

REG-1-027, Repossessions

027.01 The sales tax previously remitted by a retailer arising from the sale of property, which is subsequently repossessed, may be allowed as a credit against the retailer's current sales tax liability, but only to the extent of the portion of the purchase price remaining unpaid at the time of repossession. In determining the unpaid amount, all payments and credits to the account must be prorated to the purchase price, tax, finance, carrying, service, and interest charges which were not taxable under Reg-1-026, Finance, Carrying, Service, and Interest Charges. No credit is allowable for expenses incurred by the retailer in attempting to collect the account or repossessing the property.

027.02 Credit for the amount of taxes paid on such unpaid portion of the purchase price of the repossessed property shall be taken on a return filed within a reasonable time after the property has been repossessed. If the retailer remitted the tax on a cash accounting basis or collected the full tax from the purchaser at the time of purchase, a credit is not allowed when the property is repossessed. A credit is allowed only if the sale of the property which has been repossessed was taxable.

027.02A No credit may be taken for the unpaid portion of the purchase price of any motor vehicle or licensable trailer since the tax is collected by the county treasurer, or other designated county official, or Department of Motor Vehicles.

027.02B No credit may be taken by any person other than the retailer who sold the item and remitted the tax. The retailer cannot take a credit when a third-party repossesses the property.

027.03 If the unpaid portion of the purchase price, or any part thereof, is subsequently collected by any means other than by sale of the repossessed property, then a tax, at the rate in effect at the time the receipts are realized under the accounting basis used by the retailer shall be paid on the amount so collected.

027.04 The transaction whereby the property is repossessed is not a sale in itself and there is no tax due on a repossession. When the repossessed property is used other than for demonstration or display to potential purchasers, the reposessor owes a use tax on the property. The amount of the unpaid debt shall be the taxable amount. However, when property which has been repossessed either by the original retailer, a finance company or other financial institution is resold, the gross receipts from such sales are taxable. The property is not normally an occasional sale since the seller has not paid tax nor productively used the property for one year.

(Section 77-2708(2)(1)(ii), R.S.Supp., 1993. May 14, 1994.)