Colorado Department of Revenue

A Revenue Publication for Businesses, Tax Professionals, Local Governments and Individuals

December 2007

Tax Topics

Income Tax	Sales Tax	Withholding Tax	Severance Tax	Other Tax Information

NOTE: All links to department forms referenced in this document require you to have the free Adobe Acrobat Reader software

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Income Tax:

- Gross Conservation Regulation Undergoes Revision Due to Statutory Changes
- 2008 Income Tax Interest and Penalty Rates
- Understanding More About Refund Delays

Gross Conservation Easement regulation undergoes revision due to statutory changes

In 2007 the Colorado State legislature amended Colorado Revised Statute 39-22-522 (House Bill 1361) relating to the Gross Conservation Easement Credit. As a result, the Colorado Department of Revenue incorporated into its regulation 39-22-522 two new sections to correspond with the statute. These new

sections pertain to "Documentation" which indicates what documents are required to claim and utilize the credit and "Appraisals" which addresses what requirements a qualified appraisal must meet. The revised regulation was heard and adopted at a public hearing in October 2007.

Under the "Documentation" section of the regulation anyone who claims or utilizes the credit must attach a credit schedule to the return. A schedule must be attached to the tax return in every instance in which the credit is claimed or utilized.

Under the new "Appraisals" portion of the regulation a qualified appraisal for computing the credit must meet specific requirements for claiming a federal charitable deduction for the donation of the easement.

Other changes made to clarify the existing regulation include:

Additional credits may not be purchased by a taxpayer during any year in which the taxpayer generates a gross conservation easement credit for the donation of an easement.

Additional credits may not be purchased by a taxpayer during any year to which a prior easement credit, that a taxpayer generated, is being carried forward. This applies whether the credit is being carryforward by the taxpayer, or by a transferee who purchased the credit from that taxpayer.

For details regarding the above information see revised regulation 39-22-522 Gross Conservation Easement available on the Web at *www.taxcolorado.com* under the link "Publications/Resources, "Regulations".

There are also three new tax forms that pertain to specific individuals or agencies claiming the conservation easement credit:

- DR 1299 "Colorado Gross Conservation Easement Holders Submission of Information." Any charitable organization or government agency that accepts a conservation easement in Colorado must file Form DR 1299.
- DR 1303 "Colorado Gross Conservation Easement Donor Schedule." Donors of an easement credit must attach this form to the Colorado income tax return that initially claims the credit.
- DR 1304 "Colorado Gross Conservation Easement Public Information Schedule." The donor of an easement credit must submit this form separately from the actual state income tax return.
- DR 1305 "Colorado Gross Conservation Easement Credit Schedule." This schedule must be attached to any Colorado income tax return that claims or utilizes a gross conservation easement credit. This forms is not new but has been recently revised.

These forms are available online at *www.taxcolorado.com* under the Forms link. For additional information pertaining to these forms and the gross conservation easement credit see FYI Income 39 Gross Conservation Easement Credit.

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2008 Income Tax Interest and Penalty Rates

The **2008** income tax interest rate for the **2007** income tax filing is **11** percent.

If a taxpayer owes the Colorado Department of Revenue taxes, interest and penalty may apply when the taxpayer fails to pay timely.

The interest rate of **11** percent can be reduced to an **8** percent discounted rate. The **8** percent discounted rate applies when a payment is sent with the return or within 30 days of the first billing notice sent by the Department of Revenue.

Penalty is **5** percent for the first month and **0.5** percent for each month thereafter, up to a maximum of **12** percent of the balance due.

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Understanding More About Refund Delays

There are some taxpayers who experience a delay in receiving their refund, even if they have filed their return timely. One of the most common reasons is the return was filed incorrectly or supporting documentation was not included in the filing. As a result, the Department of Revenue uses a "review" program particularly in cases when subtractions and/or credits are claimed on the Colorado State income tax return. Created in 1999, this review program addresses specific common problems and errors in returns filed.

If an individual files a return claiming subtractions and credits but experiences a delay in receiving his/her refund, it may be because the return has been selected for review.

If a return has been selected for review, the taxpayer will receive a letter of explanation within 60 days of the original filing that their return is in the review process and as a result the refund will be delayed. The letter of explanation may also require additional documentation be sent to the department before the refund can be processed. The letter will include what documentation the taxpayer needs to send to complete the process review.

The Department of Revenue anticipates that it can review all of the returns within 60 days of receipt during the beginning of the filing season. It may take longer to review returns at the end of the filing season due to the increased volume of returns filed on or near the April 15 tax filing due date. Therefore, the later an individual files the return, the greater chance of a longer waiting period for the refund to be reviewed and processed.

If after 60 days (90 days if filing after April 1) from the original filing date the refund has not been received by the taxpayer or a letter of explanation has not been received, then that individual should contact the Department of Revenue's Call Center at (303) 238-7378 for more information.

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Sales Tax:

- Sales and Use Tax Returns Due In January
- 2008 Sales and Wage Withholding Interest Rates
- 2008 EFT Dates for Sales Tax Payment to Cities and Counties
- January 2008 Local Tax Changes

Sales and Use Tax Returns Due In January:

Reminder to businesses: All monthly, quarterly, seasonal and annual sales tax returns (DR 0100 Colorado Retail Sales Tax) are due January 22, 2008.

Those who made purchases in which sales tax was not paid on the item(s) should be aware that a 2.9% Consumer Use tax is due January 22, 2008. Consumer Use tax is filed on Form DR 0252 "Consumer Use Tax Return" located on the Web at *www.taxcolorado.com* under "Forms."

NOTE: Normally, the returns are due on January 20. However, the normal due date falls on a weekend, therefore, the official due date is **Tuesday, January 22nd**. January 22 is the due date this year since also a national holiday falls on Monday, January 21st, 2008.

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2008 Sales and Wage Withholding Interest Rates:

Effective January 1, 2008, the interest rate for late filing of sales tax returns will be **8** percent annually. The rate preprinted on the sales tax and related returns will be **.0134** percent per month or **16** percent annually.

This rate includes **8** percent interest, plus **8** percent penalty interest. The rate printed on wage withholding returns is **.0067** percent per month or **8** percent per year. If no payment or agreement to pay is made for either sales or wage withholding tax within 30 days from the actual return due date, the interest will increase to **11** percent.

State statutes provide that the interest rate for each year will be the prime rate, as reported by the Wall Street Journal, plus **3** percentage points rounded to the nearest full percent. The prime rate reported **July 1, 2007** was **8.25** percent.

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2008 EFT Dates for Sales Tax Payment to Cities and Counties:

The due dates for the Department of Revenue to pay sales tax collections through Electronic Funds Transfer (EFT) to local governments in 2008 are:

EFT Schedule City & County 2008	
Month	**Settlement Date**
January	11
February	12
March	12
April	10

May	12
June	11
July	11
August	12
September	11
October	10
November	13
December	10

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January 2008 Local Tax Changes:

State Collected	Tax Rate	Exempt*	Use Tax	Service Fee
City Tax:				
Cedaredge (increased sales/use tax from 1.5%)	2%	C	Y-Z (2%)	3 1/3%
Elizabeth (increased sales tax from 2.5% and use tax from 1.5%)	4%	None	Y-Z (3%)	3 1/3%
Hayden (removed use tax on vehicles and enacted use tax on building materials)	4%	None	Z (2%)	3 1/3%
County Tax:				

Chaffee County (new exemption for farm equipment)	2%	E	None	3%
Elbert County (new tax)	1%	A-B-C-D-E-G-H	Y-Z (1%)	3 1/3%
El Paso County (service fee eliminated)	1%	A-B-C	Y-Z (1%)	0.00%
Montrose County (new sales/use tax combined with Montrose County PSI sales tax for a total rate of 1.75%)	1%	None	Y-Z (1%)	3 1/3%
Montrose Public Safety (PSI) (new sales only tax combined with Montrose County sales tax for a total rate of 1.75%)	.75%	None	None	3 1/3%
Special District Tax:				
Boulder County LID (Niwot) (increased sales tax from .5%)	1%	I-J	None	0.00%
County Lodging Tax:				
Custer County (new tax)	2%			
Gunnison County (4% Gunnison County Lodging tax changes to 4% Gunnison County Local Marketing tax)	0%			
Local Marketing District				

Gunnison County (Gunnison County Lodging tax ends and Gunnison County Local Marketing tax begins)	4%		
Self-Collected	**Tax Rate**	**Service Fee**	**License Fee**
Aspen (new use tax on building materials of 2.1%.) Contact the city.	2.2%	3.3%[6]	W
Boulder (Reduced from 3.56% for general sales.) Contact the city.	3.41%	0.00%	$25.00
Boulder (Reduced from 3.71% for food for immediate consumption.) Contact the city.	3.56%	0.00%	$25.00
Commerce City (new city-administered lodging tax of 4%.) Contact the city.	3.5%	2%[6]	$20.00
Glendale (new city-administered lodging tax of 6.5%.) Contact the city.	3.75%	0.00%	W
Longmont (new city-administered lodging tax of 2%) Contact the city.	3.275%	3%[6]	$15.00
Vail (new use tax on building materials of 4%.) Contact the city.	4%	0.00%	$0.00
Other Fee Changes			
Environmental Response Surcharge (No Change)			

*A = Food for home consumption

*B = Machinery and machine tools (as defined on form DR 1191)
*C = Gas, electricity, etc., for residential use
*D = Occasional sales by charitable organizations
*E = Farm equipment
*F = Pesticides
*G = Food sold through vending machines
*H = Low-emitting vehicles
*I = Exempts telephone and telegraph service
*J = Exempts gas and electricity for electricity for residential and commercial use
*W = Contact the city directly
*Y = Motor vehicles
*Z = Building materials
6 = Cap at a certain amount

NOTE: Some of the changes may not have been available at the time of this publication. For any local tax changes effective January 1, 2008 not included in the above list, please reference the DRP 1002 Colorado Sales and Use Tax Rates with additional updates available online in January 2008 at *www.taxcolorado.com* under Forms.

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Withholding Tax:

- Withholding Online Offers Employers Easier Filing Avenue
- 2008 Sales and Wage Withholding Interest Rates (See "**Sales Tax**" category listed above)

Withholding Online offers employers easier filing avenue

The Department of Revenue continues to expand its systems to assist employers with their tax filings. In 2007 the department implemented its "Withholding Online" system. Also known as the "WHO" system, this program allows employers to submit their EFW2 files (formerly MMREF-1) online. Paper filers can choose to data enter the W2s on the WHO system.

In prior years, the wage and withholding information employers sent to the department were required to be on tapes, cartridges, CD-ROM, email or diskettes.

The WHO system permits employers to send their files through a secured web page, replacing the prior

submission methods.

To use the WHO system employers must first register to use the system by accessing *www.who.state.co.us* and clicking on "NEW USER." The registration can be completed in as little as five minutes, and employers can then begin using WHO.

Currently there are two methods payroll administrators and tax professionals can use to send their year-end withholding information:

1. Upload their EFW2 file (formerly MMREF-1). Instructions are found online at: *www.revenue.state.co.us/filecow2*
2. Enter the W2 data directly into the WHO system instead of sending paper documents. The system will allow filers to enter as many W2 documents as needed, therefore there is no limit to the number of data entered statements.

IMPORTANT: Effective January 1, 2008, the department will no longer accept 3480 cartridges or ½" magnetic tapes. However, the department will allow email, 3 ½" diskettes, and CD-ROM submissions until February 28, 2009. After that date, WHO must be used in place of any magnetic media.

Available in 2008 the WHO system will allow employers and tax professionals to transmit 1099 and W2G data.

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Severance Tax:

- Coal Tax Rate Increased
- Oil & Gas Withholding and Estimated Severance Tax Payments

Coal Tax Rate Increased

In October 2007 a public tax hearing was held regarding state regulation 39-29-106 "Rate of Tax on Coal." The adopted regulation reflects the rate adjustments on coal as required by Colorado statute.

The rate of tax on coal is determined as follows:

a) The basic rate shall be 36c per ton of coal.

b) The rate shall be adjusted each quarter based upon changes in the Producer's Price Index - All Commodities, (not seasonally adjusted) prepared by the U.S. Department of Labor, Bureau of Labor Statistics. Revisions to the Producer's Price Index shall not result in a further adjustment to the coal tax rate for a given quarter.

c) The adjustment shall be one percent of the basic rate for every full one and one-half percent change in the Producer's Price Index over the base period of January 1978. The tax rate for any quarter shall be the tax rate computed for the last month of the preceding quarter.

The coal tax rate will be updated monthly in 2008 at www.taxcolorado.com under the "Tax Information Index."

For the complete regulation and all department regulations visit the Web at *www.taxcolorado.com*, go the link "Publications/Resources, then "Regulations."

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Oil & Gas Withholding and Estimated Severance Tax Payments

In July 2007 the Colorado legislature changed the oil and gas withholding and corporate estimated severance tax payment and filing requirements.

The payments are now due on a monthly basis instead of quarterly. All payments **must** be submitted through Electronic Funds Transfer (EFT). The EFT transaction is considered the actual filing. Therefore, if someone is still filing a paper voucher for tax payments they should take the appropriate steps to begin the EFT filing process. **NOTE**: Until EFT authorization is complete, paper returns must be filed monthly. Use Form DR 0461 "Monthly Return of Oil and Gas Tax Withheld" to file tax withheld, penalty and interest until EFT authorization is complete. This form is located on the Web at *www.taxcolorado.com* However, continuing to file paper returns after EFT authorization is complete, or failing to apply for EFT authorization may result in penalty and/or interest charges.

Accounts not currently set up to send EFT payments must obtain an application for Electronic Funds Transfer, Form DR 5785 "Authorization for Electronic Funds Transfer (EFT) for Tax Payments" located on the Web at *www.revenue.state.co.us/TPS_Dir/wrap.asp?incl=eft* Additional detailed information pertaining to EFT filing is located on Form DR 5782 "Electronic Funds Transfer (EFT) Program for Tax Payments" also located on the Web.

For EFT filing assistance contact the EFT hotline at (303) 205-8333.

Oil and Gas Withholding Due Dates:
The aggregate amount withheld each month must be paid by the first day of the third month following the month the tax is withheld. This payment must be made before 4 p.m. MST in order for the payment to be credited timely to the account. For example:

Month Withheld	Due Date
January	April 1
February	May 1
March	June 1
April	July 1
May	August 1
June	September 1
July	October 1
August	November 1
September	December 1
October	January 1
November	February 1
December	March 1

When submitting the EFT payment, use the last day of the month as the EFT "Filing Period" in year, month, date format (e.g. 080131 for January 2008). The "Tax Type" code is 01180.

Corporation Estimated Severance Tax Payments:
The estimated tax payment for each month must be paid by the 15th day of that month. The estimated tax payment must be made before 4 p.m. MST for the payment to be credited timely to the account. For example, the January payment will be due January 15. When submitting the EFT payment, use the last

day of the **tax year** as the EFT "Filing Period" in year, month, date format (e.g. 081231 for all monthly payments for 2008). The "Tax Type" code is 08402.

Note: Form DR 206 "Computation of Penalty Due Based on Underpayment of Colorado Severance Estimated Tax" has been revised and is now available on the department's Web site at *www.taxcolorado.com*

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Other Tax Information:

- Colorado Online Tax Payment System Includes eCheck and Credit Cards
- Waste Tire Fee Increased

Colorado Online Tax Payment system includes eCheck and credit card

Individuals may use the new *Colorado Online Tax Payment* system allows taxpayers to pay their Colorado personal income tax, estimated income tax or past due income tax online by eCheck or credit card.

Colorado Online Tax Payment Fees:

In addition to the payment amount, each online transaction is subject to a processing fee that covers the cost associated with providing this service online.

For online transactions there is a portal administrative fee approximately equal to 2.25% of the total amount charged plus $0.75 per transaction. If an individual chooses to pay with cash via a debit to their checking account (eCheck) there is a discount of the portal administrative fee to a total of $1.

Individuals will have the opportunity to review all applicable fees prior to finalizing their transaction and will have the option to cancel their online transaction and submit payment using a traditional, offline method.

To use the Colorado Online Tax Payment system, go to the Web at *www.colorado.gov/taxpay*

EFT:
Taxpayers may continue to file and pay income taxes electronically through Electronic Funds Transfer (EFT). With one toll-free phone call or via the Internet filers can pay their income tax without writing a check or mailing a form. The EFT system also allows taxpayers to establish a payment schedule for the year so they won't forget to make their quarterly payment. The money is transferred to the Department of Revenue and credited to their account on the day they request. If someone currently uses ACH credit for payments, they may make estimated income tax payments that way as well.

The EFT telephone call or Internet session will requires that the following be entered:

- EFT authorization number,
- password,
- tax type code,
- filing period,
- dollar amount.

Complete the EFT Authorization Form, DR 5774 for individuals, DR 5778 for corporations, to obtain an EFT authorization number. These forms may be found online at *www.taxcolorado.com* under the "Forms" link.

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Waste Tire Fee Increased

Effective November 1, 2007 the waste tire fee was increased from $1.25 to $1.50 per tire. "Waste tire" means a tire that an owner turns over to a retailer when new tires are purchased.

For more information on waste tires and the applicability of the waste tire fee see FYI General 13 "Waste Tire Recycling Development Fee" located on the Web at *www.taxcolorado.com* under the FYIs link.

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