

**Proposed Text of  
California Code of Regulations, Title 18, Section 2462,  
Refunds of Excess Charges Collected**

(A new regulation to be added to the California Code of Regulations)

2462. Refunds of Excess Charges Collected.

(a) Excess Charges Collected. Except as otherwise provided in subdivision (c), when an amount represented by a seller to a prepaid consumer of prepaid MTS as constituting charges for the prepaid MTS surcharge or local charges is in excess of the prepaid MTS surcharge or local charges imposed, or is otherwise erroneously or illegally charged or computed under the representation that it was owed as part of the prepaid MTS surcharge or local charges when it is not owed as part of the prepaid MTS surcharge or local charges and is actually paid by the consumer to the seller, the amount so paid constitutes excess charges collected. The seller may refund the excess charges collected to the prepaid consumer who paid the amount to the seller even if the seller has not yet secured a credit or refund from the Board. Any excess charges collected and not refunded to the customer constitute a debt owed to the State, or jointly to the local jurisdiction imposing the local charges and to the State, for purposes of collection on behalf of, and payment to, the local jurisdiction.

(b) Claim for Refund. Except as otherwise provided in subdivision (c), every person required to pay the prepaid MTS surcharge or local charges, including the seller, may file a claim for refund with the Board for any amount that has been erroneously or illegally collected or computed and paid to the Board. In order to be timely, the claim for refund must be filed with the Board within the limitation periods specified in sections 55222, 55222.1, and 55222.2 of the Revenue and Taxation Code.

(c) Filing a Claim for Refund with the Local Jurisdiction or Local Agency. A prepaid consumer must file a claim for refund for the local charges with the local jurisdiction or local agency imposing the local charges, and not the Board, in the following circumstances:

(1) When a prepaid consumer chooses to rebut the presumed location of a retail transaction, as provided in subdivision (b) of section 42014 of the Revenue and Taxation Code, the prepaid consumer shall file a claim and declaration under penalty of perjury on a form established by the city or county clerk of the local jurisdiction or local agency indicating the actual location of the retail sale. The claim shall be processed in accordance with the provisions of the local enactment that allows the claim to be filed.

(2) A prepaid consumer that is exempt from the local charges under the local enactment may file a claim for a refund with the local jurisdiction or local agency in accordance with the refund provisions of the local enactment that allows the claim to be filed.

(3) In connection with any actions or claims relating to or arising from the invalidity of a local tax ordinance, in whole or in part.

(d) Relief from Liability. A seller is not liable for any additional prepaid MTS surcharges or local charges, and is not required to refund any amounts collected from the prepaid consumer

under the conditions set forth in subdivision (g)(1) and (g)(2) of Regulation 2460,  
*Administration.*

Note: Authority cited: Sections 42020 and 42103, Revenue and Taxation Code. Reference:  
Sections 42010 and 42105, Revenue and Taxation Code.