



Interim Audit Guidelines are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. These guidelines explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts and are intended to communicate timely guidance of tax issues important to the public and agency staff where no published guidance exists. They are advisory for taxpayers; however, the Department is bound by these guidelines until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the interim audit guideline.

This interpretive statement has been cancelled effective June 30, 2005. The information has been incorporated in an Excise Tax Advisory.

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Interim Audit Guideline 02.01

Refunds of retail sales tax collected in error

The purpose of this interim audit guideline is to instruct Department personnel on the proper procedures for making refunds or credits to retail sellers of retail sales tax collected in error.

Washington Administrative Code 458-20-229 provides that a seller who has collected retail sales tax from its customer in excess of that properly due may obtain a refund or credit from the Department. In order to establish entitlement to a refund or credit for retail sales tax collected in error, the seller must provide evidence that a refund or credit has been issued to the customer in the amount of the excess tax collected. Acceptable evidence of refund or credit includes a cancelled check made payable to the customer or a credit memo issued to the customer with a corresponding entry on the seller's books reflecting a credit due to the customer. Other types of evidence should be evaluated by the auditor on a case-by-case basis.

In *GTE v. Department of Revenue*, 49 Wn. App. 532, 535 (1987), the Washington Court of Appeals held that a seller holds any refund of over collected sales tax as a trustee on behalf of its customer. Therefore, refunds or credits of retail sales tax due under the circumstances described above will be paid by the Department to the seller in trust for the benefit of the customer. Because the seller stands in a trustee relationship to its customer, the Department will not issue a refund or credit of overpaid sales tax to a seller in excess of the amount the seller actually refunds or credits to the customer.

Auditors should not offset retail sales tax collected in error against a seller's sales tax liability without first determining whether the seller has refunded or credited the overpaid sales tax to its customers. When auditing a seller who has refunded sales tax collected in error, credits for over collected tax should be reflected on the audit schedules in the period during which the refund or credit was actually made to the customer. If an auditor discovers sales tax collected in error that has not been refunded to a customer, the auditor should inform the seller that a refund will be

paid upon presentation of satisfactory evidence that the tax and applicable interest have been refunded to the customer. The auditor should contact the audit standards and procedures unit to assist the seller in computing the amount of interest to be refunded to the customer.