



COLORADO
Department of Revenue
Executive Director's Office

Physical Address:
1881 Pierce Street
Lakewood, CO 80214

Mailing Address:
P.O. Box 17087
Denver, CO 80217-0087

September 27, 2022

The Honorable Stephen Fenberg
President of the Senate
Colorado General Assembly

The Honorable Alec Garnett
Speaker of the House
Colorado General Assembly

The Honorable Dominick Moreno
Senate Majority Leader
Colorado General Assembly

The Honorable Daneya Esgar
House Majority Leader
Colorado General Assembly

The Honorable John Cooke
Senate Minority Leader
Colorado General Assembly

The Honorable Hugh McKean
House Minority Leader
Colorado General Assembly

Dear Senators and Representatives:

The Colorado Department of Revenue (CDOR) is required to report annually on the refund mechanisms for Nonexempt District Revenues subject to Article X, Section 20 (TABOR) of the State's Constitution using data from the State Controller, State Auditor, Legislative Council Staff, and tax data from CDOR.

On September 1, 2022, the State Controller certified that the Fiscal Year 2022 (FY 2022) unaudited state revenues subject to TABOR were \$19,747,030,367. These revenues exceed the Excess State Revenue Cap (ESRC) by \$3,848,515,672. Additionally, the State is required to refund any remaining TABOR surplus not refunded in prior fiscal years that have not yet been claimed by taxpayers. Remaining excess revenues of \$133,769,928 from Fiscal Years 2015, 2018, 2019, and 2021 have not yet been claimed. On September 15, 2022, the State Auditor provided the results of their TABOR audit, which stated that the TABOR surplus should be adjusted down. The State Controller confirmed that the total refund obligation should be adjusted down by \$19,888,770. Therefore, the total amount to be refunded for FY 2022 is \$3,848,515,672. Because the TABOR revenues are above the ESRC, refunds are required for FY 2022.

All four TABOR refund mechanisms under current law will be used:

1. property tax exemption reimbursement (§39-3-209, C.R.S.);
2. temporary income tax rate reduction (§39-22-627, C.R.S.);
3. temporary direct payments (§39-22-2004, C.R.S.); and
4. sales tax refund (§§39-22-2001 through -2003, C.R.S.).

Several statutes¹ require CDOR to calculate estimates using values from the most recent forecast prepared by Legislative Council Staff (LCS), which differs from the forecast prepared by the Office of State Planning and Budgeting (OSPB). A comparison of some of CDOR's estimates to OSPB's estimates is provided at the end of the letter.

¹ §§39-22-627(4 & 5), 39-22-2003(4)(b), 39-22-2002(6)(a), 39-22-2004(2)(d), C.R.S.



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Using the property tax exemption reimbursement estimate from the September 2022 Forecast from LCS, the first mechanism will reduce the surplus revenues by \$161.3 million.

Using the income tax rate reduction estimate from the September 2022 Forecast from LCS, the second mechanism will reduce the surplus revenues by \$151.8 million by implementing a 4.5% tax rate for the 2022 income tax year for all income tax filers.

Using the direct payments estimate from CDOR (also published in the September 2022 Forecast from LCS), the third mechanism will reduce the surplus revenues by \$2.7 billion by delivering direct payments to eligible individual income tax filers.

After accounting for the first three refund mechanisms, the remaining \$795.7 million surplus revenue will be refunded through the sales tax refund.

CDOR calculates the TABOR refund amounts of surplus revenues as follows:

TABOR Refund Obligation	\$3,848,515,672
Property Tax Exemption Reimbursement	\$161.3 million
Estimated Income Tax Rate Reduction	\$151.8 million
SB22-233 TABOR Direct Payments	\$2.7 billion
Estimated Sales Tax Refund	\$795.7 million

CDOR estimates that each qualified taxpayer would receive an average sales tax refund of \$224, which can be claimed by filing their 2022 individual income tax return or filing a property tax, rent, and heat rebate application. Because the sales tax refund amount exceeds \$15 per qualified taxpayer, a flat refund amount will not be used, and instead, the refund amount per taxpayer will vary based on their modified adjusted gross income (AGI). Six modified AGI tiers are used. The AGI levels in each tier are set using the most recent available modified AGI data and the share of taxpayers that were within each tier in tax year 1999. Then, the refund amounts per taxpayer are set using the total amount available for the 2022 sales tax refund mechanism and the share of the total sales tax refund each tier received in tax year 1999.

2022 TABOR Sales Tax Refunds				
Tier	Modified Adjusted Gross Income	Single Filer Refund	Joint Filer Refund	Total Estimated Sales Tax Refund
Tier 1	\$48,000 or less	\$153	\$306	\$191.4 million
Tier 2	\$48,001 to \$95,000	\$208	\$416	\$196.6 million
Tier 3	\$95,001 to \$151,000	\$234	\$468	\$146.4 million
Tier 4	\$151,001 to \$209,000	\$285	\$570	\$90.6 million
Tier 5	\$209,001 to \$268,000	\$300	\$600	\$46.7 million
Tier 6	\$268,001 or more	\$486	\$972	\$124.5 million
Total				\$796.2 million



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The estimated total for the sales tax refund is \$796.2 million, which is slightly higher than the total amount available for the sales tax refund, \$795.7 million. This variance occurs because the sales tax refund amounts are rounded.

For reference, below are the 1999 TABOR sales tax refund shares of taxpayers and refund amounts per tier that were used to determine the 2022 modified AGI tiers and refund amounts. Whereas the percentages used are fixed at the 1999 values, the modified AGI tier values change each applicable year.

1999 TABOR Sales Tax Refund Percentages		
Tier	Share (%) of taxpayers	Share (%) of the amount refunded
Tier 1	34.98%	24.04%
Tier 2	26.95%	24.69%
Tier 3	17.43%	18.38%
Tier 4	9.09%	11.39%
Tier 5	4.35%	5.86%
Tier 6	7.21%	15.64%
Total	100.00%	100.00%

The following table shows estimates of the average refund per individual as calculated by CDOR and OSPB for comparison. Differences between the values are in part due to the statutory requirement that CDOR use LCS forecast numbers to prepare the estimates.

Average Refund per Individual		
TABOR Mechanism	CDOR Estimate	OSPB Estimate
Six-Tier Sales Tax Refund	\$224	\$232
Income Tax Rate Reduction	not estimated	\$23
Total	>\$224	\$255

Sincerely,

Mark Ferrandino
 Executive Director
 Colorado Department of Revenue



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