

Sales Tax and COVID-19 Retail Storefront Property Tax Relief Act; HB 2136

HB 2136 enacts the COVID-19 Retail Storefront Property Tax Relief Act, authorizes Atchison County to submit a question to voters regarding a local sales tax, delays the implementation of a sales tax exclusion for delivery charges, and amends law related to sales tax remittances.

COVID-19 Retail Storefront Property Tax Relief Act

The bill enacts the COVID-19 Retail Storefront Property Tax Relief Act (Act) to provide for claims for refunds to be paid for tax years 2020 and 2021 for certain claimants that were operationally shut down or restricted at their retail storefront by a COVID-19-related order or action imposed by the State, a local unit of government, or a local health officer.

Refund Amounts

The refund is to be equal to 33.0 percent of the sum of the COVID-19 ordered shutdown days gross rebate amount and the COVID-19 ordered restricted operations days gross rebate amount, as those terms are defined by the bill. Refunds are limited to \$5,000 per tax year per retail storefront.

The COVID-19 ordered shutdown days gross rebate amount is the amount of property taxes accrued or 15.0 percent of gross rent actually paid in cash for the tax year, divided by 3 for businesses shut down for 91 or more days, divided by 4 for businesses shut down for 61 to 90 days, divided by 6 for businesses shut down for 31 to 60 days, and divided by 12 for businesses shut down for 1 to 30 days.

The COVID-19 ordered restricted operations days gross rebate amount is the amount of property taxes accrued or 15.0 percent of gross rent actually paid in cash for the tax year, divided by an amount ranging from 2 to 16, depending on the number of ordered restricted operation days.

Eligible Claimants

Claimants are required to be for-profit businesses in operation as of July 1, 2019, and March 1, 2020, and filing a 2019 tax return with annual revenues of at least \$10,000 in 2019, with less gross revenue in 2020 or 2021 than in 2019. Businesses are not permitted to be claimants if they received more than a total of \$150,000 in prior COVID-19-related local, state, or federal funding, or any combination thereof.

The bill excludes as claimants grocery stores, pharmacies, hardware stores or home improvement businesses, retail liquor stores, manufacturers and food processors, schools from pre-kindergarten through postsecondary, hospitals and health care providers (not including dentists), property management and real estate services, professional services, agricultural and aquaculture producers, hosts or operators of vacation or short-term rental units, passive businesses, financial businesses primarily engaged in the business of lending, cable

companies, telephone companies, utilities, and energy production, generation, and distribution companies.

Only one claimant per retail storefront is permitted to receive a refund per tax year. “Retail storefront” is defined as real property where the claimant conducts retail sales through customers’ physical, on-site presence and can be part of a multi-purpose or multi-retail storefront building.

Additional Provisions

The Act requires claims to be filed with the Department of Revenue on or before April 15, 2023, in order to be paid or allowed. The Act directs the Director of Taxation to make available suitable forms for filing claims and authorizes the Secretary of Revenue to adopt rules and regulations necessary for the administration of the Act.

The Act requires claimants to provide reasonable proof of eligibility for a refund to the Director of Taxation, including information concerning taxes levied and rent paid. The Act permits the amount of any claim to be applied to outstanding tax liability owed by the claimant and requires a refund amount to be paid to a county treasurer to be applied to property taxes owed in the event a claimant has delinquent property taxes for tax year 2020 or 2021. Delinquent property taxes for any tax year prior to 2020 disallow a claimant from being eligible for a refund.

The Act provides for the disallowance of any claims filed with fraudulent intent or upon a finding that the claimant received title to the retail storefront for the purpose of applying for a refund. Filing a claim with fraudulent intent is a class B misdemeanor, and any claim paid upon a fraudulent filing bears interest at a rate of 1.0 percent per month until the claim is repaid or recovered.

The Act provides for refunds to be paid out of the American Rescue Plan-State Fiscal Relief-Federal Fund.

The provisions of the Act are subject to informal conference and appeals to the State Board of Tax Appeals.

Atchison County Sales Tax Authority

The bill authorizes Atchison County to submit to the voters a question to impose a sales tax of up to 1.0 percent for the purposes of funding joint law enforcement communications and solid waste disposal. The tax would not be subject to apportionment with cities within the county and would be required to expire in not more than 10 years.

Sales Tax Delivery Charges Exclusion Implementation Delay

The bill delays the implementation date of a sales tax exclusion for separately stated delivery charges from July 1, 2022, to July 1, 2023.

Sales Tax Remittances

The bill eliminates a provision requiring retailers with annual sales tax liability in excess of \$40,000 to remit estimated payment for the first 15 days of the current month when the tax return for the previous month is filed.