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**COLO R A D O**

**Department of Revenue<sup>(L)</sup>**

Taxation Division

# Consumer Use Tax Guide

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Colorado use tax is a complement to Colorado sales tax and is imposed for the privilege of storing, using, or consuming tangible personal property in Colorado. Taxable uses of tangible personal property include, but are not limited to, the keeping or retention of it, any exercise of dominion or control over it, and the waste or destruction of it.

In general, whenever a purchaser acquires tangible personal property without paying sales tax at the time of the sale, they must pay consumer use tax directly to the Department. If an item is exempt from sales tax, it is generally exempt from use tax as well.

The Colorado use tax rate is 2.9%, the same as the sales tax rate in Colorado, and use tax is calculated in the same manner as sales tax. If the item was purchased outside of Colorado, any sales tax the purchaser paid at the time of purchase is allowed as a credit against the Colorado use tax due.

The filing and remittance requirements for Colorado use tax depend on multiple factors. Individuals may generally remit use tax annually with their Colorado income tax return, but businesses generally must remit use tax as it is accrued, with the Consumer Use Tax Return. Any Colorado use tax due for a motor vehicle must be remitted to the county clerk at the time of registration.

The Colorado Department of Revenue administers use taxes for both the State of Colorado and certain special districts within the state, including the Regional Transportation District (RTD), the Scientific and Cultural Facilities District (CD), and certain Regional Transportation Authorities (RTA). However, the Department does not administer any city or county use taxes. The information in this publication applies to state and state-administered special district use taxes, but generally does not apply to city and county use taxes, including any use taxes imposed and collected by any

home-rule cities. Please see the information about motor vehicles and construction and building materials in Part 4 of this publication and contact the city or county directly for information about their use tax.

This publication is designed to provide general guidance regarding Colorado use tax requirements prescribed by law. Nothing in this publication modifies or is intended to modify the requirements of Colorado's statutes and regulations. Taxpayers are encouraged to consult their tax advisors for guidance regarding specific situations.

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## Part 1: Liability for Consumer Use Tax

# *Part 1: Liability for Consumer Use Tax*

In general, anyone who stores, uses, or consumes tangible personal property in Colorado is subject to consumer use tax, although Colorado law authorizes certain exemptions from the tax. Furthermore, direct pay permit holders are generally required to remit sales tax, rather than use tax, to the Department for all of their purchases. This Part 1 discusses individuals, entities, and organizations that are subject to or exempt from consumer use tax.

## **Taxpayers who owe consumer use tax**

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In general, every individual, corporation, limited liability company, partnership, firm, joint venture, association, estate, trust, and receiver in Colorado is subject to consumer use tax, regardless of whether they conduct any business in the state.

## **Exempt entities and organizations**

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Certain entities and organizations are exempt from both sales and use taxes. Exempt organizations and entities include:

- certain governmental entities;
- charitable organizations; and
- affordable housing projects.

Additionally, construction and building materials used in building, erection, alteration, or repair of structures, highways, roads, streets, and other public works owned and used by governmental entities or charitable organizations may qualify for exemption. Please see Department publication FYI Sales 6: Contractors and Retailer-Contractors for additional information.

## **Certain governmental entities**

A use tax exemption is allowed for the storage, use, or consumption of tangible personal property by certain governmental entities, in their governmental capacities only. The exemption is allowed to:

- the United States government;
- the Colorado government and its institutions; and
- any city, county, and other local government in Colorado.

The exemption also applies to any property loaned to any of the governmental entities listed above. Please see Sales & Use Tax Topics: Governmental Entities for additional information.

## **Charitable organizations**

A use tax exemption is allowed for the storage, use, or consumption of tangible personal property by certain charitable organizations, in the conduct of their regular charitable functions and activities. In general, the exemption is allowed to any organization meeting the requirement of section 501(c)(3) of the Internal Revenue Code. Please see Department publication Sales & Use Tax Topics: Charitable Organizations for additional information about qualifying criteria for charitable organizations.

The exemption also applies to any property loaned to any qualifying charitable organization.

## **Affordable housing projects**

In general, an exemption from consumer use tax applies to tangible personal property purchased for the construction of any affordable housing projects directly or indirectly owned by, leased to, or under construction by a housing authority created pursuant to section 29-4-201, et seq., C.R.S. Please see Department publication FYI Sales 95: Sales/Use Tax Exemption for Affordable Housing Projects for additional information.

## Direct pay permit holders

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In general, direct pay permit holders must remit sales tax to the Department, rather than consumer use tax, for all taxable purchases they make in Colorado. However, a direct pay permit holder is required to remit consumer use tax to the Department in the following situations:

1. The direct pay permit holder purchased and took possession of taxable property outside of Colorado before bringing the property into Colorado.
2. The direct pay permit holder made a tax-exempt wholesale purchase of an item, ingredient, or component part for resale, but later removed such item, ingredient, or component part from inventory for their own use.

Please see Department publication FYI Sales 78: Direct Pay Permit for Colorado Sales Tax for additional information about direct pay permit holders.

## Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to Colorado use tax and exemptions. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

### Statutes and regulations

- § 39-26-103.5, C.R.S. Qualified purchaser - direct pay permit number - qualifications.
- § 39-26-201, C.R.S. Definitions.
- § 39-26-202, C.R.S. Authorization of tax.
- § 39-26-204, C.R.S. Periodic return.

- § 39-26-704, C.R.S. Miscellaneous sales tax exemptions - governmental entities.
- § 39-26-713, C.R.S. Tangible personal property.
- Rule 39-26-202. Imposition of use tax.
- Rule 39-26-704-2. Sales Tax Exemption for Housing Authorities.

## Forms and guidance

- Tax.Colorado.gov (<https://tax.colorado.gov/>)
- Tax.Colorado.gov/consumer-use-tax (<https://Tax.Colorado.gov/consumer-use-tax>)
- FYI Sales 6: Contractors and Retailer-Contractors
- FYI Sales 78: Direct Pay Permit for Colorado Sales Tax
- FYI Sales 95: Sales/Use Tax Exemption for Affordable Housing Projects
- Sales & Use Tax Topics: Charitable Organizations
- *Sales & Use Tax Topics: Governmental Entities*

### Part 2: Taxable Property

## *Part 2: Taxable Property*

Property subject to use tax generally includes all tangible personal property, except if a specific exemption is authorized by law. Consumer use tax is due if any taxpayer stores, uses, or consumes in Colorado any taxable property without having paid all applicable sales and/or use taxes at the time of acquisition. This occurs most commonly when a purchase is from an out-of-state seller who does not collect Colorado sales tax.

This Part 2 provides information about tangible personal property that is subject to use tax and discusses the kind of transactions in which a seller may not have collected sales tax.

# Tangible personal property

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Tangible personal property that is subject to use tax includes all goods, wares, merchandise, products, and commodities, and all tangible or corporeal things and substances that are dealt in and capable of being possessed and exchanged. However, Colorado law exempts several types of tangible personal property from use tax. Additional information regarding exemptions can be found at the end of this Part 2.

Colorado has specific rules regarding the taxability of computer software. If a particular purchase of computer software is exempt from sales tax, that computer software will generally be exempt from use tax as well. Please see Department publication Sales & Use Tax Topics: Computer Software for additional information.

# Non-taxable property

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Use tax does not apply to either real property or intangible personal property. However, prior to their incorporation into real property, construction and building materials are tangible personal property that are subject to sales and use taxes.

## Real property

Real property, such as land and buildings, is not subject to use tax. Real property includes any tangible personal property that lost its identity as tangible personal property when it was installed and became an integral and inseparable part of real property and that is removable only with substantial damage to the real property. If some part of real property is severed and removed, it once again becomes tangible personal property that is subject to sales and use taxes.

## Intangible personal property

Intangible personal property, which constitutes mere rights of action with no intrinsic value, is not subject to use tax. Examples of intangible personal property include the following:

- contracts,
- deeds,
- mortgages,

- stocks,
- bonds, or
- certificates of deposit.

## Sales made without tax collection

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In general, any retailer who sells tangible personal property in Colorado is required to collect the applicable state and state-administered local sales taxes at the time of the sale. However, the consumer must pay use tax directly to the Department if the seller did not collect the applicable tax for any reason. Some of the more common reasons that a seller might not have collected the applicable sales tax are discussed in the following sections.

### Purchases made over the internet

Tangible personal property purchased over the internet and delivered into Colorado is not exempt from taxation simply because it was purchased online. However, if the seller does not have a store, warehouse, or other physical location in Colorado and makes only minimal sales into Colorado, the seller might not be required to collect the applicable sales tax at the time of the purchase. If a person, business, or other legal entity purchases tangible personal property online for use in Colorado, and pays no sales or use tax to the seller at the time of purchase, that purchaser will owe use tax on the purchased property.

An out-of-state retailer who sells taxable property into Colorado, but does not collect Colorado tax, must:

- present the purchaser with a notice at the time of the sale advising them of their obligation to pay consumer use tax directly to the Department;
- send the purchaser an annual summary in January listing the purchases they made during the prior year; and
- report to the Department the total dollar amount of the purchases each purchaser in Colorado made.

The annual summary will assist purchasers in reporting and paying consumer use tax. Please see Part 4 of this publication for information about reporting and paying consumer use tax.

### Purchases made outside of Colorado



If a person, business, or other legal entity purchases taxable property outside of Colorado and brings that property into Colorado for use in this state, the property will be subject to consumer use tax. However, if the purchaser paid sales tax to the other state at the time of purchase, the purchaser will be allowed a credit toward the use tax due in the amount of the sales tax paid. Please see Part 3 of this publication for additional information about the credit allowed for sales taxes paid to another state.

## Sales between private parties

If tangible personal property is purchased from a private party who does not have a sales tax license and therefore does not collect sales tax, the purchaser must pay the applicable consumer use tax directly to the Department.

## Items removed from inventory

A wholesaler or retailer may purchase tangible personal property, including ingredients and component parts, for resale without paying sales tax at the time of purchase. However, if the wholesaler or retailer withdraws an item purchased tax-free from inventory for the retailer's own use, the retailer will owe use tax on that item. Use tax applies regardless of whether the wholesaler or retailer uses the withdrawn item for its customary purpose, for testing, for quality control, for research and development purposes, or for any other purpose.

## Use tax exemptions

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Colorado law exempts several types of property from use tax. Some of the more common types of exempt property are:

- property for which the purchaser paid the applicable Colorado sales tax at the time of purchase;
- property for which the purchaser paid, at the time of purchase, sales tax to another state in an amount equal to or greater than the use tax due;
- food for domestic home consumption (please see Department publication FYI Sales 4: Taxable and Tax-Exempt Sales of Food and Related Items);
- certain machinery and machine tools used in manufacturing (please see Department publication Sales & Use Tax Topics: Manufacturing);

- property purchased and held for resale in the regular course of business, either in its original form or as an ingredient or a constituent part of a manufactured product;
- property held by a nonresident and brought into Colorado either temporarily or when the nonresident acquires residency in Colorado;
- property purchased for \$100 or less by Colorado residents while outside of Colorado.

Please see Part 7 of Article 26 of Title 39 of the Colorado Revised Statutes for information about other types of property that are exempt from use tax.

## Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to Colorado use tax and exemptions. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

### Statutes and regulations

- § 39-21-112, C.R.S. Duties and powers of executive director.
- § 39-26-102, C.R.S. Definitions.
- § 39-26-201, C.R.S. Definitions.
- § 39-26-202, C.R.S. Authorization of tax.
- § 39-26-204, C.R.S. Periodic return.
- § 39-26-707, C.R.S. Food, meals, beverages, and packaging.
- § 39-26-709, C.R.S. Machinery and machine tools.
- § 39-26-713, C.R.S. Tangible personal property.
- Rule 39-21-112(3.5). Notice of reporting requirements for non-collecting retailers.
- Rule 39-26-102(15). Tangible personal property.
- Rule 39-26-713-3.

# Forms and guidance

- [Tax.Colorado.gov \(https://tax.colorado.gov/\)](https://tax.colorado.gov/)
- [Tax.Colorado.gov/consumer-use-tax \(https://Tax.Colorado.gov/consumer-use-tax\)](https://Tax.Colorado.gov/consumer-use-tax)
- FYI Sales 4: Taxable and Tax-Exempt Sales of Food and Related Items
- Sales & Use Tax Topics: Computer Software
- Sales & Use Tax Topics: Manufacturing

## Part 3: Calculating Consumer Use Tax

# Part 3: Calculating Consumer Use Tax

Colorado use tax is calculated at the same 2.9% rate as the state sales tax. Some cities, counties, and special districts in Colorado also impose a use tax. Please see Department publication DR 1002, Colorado Sales/Use Tax Rates for information about local use tax rates and applicability in Colorado. Additional information about the remittance of local use taxes can be found in Part 4 of this publication.

This Part 3 provides information about the calculation of Colorado use tax.

## Purchase price

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In general, Colorado use tax is calculated on the full purchase price of the taxable item. The taxable purchase price includes the full amount paid, or promised to be paid, by the buyer at the time of purchase of the property, excluding only any direct federal tax, any state and local sales tax imposed on the sale, and any retail delivery fees imposed pursuant to section 43-4-218, C.R.S. The taxable purchase price includes the gross value of all material, labor, and service, and the profit thereon included in the price charged to the user or consumer.

## Coupons

Whether a coupon reduces the taxable purchase price for use tax purposes depends on whether the coupon is a manufacturer's coupon or a store coupon.

In the case of a manufacturer's coupon, the manufacturer compensates the retailer for reducing the price the purchaser pays. Because the retailer is reimbursed by the manufacturer for the amount of the reduction, use tax applies to the full selling price before the deduction for the manufacturer's coupon.

A store coupon is issued by the retailer for a reduction in the sales price when the coupon is presented to the retailer by the customer. Because there is no reimbursement to the retailer for such reduction, the taxable purchase price is the reduced price that the purchaser pays.

## Exchanged property

Under certain conditions, the fair market value of tangible personal property exchanged by the purchaser as part of a sale is excluded from the taxable purchase price. The fair market value of the tangible personal property exchanged by the purchaser is excluded from the taxable purchase price, if either:

- such exchanged property is to be sold thereafter in the usual course of the retailer's business; or
- such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification in Colorado, including, but not limited to, vehicles operated upon public highways, off-highway recreation vehicles, watercraft, and aircraft.

If the purchaser transfers intangible property or performs services in exchange for tangible personal property, the fair market value of the intangible property or service is not excluded from the purchase price.

## Gifted property

In the case of a bona fide gift of tangible personal property, the recipient of the gift owes no use tax on the items since they did not purchase the item at retail. Instead, the giver must pay sales tax when purchasing the item or, if no sales tax was collected by the seller at the time of the sale, the giver must pay use tax based on the purchase price of the item.

# Associated service charges

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With certain exceptions discussed below, the taxable purchase price includes any service charges associated with the sale of tangible personal property, such as charges for installation or delivery. Associated service charges are included in the taxable purchase price unless both the service is separable from the sale of the property and the service charge is separately stated from the price of the property sold on the invoice or receipt.

An associated service is separable from the sale of the property if the service is performed after the taxable property is offered for sale and the purchaser has the option not to purchase the associated service. For example, if delivery is optional and the purchaser may elect to pick up the property at the seller's store, without paying the delivery charge, the delivery charge is separable.

An associated service charge is separately stated if it appears as a distinct line item on a written sales contract, retailer's invoice, or other written document issued in connection with the sale, apart from the price of the property sold. However, the statement of a charge as a separate line item does not necessarily indicate that the charge is also separable.

A service charge that is overstated or intended to shift cost and avoid the proper taxation of the property sold is not excluded from the purchase price, even if the service charge is both separable and separately stated.

# Credit for tax paid to another state

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A purchaser liable for a use tax on tangible personal property is allowed a credit for any legally imposed sales or use taxes the purchaser paid in another state for the same property. Credit is not allowed if the tax paid to the other state was not legally due under the laws of that state.

Credit may be claimed on the Consumer Use Tax Return (DR 0252). The credit must be first applied against any Colorado use tax due, and any unused portion of the credit is then applied against any local use taxes due.

# Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to the calculation of Colorado use tax. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

## Statutes and regulations

- § 24-60-1301, C.R.S. Execution of compact.
- § 39-26-102, C.R.S. Definitions.
- § 39-26-201, C.R.S. Definitions.
- § 39-26-202, C.R.S. Authorization of tax.
- § 39-26-713, C.R.S. Tangible personal property.
- Rule 39-26-102(7)(a).
- Rule 39-26-102(10).
- Rule 39-26-102(12).
- Rule 39-26-104-3. Exchanged tangible personal property.
- Rule 39-26-713-4.
- Special Rule 11. Coupons.
- Special Rule 18. Transportation charges.
- Special Rule 21. Gifts, premiums, and prizes.

## Forms and guidance

- Tax.Colorado.gov (<https://tax.colorado.gov/>)
- Tax.Colorado.gov/consumer-use-tax (<https://Tax.Colorado.gov/consumer-use-tax>)
- Colorado Sales/Use Tax Rates (DR 1002)

- Consumer Use Tax Return (DR 0252)

## Part 4: Filing, Remittance & Recordkeeping

# *Part 4: Filing, Remittance, & Recordkeeping*

While a purchaser typically will pay sales tax to the seller at the time of the sale, if the seller does not collect sales tax, the purchaser generally must remit the applicable use tax directly to the Department. The time and manner for filing and remitting Colorado use tax differ for individuals and businesses. Additionally, special rules apply to the imposition of local use taxes on motor vehicles and construction and building materials. This Part 4 provides information regarding filing and payment requirements for Colorado use tax.

## Individuals

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Individuals can report and pay consumer use tax in one of two ways, both of which can be filed electronically at Colorado.Gov/RevenueOnline ([https://www.colorado.gov/revenueonline/\\_/](https://www.colorado.gov/revenueonline/_/)):

- with the Consumer Use Tax Reporting Schedule (DR 104US) as an attachment to their Colorado Individual Income Tax Return (DR 104); or
- with the Consumer Use Tax Return (DR 0252) and, if applicable, the RTA Consumer Use Tax Return (DR 0251).

The schedule or return must include use tax for any tangible personal property the individual stored, used, or consumed during the preceding taxable year and for which sales or use tax was not previously paid.

Consumer use tax for individuals is due April 15<sup>th</sup>. If the 15<sup>th</sup> falls on a Saturday, Sunday, or legal holiday, the return and tax remittance is due the next business day.

# Businesses and other legal entities

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Business and other legal entities that owe use tax must report and pay the applicable tax with a Consumer Use Tax Return (DR 0252) and, if applicable, the RTA Consumer Use Tax Return (DR 0251), both of which can be filed electronically at [Colorado.Gov/RevenueOnline](https://www.colorado.gov/revenueonline/_/) ([https://www.colorado.gov/revenueonline/\\_/](https://www.colorado.gov/revenueonline/_/)).

The due date for businesses and other legal entities that owe consumer use tax depends upon the amount of use tax owed. If the business or other legal entity accrues less than \$300 of total consumer use tax over the course of the year, the business or other legal entity must file an annual use tax return by January 20<sup>th</sup> of the following year, to report and pay the tax due. If the cumulative use tax due at the end of any month is in excess of \$300, the business or legal entity must file a return by the 20<sup>th</sup> day of the following month.

# Construction and building materials

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Construction and building materials are exempt from sales taxes imposed by any county, statutory city, or home-rule city if the purchaser of such materials presents to the seller a building permit or similar documentation showing that local use tax has been paid or is required to be paid. The exemption from city and county sales tax applies even if the materials are purchased outside of the city or county in which the materials will be used. The applicable local use taxes must be paid to the appropriate local governmental agency.

Building permits do not affect the collection and payment of state and state-administered special district sales taxes on construction and building materials. In general, the seller must collect the applicable state and state-administered special district sales taxes on any sale of construction and building materials in Colorado. If, for any reason, the applicable state and state-administered special district sales taxes were not collected at the time of the sale, the purchaser must remit the applicable state and special district use taxes to the Department with a Consumer Use Tax Return (DR 0252).



# Motor vehicles

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In most cases, a motor vehicle dealer will collect all applicable state and state-administered local sales taxes at the time of the sale. At the time of titling and registration, the county clerk must verify that all applicable state and local sales and use taxes have been paid. The county clerk must collect any remaining taxes due prior to titling and registering the vehicle.

In general, state and state-administered sales taxes apply whenever the purchaser takes possession of the vehicle in the same taxing jurisdiction as the vehicle will be registered. If the applicable sales taxes are not collected at the time of the sale because, for example, the vehicle is purchased from a private party who does not have a sales tax license, the county clerk must collect the applicable sales taxes.

If the purchaser takes possession of the vehicle outside of the taxing jurisdiction in which it will be registered, the purchaser may owe use tax, rather than sales tax, for that jurisdiction. In order to facilitate titling and registration, motor vehicle dealers may collect applicable local use taxes and remit them to the county clerk with Department form DR 0024, Standard Sales Tax Receipt for Vehicle Sales. If the seller has not collected and remitted to the county clerk all applicable use taxes, the county clerk must collect any unpaid use taxes prior to titling and registering the vehicle.

Please see Department publication [Sales & Use Tax Topics: Motor Vehicles](#) for additional information regarding the application of state and local sales and use taxes to motor vehicles.

## Penalties and interest

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If anyone who owes consumer use tax does not file and pay the tax by the applicable due date, penalty and interest will be due. Penalty is imposed at a rate of 10% of the unpaid tax, plus an additional 0.5% for each month the tax remains unpaid, not to exceed a total of 18%. Any underpayment of consumer use tax is also subject to the assessment of penalty interest in an amount equal to the interest due, as described below. Additional penalties may be imposed for negligence or fraud.

Interest accrues on any late payment of tax from the original due date of the tax to the date the tax is paid. The rate of interest accrual depends on the calendar year(s) over which the deficiency continues. Additionally, a discounted rate is allowed if:

- the taxpayer pays the tax in full prior to the issuance of a notice of deficiency;

- the taxpayer pays the tax in full within 30 days of the issuance of a notice of deficiency; or
- within 30 days of the issuance of a notice of deficiency, the taxpayer enters into an agreement to pay the tax in monthly installments.

The discounted and non-discounted, regular interest rates for recent years are listed in the following table.

### ***Annual Interest Rates***

<b>Calendar year</b>	<b>Discounted Rate</b>	<b>Regular Rate</b>
2019	5%	8%
2020	6%	9%
2021	3%	6%
2022	3%	6%

## **Failure to file**

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If anyone neglects or refuses to file any required return or to remit any tax due, the Department will estimate the tax due based upon the best available information and issue a notice of deficiency based upon this estimate. When such estimate and notice of deficiency have been made, the taxpayer may prepare and file a return for the tax period in question or otherwise protest the notice of deficiency as provided by law.

## **Recordkeeping requirements**

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Every taxpayer that is subject to Colorado consumer use tax must keep and preserve such books, accounts, and records as may be necessary to determine the correct amount of tax. Such books, accounts, and records must be kept and preserved for a period of three years following the due date of the return, the filing of the return, or the payment of the tax, whichever occurs later. All such books, accounts, and records shall be open for examination by the Department at any time.

# Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to filing, remittance, and recordkeeping requirements for Colorado's consumer use tax. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

## Statutes and regulations

- § 29-2-105, C.R.S. Contents of sales tax ordinances.
- § 29-2-109, C.R.S. Contents of use tax ordinances.
- § 39-21-109, C.R.S. Interest on underpayment.
- § 39-21-119, C.R.S. Filing with executive director.
- § 39-26-104, C.R.S. Property and services taxed.
- § 39-26-113, C.R.S. Collection of sales tax - motor vehicles.
- § 39-26-115, C.R.S. Deficiency due to negligence.
- § 39-26-204, C.R.S. Periodic return.
- § 39-26-208, C.R.S. Collection of use tax - motor vehicles.

## Forms and guidance

- Tax.Colorado.gov (<https://tax.colorado.gov/>)
- Tax.Colorado.gov/consumer-use-tax (<https://Tax.Colorado.gov/consumer-use-tax>)
- Colorado.Gov/RevenueOnline ([https://www.colorado.gov/revenueonline/\\_/](https://www.colorado.gov/revenueonline/_/))
- Consumer Use Tax Reporting Schedule (DR 104US)
- Consumer Use Tax Return (DR 0252)

## Part 5: Refunds and Assessments

# *Part 5: Refunds and Assessments*

Refunds and assessments may be made to correct errors in the prior determination and reporting of tax. Taxpayers may claim a refund for any overpayment of tax made with a previously filed return. Conversely, the Department may issue an assessment for any additional tax due that was not previously reported and paid. The period of time allowed for making refunds and assessments is prescribed by law, but can be extended by agreement between the Department and the taxpayer.

This Part 5 provides information regarding refund claims, assessments, and the period of time allowed by law for both.

## **Refund claims**

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If a taxpayer overpays any use tax due, the taxpayer may request a refund by filing form DR 0137, Claim for Refund. Please see the instructions for form DR 0137 for information about documentation that must be submitted with refund claims. The taxpayer must also complete and file an amended Consumer Use Tax Return (DR 0252) and, if applicable, RTA Consumer Use Tax Return (DR 0251), to correct any errors in the originally filed return. Any claim for refund of consumer use tax remitted to the Department must be made within three years and 20 days after the end of the month in which the taxable storage, use, or consumption first occurred.

## **Assessments**

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If, upon examination of a filed return, the Department determines the correct amount of tax has not been paid, the Department will issue a notice of deficiency to the taxpayer. In general, the Department may issue such notice no later than three years after the return was filed or three years after the return was due, whichever is later. In the case of a false or fraudulent return with intent to evade tax, there is no limit on the time for the Department to issue a notice of deficiency.

If anyone neglects or refuses to file any required return or to remit any tax due, the Department will estimate the tax due based upon the best available information and issue a notice of deficiency based upon this estimate. If anyone has not filed a required return, there is no limit on the time for the Department to estimate the tax due and issue a notice for the estimated tax due.

Please see Part 4 of this publication information about penalties and interest.

# Protests and appeals

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Anyone who receives a notice of deficiency or notice of refund rejection may submit a written protest and request a hearing to dispute the notice. Any protest or request for hearing must be submitted within 30 days of the date of the notice. The protest or request for hearing must be signed by the taxpayer and contain at least the following information:

- the taxpayer's name, address, and account number;
- the tax period(s) involved;
- the type and amount of tax in dispute;
- a summary statement of the findings with which the taxpayer does not agree and the grounds upon which the taxpayer relies for the purpose of showing the tax is not due.

## Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to refund claims and assessments. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

### Statutes and regulations

- § 39-21-103, C.R.S. Hearings.
- § 39-21-104, C.R.S. Rejection of claims.
- § 39-21-107, C.R.S. Limitations.
- § 39-26-204, C.R.S. Periodic return.
- § 39-26-210, C.R.S. Limitations.
- § 39-26-703, C.R.S. Disputes and refunds.
- Rule 39-21-103-1. Request for hearing.

# Forms and guidance

- [Tax.Colorado.gov \(https://tax.colorado.gov/\)](https://tax.colorado.gov/)
- [Tax.Colorado.gov/consumer-use-tax \(https://Tax.Colorado.gov/consumer-use-tax\)](https://Tax.Colorado.gov/consumer-use-tax)
- [Claim for Refund \(DR 0137\)](#)

## Helpful Links

[Accessibility Statement \(https://cdor.colorado.gov/accessibility\)](https://cdor.colorado.gov/accessibility)

[CDOR Homepage \(https://cdor.colorado.gov/\)](https://cdor.colorado.gov/)

[CDOR Careers \(https://www.governmentjobs.com/careers/colorado?keywords=Revenue\)](https://www.governmentjobs.com/careers/colorado?keywords=Revenue)

[Due Date Guide \(/due-date-guide\)](/due-date-guide)

[How Was Your Service? \(/how-was-your-service\)](/how-was-your-service)

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[Collections Section \(/contact-the-collections-section\)](/contact-the-collections-section)

[Ask for Help \(/citizens-advocate\)](/citizens-advocate)

[Tax Newsroom \(/newsroom\)](/newsroom)



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