

REG-1-028, Bad Debts

028.01 A retailer may deduct from gross receipts on his or her tax return the amount found worthless for federal income tax purposes and actually deducted or if the reserve method is elected, charged against bad debt reserve; provided, the sales or use tax has been previously remitted to the state by the retailer. The deduction should be taken on the return for the period in which the amount was found worthless and charged off for income tax purposes.

028.02 This regulation does not apply to retailers who remit sales tax on the cash basis or who have elected to remit sales tax in accordance with paragraph 009.05 of Regulation 1-009, Accounting Methods.

028.03 No deduction is allowable for expenses incurred by the retailer in attempting to enforce the collection of any account receivable, or for that portion of a debt recovered that is retained by or paid to a third party as compensation for services rendered in collecting the account.

028.04 If the amount of an account found to be worthless and charged off for income tax purposes is comprised in part of nontaxable receipts, such as interest, carrying charges, finance charges, service charges and other charges exempt from sales or use tax and in part of taxable receipts upon which tax has been paid, a bad debt deduction may be claimed only with respect to the unpaid amount upon which tax has been remitted. In determining the unpaid amount, all payments and credits to the account must be prorated against the various elements comprising the amount the purchaser contracted to pay.

028.05 In support of claims for such credit, retailers must maintain complete and adequate records showing:

028.05A Date of original sale;

028.05B Name and address of purchaser;

028.05C Amount purchaser contracted to pay;

028.05D Amount on which retailer remitted tax;

028.05E All payments or other credits applied to account of purchaser; and

028.05F Evidence that the uncollectible portion of gross receipts on which tax was remitted actually has been legally charged off as a bad debt for income tax purposes.

028.06 If any accounts found worthless and charged off are thereafter in whole or in part collected, the amount so collected shall be included in the first return filed after such collection and the amount of the tax thereon remitted with the return. Any payments made on a debt previously charged off are applied first proportionally to the taxable price of the property or service and sales tax thereon, and secondly to the interest, service charges, and any other charges.

(Section 77-2708(2)(j), R.R.S. 2003. April 12, 2005.)