

12 CSR 10-102.110 Protest Payments, Protest Overpayments, and Protest Payment Returns

PURPOSE: This rule interprets the sales tax law as it applies to protest payments, protest overpayments, and protest payment returns.

PUBLISHER'S NOTE: The secretary of state has determined that publication of the entire text of the material that is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) If the taxpayer in good faith believes that they are not subject to the sales tax under the Missouri sales tax act, they, upon payment of the required amount of tax, and denoting the payment as a protest payment when made, may file a protest payment affidavit, in which they specifically shall set out why they are protesting payment of the tax and give supporting information. The protest claim shall be made by filing a Form 163, Sales Tax Protest Payment Affidavit, under oath and submitted within thirty (30) days after the protest payment. Failure to denote the payment as made under protest, or to make a protest claim within the time required, and under the conditions specified will void the protest claim.

(2) If a protest payment is not made by the required due date, interest and additions to tax should be included in the payment to properly perfect the protest.

(3) Overpayments resulting from clerical, mathematical, or similar errors should be recovered by following the refund procedures outlined in section 144.695, RSMo. If any taxpayer, in good faith, and for just cause, feels the imposition of Missouri use tax has been improperly charged against them, they, when making their payment, may denote the payment as a protest payment, and execute a protest payment using a Sales or Use Tax Protest affidavit, Form 163B, specifically stating the grounds upon which the protest is being made. The claim must be made under oath within thirty (30) days after payment. If this procedure is not followed, all payments will be accepted by the director as proper payments.

(4) A taxpayer filing a protest payment return must submit a notarized protest payment affidavit with the return, reflecting the specific amount of tax being paid under protest. Separate checks need not be submitted for the state and local sales taxes being protested.

(5) Form 163, Sales Tax Protest Payment Affidavit, and Form 163B, Sales or Use Tax Protest Affidavit, revised March 2020, are incorporated by reference and are published by and can be obtained from the Missouri Department of Revenue at www.dor.mo.gov or at the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO 65101. These forms do not include any amendments, or additions since the revision dates noted.

AUTHORITY: sections 144.270 and 144.705, RSMo 2016.* S.T. regulation 240-3 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. This rule was previously filed as 12 CSR 10-3.552. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981.

Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Moved to 12 CSR 10-102.110 and amended: Filed Aug. 7, 2023, effective March 30, 2024.

*Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961, 2008, and 144.705, RSMo 1959.