



# City of El Paso

**REFUND OF OVERPAYMENTS OR ERRONEOUS  
PAYMENTS AND DUPLICATE PAYMENTS**

*City Attorney's Office*



## **TEXAS TAX CODE**

- Section 31.11 Refunds of Overpayment or Erroneous Payments
- Section 31.111 Refunds of Duplicate Payments



## Section 31.11 – Key Provisions

- Notice- must mail a notice to taxpayer of the amount of the overpayment accompanied by a refunds application form. Applies to overpayment or erroneous payment of over \$5.00 (§ 31.11(g))
- Burden on Taxpayer to apply for a refund of a tax overpayment or erroneous payment (§31.11(a)).
- Application must be made within three years after the date of the payment or taxpayer waives the right to the refund (§31.11(c)). The taxing entity may retain the unclaimed funds once the three year reclamation period has lapsed. (Tex. Atty. Gen. Op. DM-258 (1983)).



- Authority to refund:
  1. Refund of \$2,500 or less- Tax Collector can refund after determining that a tax payment was erroneous or excessive and auditor agrees with the determination (31.11(a)).
  2. Refund of in excess of \$2,500- The governing body must also determine that a tax payment was erroneous or excessive (§31.11(a)(2)).
- Delinquent Taxes:

Taxing unit may apply the refund to the payment of delinquent taxes owed by the taxpayer on a different property of which he is the sole owner or different tax year (§31.11(b)).



## Section 31.111- Key Provisions

- A duplicate tax payment occurs when the Tax Collector determines that a person erred in making a payment of taxes because the identical taxes were paid by another person (§31.111(a)).
- To get a refund of the payment of duplicate payments the person does not have to apply to the tax collector. The Tax Collector **shall** refund the amount of the taxes to the person who erred in making the payment **as soon as practicable** after the Tax Collector discovers the erroneous payment (§31.111(a), (b)). (emphasis added)
- If the refund is not paid on or before the 60<sup>th</sup> day after the Tax Collector determines that the payment was erroneous, the amount to be refunded accrues interest at the rate of one (1) percent for each month or part of the month that the refund is unpaid (§31.12(a),(b)).



## Recommendations

1. Distinguish refunds for overpayments and erroneous payments from refunds of duplicate tax payments. Tax Collector has the burden to refund duplicate tax payments as soon as practicable. All refunds should be made no more than 60 days after the Tax Collector discovers a duplicate payment has been made.



## 2. Overpayment and Erroneous Payment:

### (a) Notices

The City is complying with the requirement of mailing one notice of refund. The decision to increase the number of notices is a policy decision.

### (b) Delinquent Taxes

Mail a notice to the taxpayer that a the refund amount will be applied to the payment of delinquent taxes owed by the taxpayer for a different property or tax year.



### 3. Duplicate Taxes:

(a) The person who erred in making the duplicate tax payment is the second person who paid the identical amount of taxes.

(b) The Tax Office should mail a letter informing both parties who paid the identical taxes that a tax refund is due to the person who erred in making the duplicate payment.

(c) Request a written response from the parties within 10 business days informing the Tax Office which party erred in making the duplicate payment. If a timely response is not received the tax refund will be paid to the second person who paid the identical taxes.