

**RULE**

**Department of Revenue  
Policy Services Division**

**Sales Returned to Dealer; Credit or Refund of Tax  
(LAC 61:I.4369)**

Under the authority of R.S. 47:315, R.S. 47:337.2, R.S. 47:337.34, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4369 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Rule.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered  
by the Secretary of Revenue**

**Chapter 43. Sales and Use Tax**

**§4369. Sales Returned to Dealer; Credit or Refund of Tax**

A. R.S. 47:315(A) and 47:337.34(A) provide special rules for the handling of taxes which have been charged to the account of a purchaser, consumer, or user in cases where the property sold has been returned to the dealer or where a refund is made of the charges for services upon which a tax was based. In either case, if the tax has been collected or charged to the account of the purchaser or consumer or user and has not yet been remitted to the collector, and a refund or credit is made to the purchaser or consumer, the dealer may delete the sale and the tax due in submitting his return for the current tax period. If the merchandise is returned to

the dealer or if a refund is made to the customer for any charges for services after the tax collected or charged to the customer's account has been remitted to the collector, the dealer may file an amended sales tax return for the period in which the tax so refunded was originally remitted. The blank return form must be obtained from the appropriate taxing authority to ensure that it bears the correct taxpayer identification and account information and the proper marking of an "amended" return. The dealer must complete the amended return by reporting sales and deductions after making the proper adjustments to reflect the rescinded sale or sales. The credit balance which will result from the computation of total tax, penalty, and interest will be refunded to the dealer in the same manner as a credit return which is timely filed in accordance with §4351.

B. R.S. 47:315(B) and R.S. 47:337.34(B) provide a dealer with a method for claiming refunds for the recovery of taxes which have been remitted to the collector, but are later written off as uncollectible accounts from credit customers. Dealers submitting refund claims should be aware of the following restrictions specifically provided in or authorized by R.S. 47:315(B) and 47:337.34(B).

1. The state sales or use tax is refundable on debts incurred after January 1, 1976, that ultimately become worthless. The tax will not be refunded on worthless debts incurred prior to January 1, 1976. The local sales or use tax is refundable on debts incurred after September 3, 1989, which ultimately become worthless. The tax will not be refunded on worthless debts incurred prior to September 3, 1989.

2. Before the collector can issue a sales tax refund on a bad debt, the debt must actually have been deducted on a federal income tax return in accordance with Section 166 of the United States Internal Revenue Code. Since the issuance of refunds is tied to charge-offs on the annual federal return, the collector will process one refund per year for each dealer.

3. ...

4. The local credit or refund shall be granted whenever the Louisiana Department of Revenue has found the dealer to be entitled to reimbursement in accordance with R.S. 47:337.34(B)(1).

5. - 6. ...

7. Dealers may recover sales tax remitted on bad debts solely through the issuance of refunds by the collector. Dealers must continue to file sales tax returns reporting their total sales of merchandise during each taxable period, regardless of whether

customer obligations have been collected. Deductions for bad debt losses may not be taken on sales tax returns.

C. Refund claims submitted to the collector must be accompanied by schedules detailing the names of debtors whose obligations were charged off, the uncollectible amounts, the amount of debt written off which was incurred prior to January 1, 1976, for state sales or use tax purposes or September 3, 1989, for local sales or use tax purposes, nontaxable portion of debt written off, and tax claimed.

1. - 2. ...

3. All refund claims filed with the collector are subject to office or field examination and verification, so dealers must maintain auditable records to support their claims. The records must be able to substantiate that the sales tax was charged and remitted to the collector on the original sales and that the dealers made reasonable efforts to collect the debt amounts. Dealers must have good evidence that debts charged off are worthless and will remain so in the future. The debt must actually be charged off as worthless on a federal income tax return before a refund of state sales or use tax will be processed by the Department of Revenue. The credit or refund for local sales or use tax shall be granted whenever the Louisiana Department of Revenue has found the dealer to be entitled to reimbursement in accordance with R.S. 47:337.34(B)(1). In the absence of the required records, a dealer will not be entitled to refund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:315, R.S. 47:337.2, R.S. 47:337.34, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:97 (January 2005).

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