

DEPARTMENT OF REVENUE

Taxpayer Service Division – Tax Group

SALES AND USE TAX

1 CCR 201-4

Regulation 39-26-105. Remittance of Sales Tax.

Basis and Purpose. The statutory bases for this regulation are §§ 39-21-112(1) and 39-21-119, 39-26-105, 39-26-107, 39-26-109, 39-26-112, 39-26-118, and 39-26-704(2), C.R.S. The purpose of this regulation is to clarify sales tax remittance requirements and conditions under which a retailer is eligible to deduct a retailer's service fee from the sales tax they remit.

(1) Retailer Requirements.

- (a) A retailer is liable and responsible for tax on the retailer's taxable sales made during the tax period prescribed for the retailer pursuant to 1 CCR 201-4, Regulation 39-26-109, calculated using the tax rate in effect at the time of the sale and applied to all taxable sales, including all taxable sales made for less than the minimum amount subject to tax pursuant to § 39-26-106, C.R.S. A retailer is also liable and responsible, pursuant to § 39-26-112, C.R.S., for the payment of any tax collected in excess of the tax rate in effect at the time of the sale and must remit such excess amount to the Department.
- (b) A retailer shall file with the Department a return reporting its sales, including any sales exempt from taxation under article 26 of title 39, C.R.S., made during the preceding tax period. If a retailer makes no retail sales during its preceding tax period, the retailer must file a return reporting zero sales. Returns and any required supplemental forms must be completed in full.
- (c) A retailer must file returns and remit any tax due to the Department in accordance with the filing schedules prescribed by 1 CCR 201-4, Regulation 39-26-109.

(2) Due Date of Returns. Sales tax returns and payments of tax reported thereon are due the twentieth day of the month following the close of the tax period. If the twentieth day of the month following the close of the tax period is a Saturday, Sunday, or legal holiday, the due date shall be the next business day.

(3) Retailer's Service Fee. Except as provided in this paragraph (3), a retailer may, in the remittance of collected sales tax, deduct and retain a retailer's service fee in the amount prescribed by § 39-26-105(1)(c), C.R.S.

- (a) If the retailer is delinquent in remitting any portion of the tax due, other than in unusual circumstances shown to the satisfaction of the executive director, the retailer shall not retain a retailer's service fee for any portion of the tax for which the retailer is delinquent.
- (b) If a retailer has retained a retailer's service fee pursuant to paragraph (3) of this regulation and, subsequent to the applicable due date, owes additional tax for the filing period as the result of an amended return or an adjustment made by the Department, the retailer shall not be permitted to retain a retailer's service fee with respect to the

additional tax, but the retailer may retain the retailer's service fee associated with the original return, so long as the retailer filed the original return in good faith.

(4) **Application.**

- (a) The liability and responsibility imposed by § 39-26-105, C.R.S. and this regulation apply to any retailer that has substantial nexus with Colorado and is doing business in this state, as defined in § 39-26-102(3), C.R.S. Retailers are considered to have a substantial nexus with Colorado for sales tax purposes if they meet any of the following criteria:
 - (i) the retailer maintains a physical presence in Colorado pursuant to §§ 39-26-102(3)(a), (d), or (e), C.R.S.; or
 - (ii) in the previous calendar year or the current calendar year, the retailer's retail sales of tangible personal property and services delivered into Colorado exceeds one hundred thousand dollars.
- (b) Paragraph (4)(a)(ii) of this regulation shall not apply in determining a retailer's liability and responsibility for tax pursuant to § 39-26-105, C.R.S. and this regulation for any sale made prior to December 1, 2018.
- (c) A retailer that has substantial nexus with Colorado as defined in paragraph (4)(a) of this regulation is not a "remote seller" as defined in § 39-26-102(7.7), C.R.S. and sales made by any such retailers are not "remote sales" as defined in § 39-26-102(7.6), C.R.S.

Cross References

1. Forms, returns, and instructions can be found online at www.colorado.gov/tax.
2. For additional information about excess tax collected by a retailer, see § 39-26-112, C.R.S. and 1 CCR 201-4, Regulation 39-26-106.
3. For information about electronic funds transfer (EFT) requirements and the timeliness of payments made via EFT, see 1 CCR 201-1, Special Regulation 1 Electronic Funds Transfer.
4. For information about dates payments or returns are deemed to have been made, see § 39-21-119, C.R.S. and 1 CCR 201-1, Regulation 39-21-119.
5. For information about electronic filing, see § 39-21-120, C.R.S. and 1 CCR 201-1, Regulation 39-21-120.