

Instructions

This form, if not properly completed and adequately supported, is not a valid claim for refund (claim) and will be returned.

Who May File. The claim can be filed by a qualified taxpayer who has received a qualification letter to establish benefits under the following acts:

- [Nebraska Advantage Act \(LB 312\)](#);
- [Employment and Investment Growth Act \(LB 775\)](#); and
- [Nebraska Advantage Rural Development Act \(LB 608\)](#).

All claims for refund of sales and use taxes under any of the tax incentive acts listed above must be filed using this form. A separate form must be filed for each type of claim (direct, credit, and aircraft) and each type of tax incentive act. This claim can also be filed by the owner of a building leased to a qualified company under either LB 312 or LB 775 for sales tax paid on the construction and improvements to the building.

A claim can also be filed by a company that has established tax credits under the [Nebraska Advantage Research and Development Act \(LB 312 R & D\)](#).

When to File. The claim must be filed within the statute of limitations period for a sales and use tax refund (generally three years from the 20th day of the month following the close of the period for which the payment was due). If the payment was the result of a deficiency determination issued by the Nebraska Department of Revenue (Department), the claim must be filed within six months after the determination becomes final, or within six months after the date of payment with respect to the determination. For LB 312 and LB 775 attainment period direct refund claims, the claim must be filed within three calendar years after the end of the year the required levels of employment and investment are first met. The latest expiration date of these periods will be the last acceptable filing date.

Refund claims may be filed no more than once each quarter under LB 312 or LB 775, except that a claim for a refund in excess of \$25,000 may be filed at any time.

Where to File. A claim for refund must be filed with the Nebraska Department of Revenue, PO Box 98944, Lincoln, NE 68509-8944.

What is a Valid Claim for Refund? A valid claim must have all of these items –

1. All applicable lines on the form must be completed.
2. The claim must be signed by an authorized person. If authorized by a [Power of Attorney, Form 33](#), a copy must be included.
3. The claim must have adequate documentation for the Department to determine the validity of the claim. The following are the minimum requirements for adequate documentation –
 - a. Enclose one detailed listing of the sales and use taxes paid for each refund claim. The list should be in **alphabetical** order by vendor. Submit the information on a compact disk or email the Excel file to the following email address: rev.incentives@nebraska.gov. The list must include the following information and format:

Asset Number	Placed in Service Date	Vendor Name	Item Description	Invoice No.	Invoice Date	Taxable Amount	NE Sales Tax	Local Sales Tax	Name of Municipality or County	NE Use Tax	Local Use Tax	Month Use Tax Remitted	Total Tax	Invoice Included ✓
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- b. Attach a copy of every invoice for LB 312 R & D claims where the total tax claimed is \$50 or more. If the claim is being filed for LB 775, LB 312, or LB 608, attach a copy of the qualification letter. Attach legible copies of all invoices claiming sales and use taxes at or above the dollar threshold set by the Department. Arrange the invoice copies in the **same order** that the invoices appear on the list. The invoices need to clearly show the total purchase price and the amount of Nebraska and local sales tax paid. The Department may contact you to request legible copies of invoices on the list that were not sent with the claim or any other documentation needed.
- c. If you are claiming a refund of use tax paid, submit a copy or an Excel file, if available, of the [Nebraska and Local Sales and Use Tax Return, Form 10](#), or [Nebraska and Local Business Use Tax Return, Form 2](#), the supporting list of the purchases on which use tax was paid, and invoices at or above the dollar threshold set by the Department.

- d. If the claim is for a refund of sales or use tax paid on an aircraft pursuant to LB 312 or LB 775, attach an affidavit signed by an authorized individual stating whether that aircraft has ever been used to transport elected public officials or used for fundraising, and an explanation of how the aircraft is used in connection with the project.

4. A claim that does not meet the above requirements will not be accepted as a valid claim and will be returned.

Types of Claims for LB 312 and LB 775

- **Direct Refund.** A direct refund is a refund to the applicant of Nebraska and local sales and use taxes paid on the purchase or lease of qualified property for use at the project. For Tier 1 projects, only 50% of the sales and use taxes paid are eligible for refund. A direct refund claim can also be filed by the owner of a building leased to a qualified company under either LB 312 or LB 775 for sales tax paid on the construction and improvements to the building.
- **Credit Refund.** A credit refund is a refund to the applicant of Nebraska and local sales and use taxes paid on otherwise non-refundable purchases made after the year the required levels of investment and employment were met, through the end of the carryover period. The credits used must have been earned in a prior year.
 - **LB 312 Tiers 1, 2, 3, and 4.** Purchases eligible for the credit refund must have been used at the project. A Tier 1 applicant may claim the other 50% of sales and use taxes paid on qualified property placed in service after the year of qualification as a credit refund.
 - **LB 312 Tiers 2 Large Data Center and 6.** The purchases eligible for a credit refund must have been used in Nebraska. The applicant must file separate credit refund claims for Nebraska and local sales and use taxes paid at the project and Nebraska and local sales and use taxes paid at non-project locations.
 - **LB 775.** Purchases eligible for the credit refund must have been used at the project.
- **Aircraft Refund.** An aircraft refund is a refund to the applicant of Nebraska and local sales and use taxes paid on the purchase or lease of an aircraft for use in connection with the project, which is placed in service during the attainment or entitlement period.

Processing Procedure. The Department must approve or deny a claim within 180 days of the filing unless:

- The taxpayer and the Department have agreed in writing to extend the 180-day period, or
- The taxpayer requests a hearing prior to denial of the claim.

The Department must send the taxpayer notice of the denied portion of a claim within 30 days after the denial.

Appeal Procedure. After notification from the Department, the decision may be appealed to the Lancaster County District Court. All appeals must be filed within 30 days of the postmark of the Department's notice. Upon expiration of this 30-day period, if not appealed, the determination of the Department becomes final.

Payment Method. The Department strongly encourages all tax incentive refunds to be deposited by ACH payment. If an [ACH Enrollment Form](#) is not on file, please complete one and forward to the Department. You may also have the refund credited to your sales and use tax account. If the claim is credited to your sales and use tax account, please do not use the credit until it appears on your account or sales and use tax return.

Payment of an LB 312 local sales tax refund exceeding \$25,000 for any one local government will be **delayed** based on the refund provisions of the Nebraska Advantage Act:

- If the refund claim was filed on or before June 15, the approved local sales and use tax amount will be refunded after November 15 of the **same** calendar year.
- If the refund claim is submitted after June 15, the approved local sales and use tax amount will be refunded after November 15 of the **following** calendar year.

Email. If you allow the Department to contact you by email, you accept any risk of loss of confidentiality associated with this method of communication.

Authorized Signature. The claim submitted to the Department must have an **original signature** and must be signed by the owner, partner, member, corporate officer, or other individual authorized to sign by a [power of attorney](#) on file with the Department or attached to this claim. Any person who is paid for preparing a taxpayer's claim must also sign the claim as preparer.

For Additional Information. If you have any questions or need further assistance, send an email to rev.incentives@nebraska.gov, or visit revenue.nebraska.gov.