

# **Colorado Department of Revenue**

**2012 Sales/Use Tax Law - Part II  
Taxpayer Service Division**

# Introduction

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- Class Time
- Breaks
- Food and Beverage
- Restrooms
- Cell Phones
- Questions
- Handouts and Forms
- Businesses in Attendance

# Agenda

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- **State and State-Collected Local Jurisdiction Taxation**
- **Refund Requirements**
- **What to Expect During an Audit**
- **Contacts/Resources**

# Letters and Rulings

- The department issues general information letters and private letter rulings.
- A general information letter provides a general overview of the relevant tax issues and is not binding on the department.
- A private letter ruling provides a specific determination for a specific set of facts, is binding on the department but not on the taxpayer, and requires payment of a fee.
- For more information about general information letters and private letter rulings, please see department regulation 24-35-103.5 at
  - [www.TaxColorado.com](http://www.TaxColorado.com)
  - Tax Library
  - Rulings
- Information from rulings and letters may be used in this class as examples only and may not be applicable to your sales/purchases. Therefore, it is best to request a private letter ruling if you are unsure about the taxability of your sales/purchases.

# Purchasing/Selling a Business?

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- The seller should close the tax account or change its address (if the business is moving) with the Department of Revenue.
- The purchaser may request a Tax Status Letter (DR 0096) from the seller. The letter will indicate whether all tax filings are current.
- There is a \$7 fee for each type of tax reviewed.
- The seller must pay any sales taxes that have been collected prior to the sale of the business. The sales taxes must be filed within 10 days of the sale. The new business owner may become liable for any unpaid tax due on sales made by the previous owner.
- The new business should open a tax account with the Department of Revenue.

# Purchasing/Selling a Business cont?

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- The taxpayer who is selling the business assets must collect and remit state sales tax and, if applicable, city, county and/or special district sales taxes on that property. If sales tax is not collected on the tangible personal property by the seller, then the buyer is required to pay the applicable sales tax.
- The sales tax must be paid on tangible personal property whether used or new. The applicable sales taxes on the purchase of the business tangible property is remitted using the Retail Sales Tax Return for Occasional Sales (DR 0100A).
- The DR 0100A must be filed with the department on or before the 20th day of the month following the date of purchase.

# Business Assets

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- The sale of a business often includes tangible personal property. Therefore, the buyer who is purchasing business assets must pay state sales tax and, if applicable, city, county and/or special district sales taxes on that property.
- SALES TAX is due - not USE TAX, on the purchase of business assets (e.g., equipment, furniture, and fixtures - used/new.)
- Remit tax on form DR 0100-A “Retail sales return/occasional sales.”
- FYI Sales 74, “Sales Tax Filing and Changes in Account Status”

# Services

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- Colorado imposes sales tax on the sale of most tangible personal property sold at retail, but generally does not impose sales tax on services. [§39-26-104, C.R.S.]
- “Tangible personal property” is defined as corporeal personal property. [§39-26-102(15), C.R.S.] Books, videos, magazines, trade publications are clearly taxable tangible personal property, even though they are the culmination of the personal services of writers, researchers, and analysts and contain intangible intellectual property, research, and data.
- Some transactions will be characterized as non-taxable services even though some incidental tangible personal property is exchanged. The sale by an author of a manuscript to a publisher is a non-taxable sale of a service and the medium in which it is sold (written manuscript) is treated as incidental to the sale.

# Services cont.

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- The distinction between sale of taxable tangible personal property and non-taxable services is sometimes stated in terms of whether the “true object” of the transaction is for the acquisition of a service or tangible personal property. That is, the transaction is taxable if the true object is the sale of tangible personal property, and not taxable if the true object is the service.
- Although the true object test is easy to state in the abstract, it is not always easy to apply in practice. See, *City of Boulder v. Leanin’ Tree*, 72 P3d 361 (Colo. 2003). In general, the department will consider whether the transactions are commonly and reasonably understood to be the sale of a services or goods.
- FYI Sales 52, “Service Enterprises”

# Initial Use of Property

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- Any item purchased for use or consumption by the purchaser is subject to sales or use tax at the time of purchase, even though the item will be resold later in either its original or altered form. A tax-free purchase is taxable in full at the first time it is used by the purchaser for a nonexempt purpose.
- Example: A junkyard may not buy a car tax-free under the theory that the car is going to be junked someday and resold through the business for scrap.
- FYI Sales 35, “Special Regulation: Initial Use of Property”

# Shipping Charges

- The transportation of tangible personal property **between a retailer and purchaser/end user is** a service presumed to be **not subject to sales or use tax**. Transportation charges are not taxable if they are **BOTH**:
  - (1) separable from the sales transaction, **and**
  - (2) stated separately on a written invoice or contract.
- “Transportation charges” include carrying, handling, delivery, mileage, freight, postage, shipping, trip charges, stand-by, etc.
- Transportation charges are separable from the sales transaction if they are performed after the taxable property or service is offered for sale **and** the seller allows the purchaser the option either to use the seller’s transportation services or use alternative transportation services.
- **Intermediate or “Freight in” charges** – Transportation charges incurred in connection with transporting tangible personal property from the place of production or the manufacturer to the seller or to the seller’s agent or representative, or to anyone else acting in the seller’s behalf, either directly or through a chain of wholesalers or jobbers or other middlemen, are deemed “freight -in” charges and **are not a transportation charge exempt from tax**.
- FYI Sales 29, “Transportation Charges”

# Shipping Charges – Separable?

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Charges stated separately might be taxable.

- Example #1 – If you buy a couch that you can pick up with your truck, have your brother pick it up, have a freight company pick it up (for a fee) or have the furniture store deliver for a fee. **The delivery is not taxable.**
- Example #2 – If you buy a 100 yards of prepared concrete (not bags) you can't back your truck up to the mixer, your brother can't (nor would he want to) back his truck up to the mixer, a freight hauler can't pick it up, but the ready mix company will deliver it for a fee. **The delivery is taxable - even if separately stated.**

# Freight-In Charges

- Are freight-in charges, also known as inbound freight charges subject to Colorado sales/use tax?
- Transportation charges related to the purchase of tangible property are generally not taxable, unless they are both inseparable from the sale, or not stated separately on invoices for taxable goods, or are freight-in charges.
- The department presumes transportation services are separable from the sale of goods, regardless of whether title to the goods has passed from the buyer to the seller at the time the transportation service is rendered.
- If the purchaser has no realistic option but to use the transportation services of the seller, then the transportation charge is not separable and is taxable.
- The transportation charges rendered to suppliers for the shipment of tangible personal property by common carrier to Company's branches fall under the category of freight-in charges. **Subject to regulations put forth by the department, these freight-in charges are subject to Colorado sales/use tax.**
- General Information Letter (GIL-11-007)

# Drop Shipments

- **What is a drop shipment?** A retailer directs the manufacturer, wholesaler, etc. to ship merchandise directly to the customer on behalf of the seller.
- **Are drop shipments taxable?** Yes. Drop shipments are subject to sales or use tax, unless the TPP falls within a specific Colorado sales/use tax exemption.
- **What tax is owed on drop shipments in Colorado?** The tax owed depends upon whether or not the seller has an actual physical location within Colorado or has established a “nexus” otherwise.
- **If the seller has a business in Colorado**, then state sales tax is due, including any applicable state-collected local or special district taxes even if the merchandise is drop shipped from an out-of-state manufacturer. Tax is invoiced by the seller to the customer.
- **If the seller is out-of-state only**, but the manufacturer who drop ships the merchandise and the buyer are located in Colorado, then the seller should collect retailer’s use tax plus any applicable special district use taxes.

# Auctions

Are auction sales subject to Colorado state sales tax?

- Yes. Retail sales by an auctioneer at an established auction house, sales yard or other place of business are taxable, regardless of how the property may have been acquired or by whom it may be owned, and the auctioneer is required to obtain a sales tax license.
- The 2.9 percent state sales tax, and any other applicable tax from the location in which the sale is made such as any special district taxes if selling in a special district tax location and any applicable local sales tax.
- If an auctioneer sells at more than one location, then a sales tax license is required for each location.
- In the case of a charitable auction, if the charity issues a donation receipt stating that a portion of the amount paid is considered a charitable deduction under the Internal Revenue Code (IRC) the department will recognize the IRC treatment of the amount as a charitable deduction and treat the “non-charitable” donation amount as the purchase price.

# Fundraising Events

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- If a charity has a fundraising event and sells tickets for \$100, and \$70 of the \$100 is considered a charitable deduction under the Internal Revenue Code (IRC), the department will recognize the IRC treatment of the amount as a charitable deduction and treat the “non-charitable” donation amount as the purchase price. The organization should collect sales tax on the \$30.
- On the other hand, if there is no donation and a computer sells for \$50, then sales tax is based on the selling price of \$50 because there was no donation by the bidder.

# Layaway Services/Fees

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- Generally, Colorado imposes sales tax on the sale of tangible personal property but it does not impose sales tax on the sale of services nor on finance charges that are separately services.
- The creation of a layaway plan is not a taxable sale because title does not pass to the customer until the final layaway payment is made.
- Layaway cancellation is not a taxable service.
- Further, the cancellation fee is not taxable because the fee is imposed only if the sale of tangible personal property is not completed.
- However, if a service fee creates a sufficient right of possession in the customer, then sales tax would be due at the time the service fee is paid by the customer, regardless of whether the customer completed the layaway plan and additional sales tax would be due when the final payment is made.
- Colorado General Information Letter (GIL-11-001)

# Native American Tribal Members/Governments

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- Sale of tangible personal property to a Native American tribal member is exempt from sales tax if the sale occurs on the tribal member's tribal lands.
- However, sales to non-tribal members on tribal lands are not exempt, and sales to tribal members off the member's tribal lands are not exempt sales.
- General Information Letter (GIL-12-008)

# Warranties and Maintenance Agreements

- For the purposes of determining Colorado sales and use tax applicability, there are two types of warranties for maintenance agreements (also referred to as service contracts): mandatory agreements that are part of the purchase price of the item and optional agreements which are sold to the customer as a separate item. [§39-26-105(2) C.R.S.]
- **Mandatory Contracts**
  - For warranties and maintenance agreements which are mandatory and part of the purchase price of the item the warranty covers, in most cases the seller must collect sales tax on the total purchase price.
- **Optional Contracts**
  - If the maintenance agreement is optional, and is sold to the customer as a separate item, tax is not normally charged on the contract at the time of sale. The seller responsible for the warranty work must then pay sales or use tax on the cost of the materials used in performing the maintenance.

# Warranties and Maintenance Agreements cont.

## Example: Fleet Convenience Care

- Fleet Convenience Care is a maintenance and warranty service agreement related to equipment purchased or rented by customers. In general, **charges for warranty and maintenance agreements sold in connection with the sale or rental of taxable tangible personal property are not subject to sales if the agreement is optional and separately stated.** Under the facts set forth in the ruling, the charge for Fleet Convenience Care is not subject to sales tax because the service is optional and the charge is separately stated.
- When a retailer offers maintenance or warranty service, the question arises whether repair or replacement parts are subject to sales or use tax. Company is considered to be the consumer of the materials used to perform maintenance or warranty work (e.g., replacement parts) and must pay sales or use tax on the cost of the materials at the time of purchase or use.
- Private Letter Ruling (PLR 12-003)
- FYI Sales 70, “Warranties and Maintenance Agreements”
- Special Regulation 28, “Maintenance and Decorating Services”

# Computer Software

## SALES TAX ON COMPUTER SOFTWARE ON OR AFTER JULY 1, 2012

- Computer software will be subject to sales or use tax if it meets all of the following criteria:
  1. The software is pre-packaged for repeated sale or license;
  2. The use of the software is governed by a tear-open non-negotiable license agreement;
  3. The software is delivered to the customer in a tangible medium.  
Software is not delivered to the customer in a tangible medium if it is provided through an application service provider, delivered by electronic software delivery, or transferred by load and leave software delivery.
  
- FYI Sales 89, “Computer Software”

# Application Service Providers

- Is product provided by Application Service Providers (ASP) subject to Colorado sales and use tax?
- Effective July 1, 2012, the definition of tangible personal property includes software that is delivered to the customer in a tangible medium. Computer software that is used by consumer via an ASP is not taxable computer software because the software is not considered delivered to the customer in a tangible medium. C.R.S. 39-26-102(15).
- ASP is defined as:
  - An entity that retains custody over (or hosts) software for use by third parties. The ASP may or may not own or license the software, but generally will own and maintain hardware and networking equipment required for the user to access the software. C.R.S. 39-26-102(15)(c)(II)(a)
- General Information Letter (GIL-12-006)

# Software Maintenance Agreements

- **Mandatory maintenance agreements.** Charges for maintenance agreements that the retailer requires buyers to purchase as part of their purchase of taxable computer software are subject to sales tax, regardless of whether the charge for the maintenance agreement is separately stated on the customer's invoice or maintenance contract.
- **Optional maintenance agreements.** Charges for maintenance agreements that the buyer has the option to purchase as part of a purchase of taxable computer software are not subject to tax if the maintenance charges are separately stated on the customer's invoice. If the maintenance charges are not separately stated, then the total price for both the taxable computer software and maintenance agreement is subject to sales tax. If a customer receives upgrades to taxable computer software pursuant to an optional maintenance agreement and the upgrade is delivered by a tangible medium, such as a CD or flash drive, then the entire charge for the maintenance agreement is subject to sales tax, unless the charge for the upgrade is a separately stated in the maintenance contract or customer's invoice.

# Storage Fees

- Are storage fees taxable?
  - Is the storage fee only for storage or does it include other activities? For example, does the vendor scan the document to create an electronic copy or does your company supply the electronic document (e.g., a PDF) to the vendor?
  - The issue in these situations is whether the transaction is characterized as one in which your company is renting tangible personal property (e.g., the storage server) or, on the other hand, your company has engaged the vendor to provide a non-taxable service of "storage."
  - Is the server located in Colorado?
- Companies who invoice for storage fees may have various factors that can impact taxability. Therefore, it is best to ask the department for a general information letter or private letter ruling on this topic addressing your situation.
- Go to [www.TaxColorado.com](http://www.TaxColorado.com) click on "Tax Library" then "Rulings"

# User/License Fees

## Common issues

- Do these fees include a copy and retrieval process such as Kinko's where you provide a document for the Kinko's to copy. Copy charges are taxable.
- Or are these charges more like those of an ASP provider who is providing a non-taxable service? Can third-parties download the documents with Company's permission? Is this a flat fee or is it based in some way on volume (e.g., number of documents viewed or downloaded)?
- Also, does the vendor sell your company software in order to interact with the storage server and is there a separate charge for such software? If there is such software, is it electronically delivered or does the vendor send you a CD?
- Companies who invoice for these fees may have various factors that can impact taxability. Therefore, it is best to ask the department for a general information letter or private letter ruling on this topic addressing your situation.
- Go to [www.TaxColorado.com](http://www.TaxColorado.com) click on "Tax library" then "Rulings"

# Government Purchases

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- Colorado statute exempts from state and state-collected sales tax all sales to the United States government and the State of Colorado, its departments and institutions, and its political subdivisions (county and local governments, school districts and special districts) in their governmental capacities only.
- The purchase must be made with a prescribed government form or purchase order, or warrant/check drawn on governmental funds, or via credit card in the name of the exempt governmental agency.
- State/federal government use a variety of credit cards to facilitate government purchases and travel. Credit card companies now prohibit retailers from making copies of the card - must be documented with the DR 1367, "Affidavit of Sales Paid by Government Credit Card."

# Government Purchases cont.

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- If a vendor and a purchaser disagree on the application of a tax, the vendor must collect the tax. [§39-26-102(22), C.R.S.]
- The vendor should give the purchaser a receipt for the purchase showing how much sales tax was collected. Advise the purchaser to file a form DR 0137, “Claim For Refund.”
- The vendor is ultimately responsible for the collection of sales taxes.
- FYI Sales 63, “Government Purchases Exemptions”

# Leases/Rentals

- Leases are subject to the same sales taxes as sales of property. On tangible property other than motor vehicles, city, county and special district taxes are only collected when the lessor has a place of business in the same jurisdiction as the lessee. Any office, shop, warehouse, salesroom or temporary but frequent presence of an employee for repair, sales or service purposes is a business location.
- **Leases of more than 36 months.** The lessor must charge and submit sales tax with the monthly payments. The lessor must submit an application for a *Permit to Collect Sales Tax on the Rental or Lease Basis* (DR 0440) for each business location.
- **Leases of 36 months or less.** The lessor may either pay the tax when purchasing items to be leased or may collect the tax from the customer through lease payments. One method must be chosen and must use that method for each vehicle/property leased. If the lessor chooses to collect the tax from the lessee, the lessor must submit an application for a *Permit to Collect Sales Tax on the Rental or Lease Basis* (DR 0440) for each business location.

# Leases/Rentals cont.

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- With all motor vehicle leases, the lessor must present the lessee with the Statement of Sales Tax Paid on Motor Vehicle Leases (DR 0026).
- This form shows which taxes are collected on the lease payments by the lessor and which taxes must be collected before the vehicle is registered or titled.
- The DR 0026 is required for all leases, except for short-term motor vehicle rentals or wholesale leases.
- FYI Sales 56, “Sales Tax on Leases of Motor Vehicles and Other Tangible Personal Property”

# Rentals – Government Agencies

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- Are items rented or sold by government agencies subject to sales tax?
- Sales to government agencies are exempt from sales tax when used by the government agency in their official capacity. However, if the government agency sells or rents tangible personal property to the public, those sales are subject to sales tax.
- If the agency rents tangible personal property to the public, the agency has the option to pay sales or use tax on the purchase of the item and not charge the customer sales tax with each rental or not pay the sales or use tax on the purchase and charge the customer sales tax with each rental.
- Examples of items commonly rented by government agencies that are subject to sales tax are golf carts and locker rental.
- The lessor/government agency must submit an application for a *Permit to Collect Sales Tax on the Rental or Lease Basis* (DR 0440) for each business location.

# Gifts/Premiums/Prizes

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- Gifts, premiums or prizes, for which no valuable consideration is received from the recipient, are subject to tax on the total purchase price; the purchaser is deemed to be the user/consumer of such property.
- Examples – Gifts given to all individuals who attend a time-share real estate presentation, regardless of whether the individual buy or invest in the proposals.
- If the gifts are purchased from a licensed Colorado vendor, sales tax should be paid to the vendor upon such purchases.
- If no sales tax is paid upon such purchases, the use tax should be paid directly to the Department of Revenue by the purchaser.
- FYI Sales 32, “Gifts, Premiums and Prizes”

# Inventory Usage

## Inventory Usage

- A retailer purchasing goods that are for resale may buy the goods tax exempt.
- A Colorado sales tax license is required for such purchases. Retailers purchasing items for their own use (office supplies, furniture, display racks, etc.) must pay all applicable sales taxes on those items at time of purchase.
- If items are purchased for resale, and then later removed from inventory for the retailer's use, state and local sales tax, not use tax, is then due on those items.
- Report the amount on line 10 of the Retail Sales Tax Return (DR 0100).

# Sales Tax - Absorbing Tax

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- Can a vendor/retailer of tangible personal property include the sales tax owed in the actual price of an item?
- No. Vendors/retailers that are selling goods, products, or some form of tangible personal property must separate the sales tax amount due from the price of the item being sold, it cannot be absorbed into the amount of the selling price of the item.
- This does not apply to those selling liquor by the drink, if they choose, or to vending machine operators, in which case the sales tax of the vending item is included in the price of the purchase.
- However, such retailers shall not advertise or hold out to the public in any manner directly or indirectly, that such tax is not included as part of the sales price to the consumer. [§39-26-106(2)(b) C.R.S.]

# Accommodation Rentals

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- Do you rent a house or condominium?
- Do you rent it for less than 30 days?
- If the answer is “yes,” sales tax is owed on that rental. There may be other tax liabilities, such as a county lodging tax or a local marketing district tax.
- To collect sales tax you must have a Colorado sales tax license. In addition to a license fee, Colorado sales tax license holders are required to pay a one-time \$50 state sales tax deposit at the time they apply for the license.
- FYI Sales 11, “Sales Taxes Due on Unit Rentals of Hotels, Motels, Bed-and-Breakfasts, Condominiums, & Time-Shares”

# Food for Home Consumption

- Colorado's principal sales tax exemption guideline is based upon what can be purchased for home consumption with food stamps. Colorado statute also imposes other criteria, in addition to the food stamp/WIC guidelines. [Reg. 39-26-102.4.5]
- The Department of Agriculture guidelines prohibit the use of food stamps or WIC vouchers for the purchase of the following items. These items are sales **taxable**:
  1. Nonfood items such as soaps, paper products and household supplies, grooming items and cosmetics, and food not for human consumption, such as pet and bird food.
  2. Alcoholic beverages. (cooking wine, wine vinegar and , alcohol-filled candies are exempt.)
  3. Cigarettes, tobacco and tobacco products.
  4. Food to be eaten in the store, hot foods ready to eat and food marketed to be heated in the store.
  5. Food preservation equipment and items.
  6. Vitamins, dietary supplements, and medicines. (Prescription drugs are exempt under [Reg. 39-26-717.1])
  7. Ice used for refrigeration.

# Food for Home Consumption cont.

- The following items, if purchased with food stamps or WIC vouchers/checks are exempt from the 2.9% state sales tax, but are taxable if purchased with cash:
  1. Carbonated water marketed in containers
  2. Soft drinks
  3. Chewing gum
  4. Candy
  5. Seeds and plants to produce food for human consumption
  6. Prepared salads and salad bar items
  7. Cold sandwiches
  8. Deli trays
- Sales and purchases of food sold through vending machines are exempt from Colorado sales tax. Sales of hot and cold beverages in unsealed containers sold by vending machine are not exempt. [§39-26-102(4.5), C.R.S.]
- Special Regulation 39-26-102.4.5 - Water in containers for human consumption is exempt from state sales tax. Sparkling or seltzer water is taxable. Tonic water is exempt from state sales tax.
- FYI Sales 4, “Taxable and Tax Exempt Sales of Food and Related Items”

# Machinery or Machine Tools

- Purchases of machinery or machine tools and parts thereof are exempt from state sales/use tax when the machinery will be used in manufacturing. [§39-26-709, C.R.S]. To qualify machinery must:
  1. Be used in Colorado;
  2. Be used directly and predominantly to manufacture tangible personal property for sale or profit;
  3. Be of a nature that would have qualified for the federal investment tax credit under the definition of section 38 property found in the Internal Revenue Code of 1954, as amended. Includes tangible personal property with a useful life of one year or more and limits qualifying purchases of used equipment to a maximum of \$150,000 annually;
  4. Be included on a purchase order or invoice totaling more than \$500;
  5. Be capitalized.
  
- FYI Sales 10, “Sales Tax Exemption on Manufacturing Equipment.”

# Industrial Utility Usage

- Sales of electricity, coal, gas, fuel oil, steam, coke, or nuclear fuel used in processing, manufacturing, mining, refining, irrigation, construction, telegraph, telephone and radio communication is exempt from the 2.9% state sales and use tax. Refer to form DR 1666 (Sales Tax Exempt Certificate Electricity & Gas for Industrial Use) for more information.
- **Temporary Exception to State Exemption – Effective March 1, 2010 through June 30, 2012 these sales and purchases were not exempt from the 2.9% state sales and use tax.**
- **Gas and electricity used in the processing of food, restaurants, is again exempt from state sales tax effective July 1, 2012 from the 2.9% state sales and use tax.**
- FYI Sales 30, “Gas and Electric Services”
- FYI Sales 71, “Sales Tax Exemption on Industrial Utility Usage”
- See publication DR 1002, “Colorado Sales and Use Tax Rates” to determine if an exemption is allowed from state-collected city, county and special district taxes.

# Agricultural Compounds

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- Effective July 1, 2012 sales of agricultural compounds and spray adjuvants to be consumed by, administered to or otherwise used in caring for livestock and sales of semen for agricultural or ranching purposes are considered wholesale sales and are not subject to state or state collected local sales or use taxes.
- Question: The context for HB 1195 for veterinary medicine is agricultural compounds and pesticides used in caring for livestock. Are any small animal items subject to sales tax? What about a non-prescription drug that may be used for livestock and companion animals?
- Answer: Unless the items or drugs are prescribed by a veterinarian, they are subject to tax. That is the case no matter if the animals being treated are household pets or farm livestock.
- FYI Sales 77, “Sales and Use Tax Exemption on Agricultural Compounds”

# Pesticides

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- Effective July 1, 2012 sales of pesticides are considered wholesale sales and are not subject to state or state collected local sales or use taxes. Spray adjuvants used to increase the effectiveness of pesticides are also considered wholesale sales and are not subject to state or state collected local sales or use taxes.
- After July 1, 2012 sales of pesticides should be recorded on the Colorado Retail Sales Tax Return (DR 0100) Deductions and Exemptions Schedule, line 2b(8), other deductions, sales of agricultural compounds and pesticides.
- After July 1, 2012 sales of pesticides should NOT be recorded on line 3b(5) local exemptions, pesticides.
- FYI Sales 76, “Sales and Use Tax Exemption on Pesticides”

# Medical Marijuana

- Is medical marijuana subject to sales tax?
- Yes, **medical marijuana is subject to sales tax**, unless the Colorado Department of Health and Environment (CDPHE) issues the patient a tax exempt medical marijuana registry card that has a tax exempt status notation.
- A person qualifies for the tax exempt status if his or her income is below certain levels, depending on how many people are in the patient's family. The tax exempt patient must provide his or her tax exempt registry card to the retail at the time of purchase in order to be exempt from sales tax.
- **Supplies** related to medical marijuana, such as smoking paraphernalia, **are not exempt from sales tax** even if the patient has a tax exempt status.
- **Sales of food for immediate consumption** which contain medical marijuana, such as food sold at a medical marijuana dispensary that serves hot food or eating facilities such as tables, chairs and eating utensils, **are not exempt from sales tax**.

# Medical Marijuana cont.

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- For more information about who qualifies for tax exempt status and how to apply for the tax exempt status, contact the CDPHE:

Colorado Department of Public Health and Environment  
Medical Marijuana Registry  
4300 Cherry Creek Drive South, Denver, CO 80246-1530  
Telephone: 303-692-2184  
Email: [medical.marijuana@state.co.us](mailto:medical.marijuana@state.co.us)  
On-Line: [www.cdphe.state.co.us/hs/medicalmarijuana](http://www.cdphe.state.co.us/hs/medicalmarijuana)

# Refund Requirements

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- 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.
- FYI Sales 90, "Sales and Use Tax Refund Requirements"

# Amending Returns

- **If you amend your return(s) electronically in Revenue Online** – 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 mark 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.
- FYI Sales 90, “Sales and Use Tax Refund Requirements”

# Field Audits

## What to Expect From a Field Audit

- An audit should be an educational experience. While by its nature an audit is considered a tax enforcement tool, it can also provide you with insight in identifying and correcting tax related bookkeeping problems. You can expect the auditor to identify tax overpayments as well as tax deficiencies.
- You will be contacted by a Field Audit representative to schedule a time to conduct the audit. Audits are conducted at the taxpayer's business location.
- You will receive a confirmation letter confirming the time and date of the audit and identifying the books and records needed to conduct the audit. Requested records may include, but are not limited to: federal income tax returns, Colorado tax returns, general ledgers, journals, purchase and sales journals, payroll journals, sales tax exemption certificates and other source documentation. In the event that your records are kept electronically, it is your responsibility to supply the auditor with access to the records.

# Field Audits cont.

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- The auditor will conduct an opening conference and outline the scope of the audit. You will be asked questions about your business operations and accounting methods. Every effort will be made to minimize the disruption of your daily business activities. Having well organized records and proper documentation can save time and expedite the audit process.
- When the auditor has completed his/her field work, you will be given preliminary work papers detailing any proposed tax adjustments. These adjustments will be thoroughly explained by the auditor.
- The auditor will review the billing and protest process with you.

## **What to expect once the audit is completed**

- The auditor's work papers will be submitted to a Group Manager for review and approval.
- Once approved, you will receive a Notice of Deficiency and copies of all final work papers.

# Field Audits cont.

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## **Protest rights and procedures**

- Protest procedures can be found on the reverse side of the Notice of Deficiency.
- Your protest will be reviewed by the Department's Protest Resolution Section. If the issues cannot be resolved at this level, your protest will be forwarded to the Conferee Section for a formal hearing.

# **Colorado Department of Revenue**

**Resources/Contacts  
Revenue Online  
Classes  
Home-Rule Cities**

# CDOR Contacts

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## Colorado Department of Revenue

- [www.TaxColorado.com](http://www.TaxColorado.com)
  - Forms, FYI publications, Online Customer Support, Statutes & Regulations, Tax Index, Links to other government agencies, Tax Alerts
- Call Center, M-F, 8:00 a.m. - 4:30 p.m.
  - 303-238-7378 (SERV) - General Information
- Walk-in Service Centers (Visit our Web site for days and hours of operation)
  - Denver (1375 Sherman Street - 14<sup>th</sup> & Sherman)
  - Colorado Springs, Fort Collins, Grand Junction, Pueblo

# Secure Email Messages

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- **Need to communicate with us about your tax account?**
- Send a secure message through Revenue Online, [www.Colorado.gov/RevenueOnline](http://www.Colorado.gov/RevenueOnline).
  - If you have set up a Login ID and Password to access your Colorado tax account through Revenue Online, you have the option to send questions to department staff.
  - The messages you send to and from the Department of Revenue are secure -- you must access your Revenue Online account to send messages and view responses from the department.

# Tax Classes

## Free Tax Classes – Department of Revenue

1. Sales/Use Tax Part I – Content online and CPE credit is available.
2. Sales/Use Tax Part II – Content online and CPE credit is available.
3. Wage Withholding – Content online.
4. Contractor/Manufacturing – Content online and CPE credit is available.
5. Hospitality – Content online and CPE credit is available.
6. Printing/Advertising – Content online.
7. Use Tax – Content online and CPE credit is available.
8. Non-Profit/Tax-Exempt Class – Content online.
9. Income Tax Professional Update Class – Content online and CPE credit is available.

# Home-Rule Cities

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- Contacts listed on pages 5 - 6 of the DR 1002
- Can also be located via: [www.Colorado.gov/RevenueOnline](http://www.Colorado.gov/RevenueOnline)
  - Business Link
  - View Local Sales Tax Rates
  - Home-rule City Links
- Note: Home-rule city link will take you to the municipal government page where you can link directly to their Web site. Many home-rule cities conduct sales/use tax classes and will need to be contacted directly for details.

# Questions?

**Thank you for attending  
and  
best of luck in your business!**