax to the customer before a claim for a credit or refund from the Department can be made.

~~42032~~ Miss. Code Ann. Section 27-65-5 authorizes a credit for taxpayers holding a valid sales tax permit if sales tax was paid on a wholesale sale ~~to~~ purchase from a customer ~~wholesaler~~ and the sale ~~purchase~~ is made for resale or under another exempt category in the normal course of the taxpayer's customer's business. Credit is allowed during the period that the tax was reported on the subsequent sale of that specific item of merchandise. This happens when the taxpayer's customer provides their valid sales tax exemption after the fact (Sales Tax Permit, Direct Pay Permit, Material Purchase Certificate or exemption letter).

~~42043~~ In the case of merchandise being returned, the taxpayer may deduct the sales price being refunded to the customer from that month's gross sales. In addition to the sales price being refunded, sales tax must also be refunded to the customer on that sales price.

Tax Credits or Refunds will only be granted to the taxpayer having paid the tax to the State of Mississippi.

~~302~~ The Department cannot refund tax paid by a retail customer directly to the retail customer collected by the vendor since the vendor is considered the taxpayer. Tax collected by a vendor cannot be refunded by the Department directly to the customer of the vendor. Retail customers believing they were charged the incorrect tax should contact the vendor to pursue any available refund.

~~42054~~ (Reserved)

~~5300~~ Process for Obtaining Refund or Credit

~~303301~~ In order to make a claim for a refund or credit, the taxpayer must submit amended returns for the periods in which the tax was reported and paid. Amended returns should be submitted by the same filing period and in the same manner (i.e. online/paper returns) in which the regular tax returns are currently filed.

~~302~~ An amended return submitted to the Department replaces the original return that had been filed and must represent the complete and true tax liability of the taxpayer. By submitting the return, the taxpayer declares, under oath and penalty of perjury, that the amended return filed has been examined by the taxpayer and acknowledges and that the information present on the returns is true and correct.

~~303~~ Adequate records must be maintained to substantiate amended returns. This includes invoices, documentation of exempt sales, proof of refund of previously collected taxes, etc. This information may be required prior to any credit or refund being allowed.

~~53014~~ If the taxpayer wants a refund in lieu of a credit on the account, the taxpayer should send a written request that states, in detail, the basis for the refund request after filing amended returns. A Power of Attorney will be required for any person or business representing the taxpayer in the written claim for refund.

~~303453025~~ If the overpayment can be used within a twelve (12) month period, the Department will allow a credit to be used against the account for future periods as authorized in Miss. Code Ann. Section 27-65-53. Refund claims for an overpayment that cannot be used within a twelve (12) month period will be granted. The determination as to whether the credit can be used within a twelve (12) month period will be based on the amount of tax paid on the account within the twelve

(12) months preceding the date the amended return reflecting the claim for overpayment received.

304 If the taxpayer wants a refund in lieu of a credit on the account, the taxpayer should send a written request that states, in detail, the basis for the refund request after filing amended returns.

30553036 The Department ~~of Revenue~~, at its discretion, may still issue a refund as requested in the taxpayer's claim under extenuating circumstances when the credit of the overpayment can be used within a twelve (12) month period. The determination to not issue a refund on an account where a credit can be used within a twelve (12) month period is not subject to appeal under Miss. Code Ann. Section 27-77-5 so long as the credit was issued in the amount requested.

~~353047 The Department cannot refund tax paid by a retail customer directly to the retail customer collected by the vendor since the vendor is considered the taxpayer. Retail customers believing they were charged the incorrect tax should contact the vendor to pursue any available refund.~~

530658 (Reserved)

~~400—Any amended return to make a claim for overpayment of sales tax must be filed with the Department within the thirty-six (36) month statute of limitations set forth in Miss. Code Ann. Section 27-65-42(1). An amended return may be examined by the Department with thirty-six (36) months from the submission of the amended return.~~

~~401—(Reserved)~~