

Colorado Department of Revenue



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

**December 2005**

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***Income Tax:***

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## **What effect does Referendum C have on Colorado taxes?**

Referendum C is a statewide initiative that was passed by Colorado voters during the November 2005 election. The referendum allows the state to retain and spend any budget surplus that would otherwise be refunded under the Taxpayer's Bill of Rights (TABOR) for the years ending June 30, 2006 through 2010.

There are 18 refund mechanisms in place for refunding the budget surplus in any particular year that may or may not be available depending on the amount to be refunded. These range from tax credits and deductions to actual refunds of previously paid taxes and consist of thirteen income tax credits/subtractions, four sales tax reductions/refunds and a business property tax refund. (See below for the full list.) In addition to these methods for refunding the credit, there are two permanent income tax credits that can be affected by the surplus even though they do not result in an actual refund of surplus funds. For the tax years 2006 through 2010, only one refund mechanism will be available. The rest of the refund mechanisms as well as the enhancement of the two income tax credits will not be available from 2006 to 2010 because Referendum C eliminates the requirement that the budget surplus be refunded to Colorado taxpayers during those years.

The referendum affects tax years 2006 and later. The vote does not affect the \$15 per person state sales tax refund that will be available on the 2005 income tax return due to the \$45 million surplus for the year ending June 30, 2005. In addition, the gross conservation easement credit on the 2005 income tax return will be a refundable credit as a result of last year's surplus.

The one exception to the five-year hiatus for the TABOR refunds is the qualifying charitable contribution subtraction, which will be available in tax years 2006 through 2010. An exemption from the qualified surplus rule was activated when Referendum C passed.

### **Refund mechanisms**

- Agricultural value-added cash fund credit
- Agricultural value-added credit
- Child care/child tax credits – full expansion of credit
- Colorado Institute of Technology contribution credit
- Colorado source capital gain subtraction-pre 5/9/94 assets
- Colorado source capital gain subtraction-one year holding period
- Earned income credit
- Foster care credit
- Health benefit plan credit
- Health care professional credit
- High technology scholarship contribution credit
- Interest, dividend and capital gain subtraction
- Qualifying charitable contribution subtraction
- Business personal property tax refund
- Sales tax reduced rate on commercial trucks over 26,000 GVW

Sales/Use tax refund for pollution control equipment  
Sales/Use tax refund for research and development property  
State sales tax refund

### **Other credits affected by TABOR**

Child care/child tax credits –partial expansion of credit  
Gross conservation easement credit – refundability of credit



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### **How does a taxpayer determine whether the 2005 gross conservation easement credit is limited to the net tax liability or is a refundable credit?**

In tax year 2005, donors of a credit may be allowed to claim a refundable gross conservation easement credit in excess of their net tax liability. However, there are limitations that may prevent a taxpayer from taking advantage of the refundable credit in 2005.

**Step 1:** Determine the group of taxpayers who are eligible to claim a credit from the donation in question. The taxpayers may be individuals, entities, or a combination of the two. Specifically, the group of taxpayers may include:

- a. Resident individual, estate, trust or C corporation that donated the easement,
- b. All partners of a partnership, shareholders of an S corporation, or members of any other pass-through entity that donated the easement,
- c. Resident husband and wife whether filing joint or separate returns,
- d. All members of a joint tenancy, tenancy in common, or any other form of joint ownership of the property on which the easement was donated,
- e. All transferees of the credit.

*Example: Partnership A donates a conservation easement in 2005 that generates a \$200,000 credit. Partnership A sells \$50,000 of the credit on behalf of its partners to Taxpayer B, leaving \$150,000 to be distributed to its partners. The partnership passes \$50,000 in credits respectively to its three partners, C, D and E. C and D keep their credit, but E sells \$20,000 of his credit to Taxpayer F. The group that must coordinate the credit being claimed consists of taxpayers B, C, D, E and F.*

**Step 2:** Determine the options the taxpayer or group of taxpayers have in claiming the credit.

- a. All members of the group may claim any credit available to them up to the amount of the net tax liability\* reported on the Colorado income tax return, or

- b. Some or all members of the group who are allocated a credit (categories (a) through (d) in Step 1) may claim a credit in excess of the net tax liability, but transferees of the credit (category (e) in step 1) may not claim a credit in excess of the net tax liability.

*Example: The net tax liability of the members of the group are as follows: B \$60,000; C \$3,000; D \$90,000; E \$500; F \$20,000. If the members of the group decide to file using option (a), then the credit that can be claimed by each taxpayer is limited to: B \$50,000; C \$3,000; D 50,000; E \$500; F \$20,000.*

**Step 3:** If a refundable credit is claimed by one or more members of the group (see Step 2(b)), then determine the amount of credit that will be claimed by each member of the group.

1. If the conservation easement was donated in 2003 or later, the total combined credit claimed by all members of the group is limited to \$50,000.
2. If the conservation easement was donated in 2002 or earlier, the total combined credit claimed by all members of the group is limited to \$20,000.

*Example: The group of taxpayers must coordinate how much credit each utilizes against the 2005 tax because there is a \$50,000 limit. Taxpayers B and F may not claim a refundable credit because they are transferees of the credit. One of many possible scenarios would be: B \$10,000; C \$0; D \$10,000; E \$25,000; F \$5,000. The practical problem in this scenario is that taxpayers B and F purchased large credits in 2005 that they will not be able to fully utilize until 2006.*

**Step 4:** If a refundable credit is claimed by one or more members of the group and it is determined that the limitation in Step 3 is exceeded by the group as a whole.

1. Any refundable credit claimed by members of the group will be disallowed for 2005 and the excess credit will be carried forward to 2006.
2. If the aggregate credit utilized by the group after this adjustment is less than the limitation in step 3, then the members of the group may amend their returns to claim allowable refundable credits up to the limitation threshold. The amendment of the credits will require cooperation and communication between members of the group and can not be done by the Department of Revenue because of confidentiality restrictions.

*Example: The group does not coordinate the credits claimed and the following credits are utilized: B \$50,000; C \$50,000; D \$50,000; E \$30,000; F \$20,000. Because C and E claim a refundable credit the aggregate credit utilized by the group may not exceed \$50,000. The following credits would be adjusted for 2005 and would have to be carried forward to 2006: C \$47,000; E \$29,500.*

\*The 2005 net tax liability is the amount on line 22, [Form 104](#); line 12, Form 105; line 13, Form 106; and line 27, Form 112. The taxpayer may elect to defer or forgo claiming other credits in order to increase the net tax liability available to absorb the gross conservation easement credit.



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## Sales Tax TABOR Refund Available in 2005

Colorado income tax filers should be aware that as a result of state's budget surplus the sales tax refund is offered when filing their 2005 Colorado income tax return.

Single filers will receive a refund amount of \$15, while joint filers will receive \$30.

The sales tax refund is filed on line 24 of the [104 Individual Income Tax return](#). Note that the sales tax refund is separate from any state income tax refund a filer may receive for the 2005 income tax filing.

*Who qualifies for the sales tax refund:*

- Full-year Colorado residents, age 18 or older for all of calendar year 2005 and
- Full-year residents under 18, but only if reporting a tax liability or Colorado wage withholding.

*Individuals who **do not** qualify include:*

- Part-year residents, non-residents of Colorado and
- anyone incarcerated or in a half-way house for at least 180 days between July 1, 2004 and June 30, 2005.

*Deadlines for filing for the sales tax refund:*

- Individuals must file the 104 form for the state sales tax refund by the income tax due date of April 17, 2006 unless the filer has a tax liability or wage withholding in which case the individual must file for the sales tax refund by October 16, 2006.

**IMPORTANT: Do not** file a separate return just for the sales tax refund unless that is the only reason you are filing a return.

For more information regarding the state sales tax refund consult the 2005 104 Individual Income Guide, which includes instructions and the 104 filing form, located on the Web at [www.taxcolorado.com](http://www.taxcolorado.com)



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## 2006 Income Tax Interest and Penalty Rates

The 2006 income tax interest rate for the 2005 income tax filing is **9** 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 for 2006 income tax filing is **9** percent and a **6** percent discounted rate. The **6** 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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## Updated Income Tax FYI Publications Available for 2005 Filing Season

Many of the "[For Your Information](#)" (FYI) income tax publications have been revised and are now available online to provide you with updated tax information that may pertain to your 2005 income tax filing.

FYI publications address income, sales, withholding, and excise tax as well as general tax information. These publications are located on the Web at [www.taxcolorado.com](http://www.taxcolorado.com) under "[FYI Tax Publications](#)."

Also look for the newest income tax [FYI Income 62 "Aircraft Manufacturer New Employee Credit."](#)

For additional and latest income tax information you may also visit the "Tax Information Index" which includes a variety of tax topics including links to publications, forms, regulations, statutes, and general questions and answers. The "[Tax Information Index](#)" is located on the department's Web site at [www.taxcolorado.com](http://www.taxcolorado.com)



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## **Sales Tax:**

- [Colorado Sales Tax License Renewals](#)
- [Sales and Consumer Use Tax Returns Due in January](#)
- [Automatic Account Closures](#)
- [Sales Tax Filing Tutorial](#)
- [January 2006 Local Tax Changes](#)



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## **Colorado Sales Tax License Renewals**

If you have a state sales tax license, it will expire on Dec. 31, 2005. New licenses are valid from January 1, 2006 through December 31, 2007. The two-year license renewal fee is \$16.

The license renewal form (DR 0595) is in the sales tax coupon booklet.

**Monthly filers:** The form is just before the September coupon.

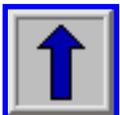
**Quarterly filers:** The form is just after the third quarter coupon.

If you do not have a coupon booklet, visit the Department's Web site at [www.taxcolorado.com](http://www.taxcolorado.com) to obtain the "Renewal Application for Sales Tax License ([DR 0594](#))" from the Sales and Use Tax Forms Web page. Include your Account Number (sales tax license number) on the form and the fee payment when you mail the renewal.

If your address has changed, call the Tax Information Call Center at (303) 238-SERV (7378) to correct your address this will allow your new license to be delivered to the correct address.

If you have more than one sales location, each location must have a license.

Renewal applications received in November and in December will be issued the month after the Department of Revenue receives them.



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## Sales and Consumer Use Tax Returns Due in January

*Reminder to businesses:* All monthly, quarterly, seasonal and annual sales tax returns are due January 20, 2006.

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 20, 2006. Consumer Use tax is filed on [Form DR 0252](#) "Consumer Use Tax Return" located on the Web at [www.taxcolorado.com](http://www.taxcolorado.com) under "Forms."



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## Automatic Account Closures

Taxpayers who have a Colorado sales tax account but have not filed a sales tax return since October 2004 should be aware that their license and account was closed effective October 31, 2005. Notices regarding the closures will **not** be sent by the department. The Colorado Department of Revenue automatically closes sales tax accounts each month for those who have failed to file and pay sales tax during the last 12 months.

Businesses that have a sales tax account that is closed should not use the license since it is no longer valid. However, the business may reopen the sales tax account under the same number if they file a return for each period owed. Even if no tax was due, a zero return for each filing period must be filed to reopen. If tax is due a check for each filing period must accompany the return, including penalty and interest.



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## Sales Tax Filing Tutorial

The Department of Revenue conducts sales tax classes statewide. A large component of the classes is how to complete the Colorado Retail Sales Tax Return (Form DR 0100.) If you have questions about completing the form but you can't attend a class, you can get help through the department's Colorado sales tax return [Online Tutorial](#).

This site provides line-by-line INSTRUCTION ONLY on how to complete the form. The tutorial features "pop-up" boxes with instructions for each line of the form when you point and click on a

specific part of the form. Where applicable, reference links to Colorado Revised Statutes or to Department of Revenue tax publications and customer services are provided.

**IMPORTANT:** This **IS NOT** an electronic filing Web page. Therefore **DO NOT** print and submit the online tutorial DR 0100 form when you are actually filing a Colorado sales tax return. Visit the [Sales and Use tax forms Web page](#) to obtain a copy of the Colorado Retail Sales Tax Return ([Form DR 0100](#)) which is suitable for processing. If you are a monthly or quarterly filer, please use the forms in your sales tax coupon booklet.

The [online tutorial](#) is located on the Web at [www.taxcolorado.com](http://www.taxcolorado.com)



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## January 2006 Local Tax Changes

For local tax changes effective January 1, 2006, please see [Tax Rate Changes Effective January 1, 2006](#) on the Colorado Taxes Web page. Also see the DRP 1002 Colorado Sales and Use Tax Rates with additional updates available online in January 2006 at [www.taxcolorado.com](http://www.taxcolorado.com) under "[Forms](#)."



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## ***Withholding Tax:***

- [2006 Wage Withholding Tables](#)
- [Wage Withholding Tax System Made Easy For Zero Filers](#)



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## 2006 Wage Withholding Tables

The Colorado Department of Revenue has updated the [DRP 1098](#) "Colorado Income Tax Withholding

Tables for Employers" for 2006. While the tax rate of 4.63 percent has not changed, the withholding tables have been updated to accommodate changes to the federal standard deduction and exemption amounts.

Employers should use the updated tables and may obtain a copy of the Wage Withholding tables on the Web at [www.taxcolorado.com](http://www.taxcolorado.com) under "Forms."



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## **Wage Withholding Tax System made easy for zero filers**

Withholding tax filers that do not have wage withholding to report for a specific filing period must still file a wage withholding tax return with the Colorado Department of Revenue indicating "zero" tax due. This process has now been simplified through the Department's "[Colorado Withholding Tax Zero File](#)" system.

The free 24-hour system is designed specifically for zero wage withholding tax filers, allowing them to file their Colorado Wage Withholding Tax Return ([Form DR 1094](#)) easily and safely. The zero filing system allows most employers to file online or by telephone.

### *Who can use this service?*

- Employers who had no state income tax withholding to report and no payment due.
- Employers who file monthly, quarterly or seasonally.
- Employers with a current Colorado wage withholding account or whose account was closed within the last three years.

### *Who cannot use this service?*

- Employers who are registered for Electronic Funds Transfer (EFT) and have a "frequent" or "weekly" filing status must file a zero return using EFT – they cannot use this "zero" filing system.
- Employers who do not have a Colorado withholding tax account number.

### *What information do employers need to use this service?*

- Valid or current Colorado wage withholding account number
- Filing period(s) being reported.

## *Other Information*

- This system cannot be used for annual reconciliation filing. See "[FYI Withholding 3 DR 1093 Income Withholding Transmittals or Annual Reconciliation](#)" for information on annual reconciliation filing at [www.taxcolorado.com](http://www.taxcolorado.com) under "[Withholding FYIs](#)."
- Zero filers will need either Netscape 4.0 (or higher) or Internet Explorer 3.02 (or higher) to use the online application.
- Account numbers must be 7 digits. If the account is closed or the proper number of digits was not entered the user will receive an error message indicating "No account with that number was found."
- Only one zero return should be filed for a single period, therefore, the employer should not file a paper return in addition to using the service for a specific filing period.
- If a mistake on the return was made and confirmation was received through the zero filing system, the employer must file a paper "amended" wage withholding tax return to correct the error. If a filer has not completed the filing or received a confirmation they can go back during the initial session and make corrections.
- Only original returns can be filed online -- amended returns cannot.
- The online system will **not** allow employers to print a copy of the return. Attach a copy of the confirmation email to the return or coupon for the period filed and keep it as a record.
- If an employer files zero withholding tax using this system they will still continue to receive their paper returns or coupons in the mail.
- If an employer successfully completes the filing of a the tax return an email confirmation will be sent stating the return was submitted. If done by telephone, confirmation will be given at the end of the session. If no confirmation is received the return was not submitted successfully and the employer must file online or by telephone again for that period.

To file a zero return online visit the Web site address at: [www.taxcolorado.com](http://www.taxcolorado.com) "under "Online Services," click on "Electronic Filing Options," then click on the "Wage Withholding Tax Zero File" link.

### ***Filing by Telephone:***

Zero wage tax filers may also file by telephone. The basic requirements listed above apply for telephone filing as well. The system will give a confirmation number for returns submitted successfully. To file a zero return by telephone call: (303) 205-8290 (TAX0)

This service is available 24-hours a day, free of charge and no prior registration is required. For additional information regarding "zero" withholding filing go to the online zero system and click on "[Frequently Asked Questions](#)."



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### ***Other Tax Information:***

- [2006 Sales and Wage Withholding Interest Rates](#)
- [Disaster Relief Tax Provisions](#)
- [Credit Card Payments Accepted for Delinquencies Only](#)
- [Special Fees Applicable to Loveland and Lakewood](#)
- [2005 Legislative Digest](#) (Department of Revenue only)



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### **2006 Sales and Wage Withholding Interest Rates**

Effective January 1, 2006, the interest rate for late filing of sales tax returns will be **6** percent annually. The rate preprinted on the sales tax and related returns will be **.0100** percent per month or **12** percent annually. This rate includes **6** percent interest, plus **6** percent penalty interest.

The rate printed on wage withholding returns is **.0050** percent per month or **6** 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 **9** 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 in **July 1, 2005** was **6.25** percent.



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## Disaster Relief Tax Provisions

The Colorado Department of Revenue understands some taxpayers will be unable to meet Colorado filing and payment deadlines as a result of various natural disasters. Therefore, we will generally honor the relief provisions that have been adopted by the Internal Revenue Service for all Colorado taxes administered by the Department of Revenue.

Write the disaster reference wording that is required by the IRS in red at the top of your tax return when you file. Example: Write "**Hurricane Katrina**" or "**Hurricane Rita**" or "**Hurricane Wilma**" in red on the front of your tax return when you file. If you receive a bill or notice you believe is incorrect based on these relief provisions, or you believe additional relief is warranted, please submit a written explanation of why you feel additional relief is appropriate and enclose a copy of the bill or notice.

Letters of protest should be sent to:  
Colorado Department of Revenue  
Denver CO 80261



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## Credit Card Payments Accepted For Delinquencies Only

The Colorado Department of Revenue accepts credit card payments for prior year tax delinquencies only. If you have received a tax delinquency notice and wish to pay the tax by credit card you **must** do the following:

- Make the payment in person (the department will **not** accept credit card payment by telephone, mail or email.) at the Department of Revenue's Denver office (1375 Sherman St., southwest corner of 14th and Sherman ). Credit card payments for delinquencies will **not** be accepted in any other location.
- Must bring a valid driver's license or ID.
- Use either VISA or MasterCard. No other credit cards are accepted.

**NOTE:** Some income tax electronic filing services on the Web or software that you can purchase may give the impression you can pay Colorado income tax with a credit card when you electronically file. Colorado **does not** accept credit card payments through these services.



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## Special Fees Applicable to Loveland and Lakewood

The sales tax rate for a sale in Loveland is a combined rate of 6.7 % (state 2.9 + county 0.8 + city 3.0).

In addition, Loveland now has a PIF (Public Improvement Fee) of 1.25 % and a RSF (Retail Sales Fee) of 1.0 % in certain areas of the city, specifically within The Shops at Centerra and Centerra Retail, both located at the intersection of I25 and Highway 34. These fees are used to finance a portion of the cost for the public improvements surrounding both The Shops at Centerra and Centerra Retail.

The PIF and RSF are specifically **fees** and are **NOT** taxes; therefore, the PIF and RSF become a part of the overall cost of the sale and are subject to sales tax.

The City of Loveland on behalf of the Centerra Public Improvement Collection Corporation, Centerra Lifestyle Center LLC and Centerra Retail Sales Fee Corporation will collect both the PIF and RSF.

The City of Loveland is reducing the city sales tax rate within these areas, from 3.0 % to 1.75 %. Thus, the combined sales tax rate in the PIF/RSF area will be 5.45 % (state 2.9 + county 0.8 + city 1.75).

Both the PIF and RSF are part of the sales price and subject to sales tax and must be separately stated.

Loveland is also developing an "Auto Complex" just north of the current outlet stores along I-25. The complex will be a group of auto dealerships. For the Auto Complex, PIF and RSF will be charged on parts (with an accompanying reduction in the city sales tax), but *only the PIF will be charged on automobile sales*. There will not be a RSF on auto sales, only a PIF. However, the city of Loveland residents will still receive the 1.25 % reduction in city sales tax on their purchases of motor vehicles.

**Example 1:** If a Loveland resident purchases a vehicle from a dealer in the Auto Complex, the dealer will charge, collect, and remit the PIF to the city of Loveland. The dealer will charge the Loveland resident the Loveland sales tax of 1.75 %, not the 3.0 %.

**Example 2:** If a Loveland resident purchases a vehicle from a dealership outside of the PIF area, then the Larimer county clerk will assess the purchaser a city of Loveland use tax of 3.0 % at the time the vehicle is registered.

**Example 3:** If a store within the PIF purchases a delivery van from a dealer in the Auto Zone, then the dealer should only charge the Loveland sales tax of 1.75 %. If the store purchases the van outside of the PIF, then the Larimer county clerk should assess the Loveland use tax of 3.0 % at the time the vehicle is

registered.

## **Lakewood**

The city of Lakewood has three PIF zones: Belmar, Colorado Mills (CM), and Creekside (CS) (the only store presently in Creekside is Walmart). The rate in CM and CS is a 6.6% combined sales tax (state 2.9 + RTD/CD/FD 1.2 + city 2.0 + county 0.5) with a 1.4 % and 1.5 % PIF respectively. In Belmar the sales tax rate is only 5.6% because one percent of the city sales tax is waived because the location has a PIF of 2.5%.



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### **Web Site Information:**

- [Finding Local Tax Jurisdictions by Address/Retailers Held Harmless](#)
- [Tax Due Dates Calendar Now Online](#)



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### **Finding a Local Tax Jurisdiction by Address and Retailers Held Harmless**

The Colorado Department of Revenue's Web site now offers services that identify which sales and use tax jurisdictions (state, county, city, special districts) apply to any address in the state. This service will be especially helpful to businesses that make deliveries, as well as motor vehicle dealers.

**Retailers "held harmless" for errors.** If the database incorrectly identifies the tax jurisdiction, retailers who use the certified database will not be liable for sales and use taxes otherwise owed to the State of Colorado and state-collected municipalities, counties and special districts.

**Important:** Home-rule cities and home-rule cities and counties are generally not state-collected municipalities. These jurisdictions can, but are not required to, hold the retailer harmless in the rare case of an error in the database. For a list of home-rule cities that will hold the retailer harmless, visit the department's Web page "[Certified Electronic Address Databases](#)".

Link to Companies. To see a list of companies that presently offer this service, please see the "[Local](#)

[Taxes by Address](#)" Web page.

See the hold harmless regulation [39-26-105.3 "Hold Harmless \(Certification of Address Databases and Designation of Third Party Verifiers\)"](#)

This regulation and others may be located on the Web at [www.taxcolorado.com](http://www.taxcolorado.com) under "Taxes", Publications/Resources" then "[Regulations](#)."



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### **Tax Due Dates Calendar Now Online**

If you aren't quite sure when a certain state tax return is due, the Colorado Department of Revenue has developed a new Web page entitled "[Tax Due Dates Calendar](#)". This Web page provides specific tax due dates for each month with links to the correct forms and online filing services offered. The page includes income, sales, wage withholding, consumer use, special district, excise tax and more.

Visit the Department of Revenue Web site at [www.taxcolorado.com](http://www.taxcolorado.com) to access the "[Tax Due Dates Calendar](#)" or [http://www.revenue.state.co.us/TPS\\_Dir/wrap.asp?incl=taxcalendar](http://www.revenue.state.co.us/TPS_Dir/wrap.asp?incl=taxcalendar)



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