



## FYI Sales 5

### Sales Tax Information for Out-of-State Businesses

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Colorado sales tax law requires state sales or use tax be paid on all tangible personal property that is sold, leased, used, stored, distributed or consumed in Colorado. Generally, the vendor is liable for collecting and remitting sales taxes. For out-of-state vendors, the responsibility for collecting and remitting either Colorado state sales tax or retailer's use tax depends upon the extent to which they are "doing business in this state" as defined in §39-26-102(3), C.R.S.

"Doing business in this state" means the selling, leasing, or delivering in this state, or any activity in this state in connection with the selling, leasing, or delivering in this state, of tangible personal property by a retail sale...for use, storage, distribution, or consumption within this state. This term includes, but shall not be limited to, the following acts or methods of transacting business:

(a) The maintaining within this state, directly or indirectly or by a subsidiary, of an office, distributing house, salesroom or house, warehouse, or other place of business;

(b) I. The soliciting, either by direct representatives, indirect representatives, manufacturers' agents, or by distribution of catalogues or other advertising, or by use of any communication media, or by use of the newspaper, radio, or television advertising media, or by any other means whatsoever, of business from persons residing in this state and by reason thereof receiving orders from, or selling or leasing tangible personal property to, such persons residing in this state for use, consumption, distribution, and storage for use or consumption in this state.

II. Commencing March 1, 2010, if a retailer that does not collect Colorado sales tax is part of a controlled group of corporations, and that controlled group has a component member that is a retailer with physical presence in this state, the retailer that does not collect Colorado sales tax is presumed to be doing business in this state. For purposes of this subparagraph (II), "controlled group of corporations" has the same meaning as set forth in section 1563(a) of the federal "Internal Revenue Code of 1986", as amended, and "component member" has the same meaning as set forth in section 1563(b) of the federal "Internal Revenue Code of 1986", as amended. This presumption may be rebutted by proof that during the calendar year in question, the component member that is a retailer with physical presence in this state did not engage in any constitutionally sufficient solicitation in this state on behalf of the retailer that does not collect Colorado sales tax.

If leasing equipment or other tangible personal property, see publication FYI Sales 56, Sales Tax on Leases of Motor Vehicles and Other Taxable Personal Property. For businesses with multiple locations, see publication FYI Sales 58, Requirements for Sales Tax Remittance for Multiple Location Filers.

#### **SALES BY REMOTE SELLERS**

Out-of-state businesses (remote sellers) that sell to Colorado residents solely through the Internet, telephone, or mail-order catalogs and that have no physical presence in Colorado or otherwise do business in this state are not required to collect and remit state sales tax. *Quill Corp. v North Dakota, 504 US 298, 112 S Ct 1904, 119 L Ed 2d 91 (1992).*

#### **COLORADO SALES TAX ACCOUNT**

You can apply for a state sales tax license online at [www.Colorado.gov/coloradobusinesssexpress](http://www.Colorado.gov/coloradobusinesssexpress) and receive your Colorado Account Number (CAN) license number immediately. If you cannot apply online, you may complete and submit the Sales Tax/Withholding Account Application (CR 0100). The CR 0100 is available on our Web site. Complete and submit the form by mail or take the CR 0100 to any Taxpayer Service Center. You will receive your license and account number by mail. Please allow four to six weeks for processing these requests. The cost of a standard sales tax license is \$16 for a two-year calendar year period, pro-rated in 6-month increments. [§39-26-103, C.R.S.] Sales tax licenses are renewable in January of every even-numbered year. For further information on sales tax licenses, see publication FYI Sales 9, Sales Tax Licenses and Filing Requirements.

After opening a sales tax account, Colorado state sales tax and applicable state-administered local sales taxes must be collected and remitted under the same laws and regulations that apply to Colorado vendors. In addition, to items sold, leased, or delivered into the special taxing district.

### **RETAILER'S USE TAX ACCOUNT**

To open a Colorado retailer's use tax account complete a Sales Tax/ Withholding Account Application (CR 0100). There is no fee. The CR 0100 is available on our Web site. Complete and submit the form by mail or take the CR 0100 to any Taxpayer Service Center. You will receive your license and account number by mail. Please allow four to six weeks for processing these requests.

After opening the account, Colorado state retailer's use tax must be collected and remitted. [§39-26-204(2), C.R.S.] Colorado state retailer's use tax is the same rate as the 2.9% state sales tax and applies to the same types of transactions as state sales tax. Special district use taxes must be collected on items delivered for sale into that district. That business is not, however, responsible for collecting and remitting local sales taxes that are administered by the state of Colorado.

If a vendor does not open a retailer's use tax account and does not collect retailer's use tax on taxable sales made to Colorado residents, the purchaser is still liable for and must pay the consumer's use tax directly to the Department of Revenue. [§39-26-204(1)(b),C.R.S.] Under such circumstances, the purchaser must file a Consumer Use Tax Return (DR 0252). The Colorado purchaser can file their consumer use tax return online through Revenue Online at: [www.Colorado.gov/RevenueOnline](http://www.Colorado.gov/RevenueOnline). The online system has built-in rates for the jurisdictions applicable to the business or residence address. The system calculates the amount of tax owed based on the purchase total and will help to avoid errors.

### **SPECIAL TAXING DISTRICTS**

Special district sales taxes are filed on the Retail Sales Tax Return (DR 0100). Special district use taxes are remitted on the Retailer's Use Tax Return (DR 0173).

In Colorado there are various special district taxes and special district tax rates which are applicable to specific jurisdictions within the state. The current special districts include: Regional Transportation District (RTD), Scientific and Cultural Facilities District (CD), Local Improvement District (LID), Mass Transit District (MTS), Rural Transportation Authority (RTA) taxes, County Lodging Tax, Metropolitan District Tax (MDT), Multi-Jurisdictional Housing Authority (MHA), Local Marketing District (LMD), and Public Safety Improvements Tax (PSI). For detailed information about local sales rates in state-administered cities and counties, see Revenue Online at [www.Colorado.gov/RevenueOnline](http://www.Colorado.gov/RevenueOnline) or refer to the publication Colorado Sales/Use Tax Rates (DR 1002).

To determine whether a delivery address is within RTD/CD boundaries, refer to the Local Taxes by Address service available at [www.TaxColorado.com](http://www.TaxColorado.com).

### **IMPORTANT NOTICE**

All references to local sales taxes apply only to city, county and special district sales taxes that are collected by the State of Colorado. Home-rule cities that collect their own local sales taxes should be contacted directly for their tax laws and regulations. For information on which cities are home-rule cities and how they may be contacted, see Revenue Online at [www.Colorado.gov/RevenueOnline](http://www.Colorado.gov/RevenueOnline) or see publication Colorado Sales/Use Tax Rates (DR 1002).

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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.