



FYI Sales 90 Sales and Use Tax Refund Requirements

Sales and use tax refund claims are categorized as either being a **purchaser's claim** (also known as a buyer's claim for refund) or a **seller's claim** for refund. The **purchaser's claim** for refund is submitted on a Claim for Refund of Tax Paid to Vendors (DR 0137B) and the **seller's claim** should be submitted on a Claim for Refund (DR 0137).

Do not combine sales and use tax refunds on the same claim; file a separate claim for each tax. If you are submitting this claim for a third party, you must include a Power of Attorney (DR 0145). Keep all documentation supporting refund claims at the location of your business records.

PURCHASER'S/BUYER'S CLAIM FOR REFUND

A purchaser's/buyer's claim for refund is submitted by a buyer when sales or use taxes were collected in error by the vendor and remitted to the Colorado Department of Revenue. Before submitting a claim for refund to the department, first request a refund from the store or vendor from which you purchased the product.

If you are unable to obtain the refund from the store or vendor, submit the refund claim on a Claim for Refund of Tax Paid to Vendors (DR 0137B) and include complete documentation to support the refund claim. Include a brief summary of why you are requesting the refund in the reason box on the form.

Requested documentation will include any of the following that apply:

- Copies of any documentation showing that sales tax was actually paid (for example, a sales tax receipt or purchase agreement);
- An explanation why the refund was not obtained from the store or vendor;
- An explanation why the purchase was tax-exempt (for example, computer software) with supporting agreements;
- The first and last utility statements for the refund period and copies of exemption certificates (for exempt utility charges);
- A detailed explanation of what the machinery is and how it is used (for manufacturing machinery) and copies of form DR 1191 or DR 1192,

A spreadsheet should be included with the following columns:

- date of purchase
- invoice number
- FEIN or Colorado Account number
- sales price of item per tax
- state sales/use tax paid, county sales/use tax paid, city sales/use tax paid, special district sales/use tax paid, etc. (separate column for each tax)
- indication of whether a copy of this invoice is enclosed
- how is the product used (or why is it exempt)

If you are applying for a refund for multiple vendors, the invoices and related information must be separated by vendor. Each vendor's data must be totaled.

Spreadsheets must be submitted in readable form (at least 10 point font or larger). Invoices that are included with the spreadsheet should be numbered and match the spreadsheet. Select invoices from each filing period requested in the claim.

- If there are under 100 invoices, submit 25% of the invoices with most being the larger dollar amount(s) on the spreadsheet.
- If there are more than 100 invoices, 10% of the invoices with the larger dollar invoice copies included in your submission.
- If there are less than 10 invoices, send copies of all of the invoices in the claim. The department may request additional invoices if it is deemed necessary.

SELLER'S CLAIM FOR REFUND

A seller's claim for refund is submitted when the vendor paid sales tax to the Colorado Department of Revenue with the sales or retailers use tax return in error.

Tax Credit

For an overpayment on a DR 0100 Sales Tax Return, deduct the excess tax from your next return instead of filing a claim for refund. To claim the credit on your next return, convert the excess tax collected to sales and enter it on line 3c in the applicable column on the DR 0100. Do not reduce your tax liability below zero.

Refund Claim

The Claim for Refund (DR 0137) can be used to submit a seller's claim for refund if you cannot use your next tax return. Use two or more separate forms if you are requesting two or more different types of tax. For example, submit one claim for sales tax and a separate claim for use tax.

You must submit amended DR 0100 returns for the periods involved and include separate returns for each (branch) involved in the refund claim. The department requires that the refund request match the sites (branches) that are set up on the account or the refund request cannot be processed. To verify your sites (branches) on the system, go to www.Colorado.gov/RevenueOnline under **BusinessServices**. You will be able to view all open branches. Any closed branches will not show in the search. The site (branch) where the tax was remitted must correspond to the appropriate site in the refund request.

IMPORTANT NOTE REGARDING THE PREPARATION OF AMENDED RETURNS:

If you amend your return(s) electronically at www.Colorado.gov/RevenueOnline: you are required to verify that your amended returns posted correctly prior to submitting your Claim for Refund (DR 0137). Be sure that you have contacted your software provider prior to filing an amended XML return so that your XML amended indicator will be used. For Excel Spreadsheet filers, you will add a capital X in column O Row 3 in the Header. If the XML amended indicator is not used or you do not mark your Excel Spreadsheet as indicated above, your return will not be amended.

If you are filing an amended paper return: you are required to check the amended return box. A separate amended return must be filed for each period that is appropriate to the refund claim. The amended return must show all tax columns as corrected, not merely the difference(s). The amended return will replace the original return in its entirety. If applicable, be sure to use the correct vendor fee for the period(s) you are amending. Detach the amended return on the perforated cut line before sending to the department.

REQUIRED DOCUMENTATION TO FILE A SELLER'S CLAIM FOR REFUND

If you are claiming a refund of taxes paid to you by customers, you must attach a spreadsheet to your claim that details the following information:

- Store or vendor name
- Address including street, city, and state
- FEIN or Colorado account number
- Date of invoice or purchase
- Invoice number (attach copies of invoices)
- Amount of the sale before taxes
- Amount of refund being claimed by tax type (State, Special District, City, and County)
- A brief description of why the tax is not due (attach proof that the money was refunded to your customer)
- Total of each tax refund requested by tax type.

Spreadsheets must be submitted in readable form (at least 10 point font or larger). Invoices that are included with the spreadsheet should be numbered and match the spreadsheet. Select invoices from each filing periods requested in the claim.

- If there are under 100 invoices, submit 25% of the invoices with most being the larger dollar amount(s) on the spreadsheet.
- If there are more than 100 invoices, 10% of the invoices with the larger dollar invoice copies included in your submission.
- If there are less than 10 invoices, send copies of all of the invoices in the claim. The department may request additional invoices if it is deemed necessary.

For assistance in determining the breakdown of the tax rate on your invoice, see publication Colorado Sales/Use Tax Rates (DR 1002).

REFUND OF CONSUMER USE TAX

If you are requesting a refund of consumer use tax, send copies of amended forms DR 0252 and DR 2051 (for RTA) where applicable, and copies of any supporting schedules for the original returns being amended which showing the invoices on which use tax was paid. Please see the important note regarding the preparation of amended returns above.

A DR 0137 is required if you have submitted an amended return electronically or by paper and you anticipate a credit resulting in a refund. Notify the Department of Revenue by completing and submitting a Claim for Refund (DR 0137). Documentation must be included as to why the tax was miscalculated and the reason for the refund request.

The claim will be returned to you if it is not completed in its entirety.

INTEREST ON SALES OR USE TAX REFUNDS

Interest is due on sales and use tax refunds when the following conditions are met:

- the payment was made incident to a bona fide and orderly discharge of an actual liability, and
- the refund is not issued within 90 days from due date of the return, and
- the refund claim was made in a timely manner after discovery of the overpayment.

To claim interest on an overpayment of sales tax, please indicate on the Claim for Refund (DR 0137) that interest is being requested AND provide an explanation and documentation why the refund meets the criteria above.

Example of a purchase that IS considered a bona fide discharge of an actual liability: A customer is purchasing items and is not sure if they are exempt from sales tax. The customer contacts the department and inquires to whether the item is taxable and the department advises the customer that the item is taxable. A court later determines that the items are not taxable and the consumer is now able to file a claim for refund for the tax paid on those items. In this example the customer is eligible for interest on that overpayment of tax.

Example of a purchase that is NOT considered a bona fide discharge of an actual liability. A farmer purchases a tractor to be used for farming and knows this to be exempt from sales tax and the farmer does not notify or provide the seller with a certificate stating the tractor will be used for farming. The farmer knows he is still eligible for a refund of the sales tax paid the tractor, but waits 18 months to file a claim for refund. In this case the refund is not eligible for interest on the sales tax paid because the purchase was not subject to sales tax provided that the farmer notified or provided the affidavit to the seller. In this same example if the farmer provided the seller with the affidavit and the seller still collected the sales tax, and the farmer still waited 18 months to file the refund claim, the refund still would not be eligible for interest because the refund was not filed in a timely manner.

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.