

Colorado Department of Revenue



A Revenue Publication for Businesses, Tax Professionals, Local Governments and Individuals

December 2008

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NOTE: All links to department forms referenced in this document require you to have the free [Adobe Acrobat Reader](#) software

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2009 Income Tax Interest and Penalty Rates

The 2009 income tax interest rate for the 2008 income tax filing is 8 percent.

If a taxpayer owes the Colorado Department of Revenue taxes, interest and penalty may apply when the taxpayer fails to pay timely.

The interest rate of 8 percent can be reduced to a 5 percent discounted rate. The 5 percent discounted rate applies when a payment is sent with the return or within 30 days of the first billing notice sent by the Department of Revenue.

Penalty is 5 percent for the first month and 0.5 percent for each month thereafter, up to a maximum of 12 percent of the balance due.



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Voluntary Contribution Changes for 2008 Filers

The 2008 voluntary contribution program (checkoffs) program has a few changes for those planning on contributing all or a portion of their state income tax refund to one of the voluntary contributions listed on the 104 Individual Income Tax form.

Newly added to the form is the following:

1. *Adult Stem Cells Cure Fund* – provides resources to encourage and enable mothers in Colorado to donate the umbilical cord blood to a public cord blood bank.
2. *9Health Fair Fund* – Contributions allow 9Health Fair to provide free and low-cost health screenings at more than 100 sites statewide.
3. NOTE: There is a name change to a current checkoff. Previously known on the income tax return as "Colorado Watershed Protection Fund" this contribution is now entitled "*Colorado Healthy Rivers Fund*." The definition may be found in the income tax booklet under "Checkoff Colorado."

Two voluntary contributions have been dropped and will not be available on the 2008 state tax return. No longer available are "Family Resource Centers Fund" and "Dropout Prevention Activity Grand Fund."

Removal and additions of state voluntary contributions are not determined by the Department of Revenue. State law allows for no more than 15 checkoffs on a return in a single year.

While there may be some statutory exceptions, generally, checkoffs are dropped from the return if they do not receive the required \$75,000 in contributions from January 1 to September 30 of any year starting in the third year they appear on the state income tax return.



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Single-Factor Apportionment of Business Income

For tax years beginning on or after January 1, 2009, corporations and partnerships will no longer be permitted to apportion their business income using the two-factor or three-factor methods previously allowed. Rather, these methods will be replaced with a single-factor apportionment method by which all business income must be apportioned on the basis of the Colorado sales as a percentage of total gross sales. Non-business income may be either apportioned in this same manner or directly allocated to its state of origin.

This change is the result of the passage of House Bill 08-1380. The complete bill text is available online at <http://www.leg.state.co.us/> Additionally, the Department will promulgate rules regarding the administration of the statutory sections added or amended by this bill.

Visit www.taxcolorado.com for additional information regarding the proposed and adopted regulations related to this change.



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Tips for Timely Income Tax Refunds

Avoid Refund Delays . . .

Avoidable taxpayer errors on income tax returns often delay issuance of Colorado income tax refunds. Each year, thousands of state tax returns contain errors or omissions that must then be corrected by the Department of Revenue.

Regardless of method of submission, filers should always be aware of the following when filing a return.

Read instructions carefully. Errors can be avoided if taxpayers understand the form and understand which lines may or may not apply to them. When taxpayers are eligible for a credit they should read the Colorado individual income tax booklet instructions and associated FYI publications to confirm they qualify for a specific credit and how to properly file for that credit.

Confirm social security numbers. SSN(s) must be correct. If a joint return is filed, the primary (first) SSN on the Colorado return should always match the order that the SSNs appear on the Federal return each year.

Verify where the refund is to be sent. When Direct Deposit is requested, accurate financial information should be submitted with special attention to account and routing numbers. If a taxpayer wishes to receive a refund by mail, addresses should be complete, including city, state, zip code and other specific information such as apartment numbers.

Paper filers should watch for . . .

Many paper filings are adjusted due to simple errors. These errors mean delays in taxpayers receiving their refunds. When filing a paper return (rather than using an electronic method) common mistakes can be avoided by taking some simple steps:

Attach all W-2s to the 104 return at the appropriate place on the return. All W-2s and 1099 documents must be stapled to the paper return where indicated. DO NOT SEND A PAPER RETURN OR W-2s if you filed electronically.

Make certain returns are complete. In addition to stapling W-2s to the return, be sure to include all schedules and supporting materials. This is especially important for part-year residents who fill out the 104PN Schedule and those claiming credits on the 104CR Credit Schedule.

Fill out forms completely. Incomplete forms will be adjusted or may be sent a written request for documentation. Be sure to sign the paper return. If filing a joint return both parties must sign the return.

Check the math. Simple calculation errors may result in the return being adjusted or the department manually correcting the returns. Simply double checking the math may save time in receiving a refund.

Put proper postage on the envelope. The U.S. Postal Service will not deliver mail without the proper postage. If a filer mails in a return without proper postage, it will be returned to sender. This is especially important for those filing on or very near the filing deadlines of April 17 or October 15.

Sending a payment. If a taxpayer is sending a payment with the paper return, place the check on top of the return where it is visible. DO NOT place it under the return or other documentation.

Most of these errors can be avoided by using any available electronic filing method, including the no-cost Colorado NetFile and Colorado TeleFile options. NetFile and TeleFile are located on the Web at www.taxcolorado.com



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Sales Tax:

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Sales and Use Tax Returns Due In January

Reminder to businesses: All monthly, quarterly, seasonal and annual sales tax returns (DR 0100 Colorado Retail Sales Tax) are due January 20, 2009.

Those who made purchases in which sales tax was not paid on the item(s) should be aware that a 2.9% Consumer Use tax is due January 20, 2009. Consumer Use tax is filed on Form DR 0252 "Consumer Use Tax Return." Consumer RTA Use tax is filed on Form DR 0251 "RTA Consumer Use Tax Return."

Forms referenced above are located on the Web at www.taxcolorado.com



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2008 Tax Exemptions Take Effect

School Related Items Exemption. Effective September 1, 2008, sales made by schools, school activity booster organizations, and student classes or organizations became exempt from state sales tax if all proceeds of the sales are for the benefit of a school or school-approved student organization.

Proceeds of sales by public school parent/teacher organizations can also be used for the reasonable expenses of the organization.

The exemption includes but is not limited to, fundraiser items such as gift wrap, bake sale goods, silent auction donation items, and booster club concession stand food items that are sold by the school or school related organization. (§39-26-725(2), C.R.S. and (§39-26-718(1)(c), C.R.S.)

For more information see FYI Sales 86 "Sales Tax Exemption on School Related Items."

Sales Tax Exemption on Beetle Wood Products. Effective July 1, 2008, products made of wood salvaged from Colorado trees infested by mountain pine beetles became exempt from state sales and use tax.

The exemption applies to products such as lumber from salvaged trees, furniture built with wood from salvaged trees, wood chips or wood pellets generated from salvaged trees, or other products made substantially with wood from salvaged trees, such as pencils. (§39-26-723, C.R.S.)

The exemption expires June 30, 2013. For more information see FYI Sales 84 "Sales Tax Exemption on Beetle Wood Products."

Sales Tax Exemption on Aircraft and Aircraft Parts. Effective August 5, 2008, sales of aircraft to non-residents are exempt from sales tax if the aircraft will be removed from the state within 120 days of the sale and the aircraft will not be in the state more than 73 days in any of the three calendar years following the calendar year the aircraft is removed from the state. (§39-26-711.5)

For more information see FYI Sales 85 "Sales Tax Exemption on Aircraft and Aircraft Parts."

Sales Tax Exemption of Components for Production of Electricity from Renewable Energy Sources. Effective July 1, 2006, components used in the production of electricity from a renewable energy source, including but not limited to wind, are exempt from state sales and use tax. This legislation became effective August 2008, but

is retroactive to July 1, 2006.

For more information including how to claim the credit see FYI Sales 83 "Sales Tax Exemption of Components for Production of Electricity from Renewable Energy Sources."

All of the above listed FYIs are available online only at *www.taxcolorado.com*



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2009 Sales and Wage Withholding Interest Rates

Effective January 1, 2009, the interest rate for late filing of sales tax returns will be 5 percent annually. The rate preprinted on the sales tax and related returns will be .0084 percent per month or 10 percent annually. This rate includes 5 percent interest, plus 5 percent penalty interest.

The rate printed on wage withholding returns is .0042 percent per month or 5 percent per year. If no payment or agreement to pay is made for either sales or wage withholding tax within 30 days from the actual return due date, the interest will increase to 8 percent.

State statutes provide that the interest rate for each year will be the prime rate, as reported by the Wall Street Journal, plus 3 percentage points rounded to the nearest full percent. The prime rate reported July 1, 2008 was 5.0 percent.



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2009 EFT Dates for Sales Tax Payment to Cities and Counties

The due dates for the Department of Revenue to pay sales tax collections through Electronic Funds Transfer (EFT) to local governments in 2009 are:

EFT Schedule City & County 2009

Month	Settlement Date
January	13
February	11
March	11
April	10
May	12
June	10
July	13
August	12
September	11
October	13
November	12
December	10



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What a Business Should 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 (underpayment of specific taxes owed).

The following information applies to business audits only – not individual audits. Audits are generally selected in a number of ways such as: at random, referrals from other government agencies, requests from local jurisdictions, or as a result of other/previous audits.

Please note that when a business is preparing for an audit there is a four-year statute of limitation for income tax returns and documentation and three years (36 months) for sales and use tax.

What to expect when being audited . . .

- You will be contacted by a Field Audit representative to schedule a time to conduct the audit. Audits are conducted at the 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.
- 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 the field audit 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 department audit representative for review and approval. If the audit determines additional tax is due, you will receive a Notice of Deficiency and copies of all final work papers.
- If the audit results in no tax adjustment or that no tax is due, the business will receive official notification with the associated work papers.

- If the auditor determines that your business has made an overpayment, you will receive a Notice of Refund. You have the same protest rights as if it were a billing. You have 30 days to protest. If you agree with the amount of overpayment the department will issue and send you the amount of overpayment. If you do not protest within 30 days, the department will automatically send the amount overpaid determined by the auditor.

Protest rights and procedures . . .

- If you disagree with any part of the audit findings, you must submit a written protest. This protest must be postmarked within thirty (30) days of the Notice date. Complete instructions on 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. If you are scheduled for a formal hearing bring all or as much of the records you have to the hearing.



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Colorado Taxability of Mobile Telecommunications

Does Colorado state sales tax apply to mobile telecommunications?

Cellular Phone Services (Mobile Telecommunications): Colorado state sales tax does apply to intrastate mobile telecommunications such as cellular phones. Local taxes and special district taxes would also apply depending on the locality of where the customer resides or maintains a primary business. The company providing the service must charge and collect the sales tax from customers at the rate applicable for the service address. [§39-26-104(1)(c) C.R.S.] This is in accordance with the federal "Mobile Telecommunications Sourcing Act", 4 U.S.C. secs. 116 to 126.

Calling Cards: Prepaid cellular telephone calling cards are subject to Colorado state sales tax for intrastate calls. Generally, the monthly-itemized billed telephone service is taxed and the tax is collected by the service provider. Interstate calls are not subject to Colorado state sales tax.

Note: In mobile telecommunications the wireless carrier/provider will be held harmless against errors that might occur resulting from their use of a database certified by a state. There is no hold harmless for vendors that do not use the state-certified database after a period of time which allowed for converting the database. Additionally, if the state does not certify a vendor with a database, vendors would be held harmless if they employ a zip code of at least 9-digits and exercise due diligence. There are currently two certified databases, Pitney Bowes Group One and Proxix, Inc.

What does an individual do if a company charges the incorrect tax to the individual's wireless phone service?

The Mobile Telecommunications Act states that customers who believe that they were incorrectly assessed local taxes (including statutory cities, counties, and special districts) for cellular services must file a claim with the company. The company has 60 days to make the correction and refund the money. If the company disagrees (or doesn't respond), then the customer has the right to go to district court.

The Colorado Department of Revenue is not responsible in resolving tax disputes between mobile service providers and customers.

- a. If a customer believes that a tax, charge, or fee assessed by a local government in the customer's bill for a mobile telecommunications service is erroneous, or that an assignment of place of primary use or taxing jurisdiction on said bill is incorrect, the customer shall notify the home service provider in writing within two years after the date the bill was issued. The notification from the customer shall include the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the alleged error, and any other information that the home service provider may require.
- b. No later than sixty days after receipt of notice from a customer pursuant to paragraph (a), the home service provider shall review the information submitted by the customer and any other relevant information and documentation to determine whether an error was made. If the home service provider determines that an error was made, the home service provider shall refund or credit to the customer any tax, fee, or charge erroneously collected from the customer for a period not to exceed two years. If the home service provider determines that no error was made, the home service provider shall provide a written explanation of its determination to the customer.

- c. Any customer that believes a tax, charge, or fee assessed by a local government in the customer's bill for mobile telecommunications services is erroneous, or that an assignment of place of primary use or taxing jurisdiction on said bill is incorrect may file a claim in the appropriate district court.

Regulation 39-26-104.1(c)(I) Telephone and telegraph service, mobile telecommunications, home service providers.



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January 2009 Sales and Use Tax Rates

Local tax rate changes including sales and use tax rate changes for 2009 will be available online in January. The changes may be found in the publication DR 1002 Colorado Sales and Use Tax Rates at www.taxcolorado.com under Forms. Rates changes were not available at the time of the publishing of this edition of *Tax Update*.



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Withholding Tax:

- [New Wage Withholding Tables for Tax Year 2009](#)

New Wage Withholding Tables for Tax Year 2009

The state wage withholding tables for tax year 2009 are now available on the Web site at www.taxcolorado.com There are minor tax rate changes on this updated new version.

Click on "Tax Forms" and scroll down to DR 1098 Withholding Tables (this version applies for 2009). The tables that apply for 2008 are still available online through December 2008.

The DR 1098, "Wage Withholding Tables for 2009" are not automatically mailed to employers, but will be available to order in hard copy format by mid-December 2008.

Call (303) 238-SERV (7378) to order or download them in PDF format from the Web.



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2009 Cigarette Tax Electronic Funds Transfer Due Dates

The Colorado Department of Revenue's Electronic Funds Transfer (EFT) program, allows cigarette taxes collected by the state for local governments to automatically be deposited into specific accounts. 2009 due dates for cigarette tax EFT transmissions are:

MONTH	DATE (2009)
January	8
February	6
March	6
April	7
May	7
June	5
July	9
August	7
September	8
October	7
November	6
December	7

To receive monthly cigarette tax distribution through EFT, you must complete Form DR 1011, "Authorization Agreement For Automatic Deposits (ACH credits)." Contact the Department of Revenue at the address below for a DR 1011 Form.

Send the completed form to:
Colorado Department of Revenue
Excise Tax Accounting Section
1375 Sherman St., Room 237
Attention: Jeanne Pletcher
Denver, CO 80261-0003



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Revenue Moves Forward with New System for Service Enhancement

In 2007, the Colorado Department of Revenue began putting forth its best effort to improve its computerized accounting systems to benefit both the customer and the department's processing of returns. The new tax system called CITA (Colorado Integrated Tax Architecture) has already been implemented for Estate and Severance Tax as well as for the Property Tax Rent/Heat Rebate program (PTC).

While the CITA project has several years ahead of it before its completion, already strides have been made to improve these taxes in regard to billings, refund checks and other correspondence sent to the taxpayer by the department.

One of the main goals of the CITA project is to assign each individual taxpayer with his/her own specific Colorado account number rather than relying on social security numbers or employer identification numbers as the main reference when assisting customers or working on an account for an individual or business. Already this has been accomplished for both Estate and Severance Tax in addition to PTC accounts. This eight (8) digit identification number will also reduce the risk of identity theft. The ID numbers assigned to each individual taxpayer will be their permanent ID with which they will interact with the Department of Revenue concerning their accounts, returns and refunds.

As Phase I of this project was completed on time, so it is expected that Phase II of this undertaking will meet its deadline of November 2009. Phase II of the project will entail the enhancement and streamlining of the state income tax system promising a more efficient and easy method of handling income tax accounts for both the department and its customers.

Future phases of the CITA project will tackle all other taxes administered by the department including sales/use and business taxes, and is expected to be completed in 2012.

Look for more information in future editions of *Tax Update*.



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Web Information

New Look for the Colorado Taxation Web Site

The Colorado Department of Revenue's Web site has a new look. In October 2008, the department in conjunction with most Colorado State agencies, updated the Web look and navigation tools to meet the required state standardization.

If you currently have the Taxation Web site bookmarked as part of your "Favorites" you may retain the Web address *www.taxcolorado.com*

This address will allow you to go to the new Taxation Web page so you will not have to change your browser Favorites.

Please note that the Department of Revenue no longer has a "final regulations" Web page. To locate final, adopted and most current regulations you must go to the Secretary of State's web page at <http://www.sos.state.co.us/CCR/Welcome.do> to view/print any state adopted regulation.

Proposed regulations for public tax hearings held by the Department of Revenue will continue to be maintained on the Department of Revenue's Web site under "Tax Library" and "Rules and Regulations."

The Department of Revenue is always interested in your opinions and comments. If you experience problems with the updated site please contact us. Include the name of the page(s) you were viewing and what you were trying to do, then send an email to us at tpspublicinfo@spike.dor.state.co.us This will help the department to resolve any issues that need to be addressed to continue to improve and build on the updated site.



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