

Kansas Administrative Regulations

Kansas Department of Revenue

Article 19.—Kansas Retailers' Sales Tax

92-19-49b. Goods returned when a sale is rescinded.

(a)(1) When a retailer and consumer rescind a taxable sale of goods that the retailer reported on an earlier return, the retailer shall be entitled to deduct the original selling price of the returned goods from its current report of gross receipts, except as provided in paragraph (a)(2). A retail sale of goods shall be considered to be rescinded once the retailer accepts possession of the returned goods and the consumer accepts the repayment of all or part of the selling price and sales tax that was originally paid to buy the goods. This repayment to the consumer may be made by credit or refund.

(2) If a retailer reduces the amount credited or refunded to the consumer for the returned goods as compensation for depreciation, consumer usage, or any other reduction in the value of the goods, the amount of the reduction shall be considered a charge by the retailer for the consumer's use of the goods and shall be subject to sales tax as if it were a rental charge being billed to the consumer. Both the deduction from gross receipts taken by the retailer on its current return and the selling price credited or refunded to the consumer shall be reduced by the amount taken as compensation for the reduced value of the goods. The amount of tax that is required to be credited or refunded to the consumer shall be reduced in a proportional amount.

(3) A retailer shall not be required to report its taxable receipts from a retail sale that is rescinded if the original sale, the acceptance of the returned goods by the retailer, and the full repayment to the consumer are all completed during one reporting period. If only partial repayment of the selling price and sales tax is made to the consumer, the retailer shall report the amount used as the reduced value of the goods as part of its gross receipts for that reporting period.

(4) If a retailer does not reduce the amount refunded to a consumer under paragraph (a)(2) or (a)(3) for a reduction in the value of the goods and charges a restocking or reshelving fee to the consumer after goods are returned, this fee shall not be taxable. A

restocking or reshelving fee shall be defined as a fee charged by a retailer to cover the time and expense incurred returning goods to resale inventory if the consumer has not used the goods in a way that reduces their value.

(b) Each retailer shall maintain records that clearly establish and support its deduction claim when a sale is rescinded.

(c) Any retailer may take a deduction or credit for a refund claim on its sales tax return only if the deduction or credit has been authorized in writing by the department or is allowed under this regulation, K.A.R. 92-19-3b, K.A.R. 92-19-3c, or another department regulation. All other refund claims shall be made by submitting a written refund application to the department, in accordance with K.A.R. 92-19-49c.

(d) Repossessed goods shall be treated as specified in K.A.R. 92-19-3c.

(e) Despite any other provision of this regulation, any motor vehicle manufacturer, manufacturer's agent, or authorized dealer may apply to the department for a refund or take a deduction during the reporting period if a consumer returns a motor vehicle in accordance with K.S.A. 50-645, and amendments thereto, and is refunded the total amount that the consumer paid for the vehicle, including sales tax, less a reasonable allowance for the consumer's use of the vehicle, which shall include the sales tax associated with that use. The manufacturer, agent, or dealer shall maintain records that clearly reflect the acceptance of the returned vehicle under K.S.A. 50-645 and amendments thereto, the amount of the refund, and the amount of taxes refunded.

(Authorized by K.S.A. 2009 Supp. 75-5155 and K.S.A. 2009 Supp. 79-3618; implementing K.S.A. 2009 Supp. 79-3607 as amended by L. 2010, ch. 123, sec. 11, and K.S.A. 2009 Supp. 79-3609 as amended by L. 2010, ch. 123, sec. 12; effective May 27, 2005; amended April 1, 2011.)

***** Authenticated Kansas Administrative Regulation *****