



COLORADO
Department of Revenue
Taxation Division

Colorado Cigarette Tax Guide

Colorado imposes a tax on the sale of all cigarettes in Colorado. Cigarettes that are subject to the tax are defined in 1 CCR 201-7, Rule 39-28-101 and section 39-28-202(4)(a), C.R.S. This publication provides information regarding Colorado's cigarette tax, but does not apply to either tobacco products or nicotine products sold in Colorado, which are taxed separately. Please see the *Colorado Tobacco Products Tax Guide* and the *Colorado Nicotine Products Tax Guide* for additional information regarding the taxes imposed on tobacco products and nicotine products.

In general, a wholesaler selling cigarettes in Colorado is liable for the cigarette tax, including any wholesaler who makes sales from outside of Colorado for delivery to consumers at locations inside of Colorado. Wholesalers are required to affix cigarette stamps to each package of cigarettes they sell as evidence of payment of the applicable tax.

Any wholesaler who is liable for the tax must obtain and maintain a Colorado cigarette tax license. They must also file returns and remit the applicable tax on a monthly basis. Wholesalers must maintain all records necessary to determine the correct amount of tax and provide these records to the Department upon request.

This publication is designed to provide wholesalers with general guidance regarding licensing, tax calculation, filing, remittance, and recordkeeping requirements prescribed by law. Additional information, guidance, forms, and instructions can be found online at Tax.Colorado.gov. Nothing in this publication modifies or is intended to modify the requirements of Colorado's statutes and regulations. Wholesalers are encouraged to consult their tax advisors for guidance regarding specific situations.

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Every cigarette wholesaler and wholesale subcontractor is required to obtain and maintain an active license with the Colorado Department of Revenue. A list of all currently licensed wholesalers is available online at [Tax.Colorado.gov/licensed-distributors](https://tax.colorado.gov/licensed-distributors). This *Part 1* provides information regarding wholesalers and wholesale subcontractors who are required to be licensed, as well as licensing applications, renewals, and revocations.

Wholesalers and subcontractors

Anyone selling cigarettes or offering cigarettes for sale in Colorado must first obtain a license granted and issued by the Department. Licenses are granted only to persons who own or operate the place where such cigarette sales are made. Licensing requirements apply to wholesalers and wholesale subcontractors, both defined below.

Wholesalers

A wholesaler license is required for any person, firm, limited liability company, partnership, or corporation who:

- imports cigarettes into Colorado for sale or resale;
- purchase and affix tax stamps to cigarette packages; or
- is located outside of Colorado and accepts orders for cigarettes from consumers in Colorado, over the phone, internet, or by any other means, for delivery into Colorado by common carrier, private delivery service, mail, or any other means.

Wholesale subcontractors

A wholesale subcontractor license is required for any person, firm, limited liability company, partnership, or corporation who purchases cigarettes from a wholesaler for resale to a retailer in Colorado.

Application for licensing

A wholesaler or wholesale subcontractor must apply for licensure online at [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline) and pay the applicable fee. The standard license fee is \$10 per year. For an initial license application, the fee will be prorated based on the number of calendar quarters remaining before the expiration of the license on June 30th. If a wholesaler or wholesale subcontractor makes sales from two or more separate places, a separate license is required for each place of business. Please visit [Tax.Colorado.gov/excise-fuel-tax](https://tax.colorado.gov/excise-fuel-tax) for additional information about licensing applications.

An applicant must have a current Colorado sales tax license and must not owe any delinquent Colorado taxes, unless the applicant has entered into an agreement with the Department to pay such taxes. Please see *Part 5* of the [Colorado Sales Tax Guide](#) for information about sales tax licenses.

Additional requirements for wholesalers

Cigarette wholesalers, but not wholesale subcontractors, must submit with their license application each of the following attachments, described in greater detail later in this publication:

- 1) *Cigarette License Surety Bond (DR 0219)*;
- 2) Evidence demonstrating that the wholesaler will buy cigarettes from at least one manufacturer that is either part of the Master Settlement Agreement or that places funds into a qualified escrow account; and
- 3) *Electronic Funds Transfer (EFT) Account Setup For Tax Payments (DR 5785)*, unless the wholesaler has registered online for EFT with the Department.

Additionally, as a condition for licensure, wholesalers must comply with requirements relating to the Master Settlement Agreement and Tobacco Escrow Funds, including, but not limited to, the filing of [Department forms DR 1285 and/or 1286](#). Please see Department publication [FYI Excise 18: Master Settlement Agreement](#) for additional information regarding these requirements.

Cigarette license surety bond (DR 0219)

The wholesaler must submit *form DR 0219* with their license application as evidence of a surety bond issued for the benefit of the Department. The bond must be issued by a company authorized to do business in Colorado. The amount of the bond must be equal to the wholesaler's anticipated total monthly purchase of stamps, as determined by the wholesaler.

A wholesaler may file a replacement surety bond if the wholesaler's anticipated total monthly purchase of stamps changes after the wholesaler has been issued a license pursuant to this section.

When renewing their cigarette tax license, for each consecutive preceding year that a wholesaler has not been delinquent in the payment of cigarette taxes, as determined by the Department, the amount of the required bond may be reduced by 20% of the wholesaler's original anticipated total monthly purchase of stamps. A wholesaler that has not been delinquent in the payment of cigarette taxes for five consecutive years is exempt from the requirement to file a surety bond with the Department.

Electronic funds transfer (EFT) registration

Wholesalers must register with the Department in order to make payments via electronic funds transfer (EFT). Registration can be made either online at Colorado.gov/RevenueOnline or by completing and submitting *form DR 5785, Electronic Funds Transfer (EFT) Account Setup For Tax Payments*. A wholesaler must first sign up and create a login ID for Revenue Online in order to register for EFT online. Please see Department publication *Colorado Department of Revenue Electronic Funds Transferred (EFT) Program For Tax Payments (DR 5782)* for additional information regarding EFT payments and registration.

Business changes for a licensee

If a wholesaler or wholesale subcontractor relocates or changes the name of the business, they must notify the Department by submitting a web message through their account at Colorado.gov/RevenueOnline, sending an email to DOR_ExciseTax@state.co.us, or by calling 303-205-8287. The Department will issue a license with the new business name or location at no charge.

If there is a change in ownership for the business, the new owner must *apply for a new license*, as described earlier in this publication. A change in ownership may occur if an existing business is sold to a new owner or if the ownership structure of an existing business changes so as to create a new legal entity. However, any changes in stockholders of a corporation, partners in a partnership, or members in a limited liability company is not a change of ownership and does not require a new license.

License renewals

Licenses, if not renewed, will expire on June 30th. A license renewal application will be mailed to each licensed wholesaler and wholesale subcontractor. Licenses can be renewed electronically at [Colorado.Gov/RevenueOnline](https://colorado.gov/revenueonline). A current Colorado sales tax license and a license fee of \$10 are required for renewal of a cigarette tax license. A license cannot be renewed if the licensee owes any delinquent Colorado taxes, unless the licensee has entered into an agreement with the Department to pay such tax. Additionally, a wholesaler license cannot be renewed unless all of the following requirements are met:

- The licensee has filed all required reports related to the Master Settlement Agreement (please see Department publication *FYI Excise 18: Master Settlement Agreement*);
- The wholesaler has filed with the Department evidence demonstrating that the wholesaler has bought and will continue to buy cigarettes from at least one manufacturer that is either part of the Master Settlement Agreement or that places funds into a qualified escrow account; and
- A satisfactory surety bond remains in effect (please see *Cigarette license surety bond (DR 0219)*, earlier in this publication, for additional information).

License revocations

If a licensee violates any provision of law applicable to the tax on cigarettes, or owes any delinquent state taxes for which an agreement to pay has not been made with the Department, the Department will, on reasonable notice and after a hearing, suspend or revoke the license. The wholesaler or wholesale subcontractor will not be eligible for a new license for a period of two years thereafter.

Penalty for operating without a license

It is unlawful for any wholesaler to sell and distribute any cigarettes in Colorado without a license. Any wholesaler or agent thereof who willfully violates licensing requirements is subject to criminal penalties.

Additional resources

The following is a list of statutes, forms, and guidance pertaining to licensing for Colorado's cigarette 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

- § 39-28-101, C.R.S. Definitions.
- § 39-28-102, C.R.S. Licensing of wholesalers.
- § 39-28-102.5, C.R.S. Licensing of wholesale subcontractors.
- § 39-28-114, C.R.S. Prohibited acts - penalties.
- § 39-28-115, C.R.S. List of licensed wholesalers.
- § 39-28-305, C.R.S. Reporting information.
- § 39-21-119.5, C.R.S. Mandatory electronic filing - mandatory electronic payment.
- Rule 39-28-102. Wholesale or wholesale subcontractor change of business location.
- Rule 39-28-202. Tobacco distributors.

Forms and guidance

- [Tax.Colorado.gov](https://tax.colorado.gov)
- [Tax.Colorado.gov/cigarette-tax](https://tax.colorado.gov/cigarette-tax)
- [Tax.Colorado.gov/cigarette-distributors](https://tax.colorado.gov/cigarette-distributors)
- [Tax.Colorado.gov/licensed-distributors](https://tax.colorado.gov/licensed-distributors)
- [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline)
- *FYI Excise 18: Master Settlement Agreement*
- *Cigarette License Surety Bond (DR 0219)*
- *Licensed Distributor Reporting Form for Cigarette Sales of Non-Participating Manufacturer Brands (DR 1285)*
- *Tobacco Distributor's Certificate for Exemption MSA/Non-Participating Manufacturer Brands (DR 1286)*
- *Colorado Department of Revenue Electronic Funds Transferred (EFT) Program for Tax Payments (DR 5782)*
- *Electronic Funds Transfer (EFT) Account Setup for Tax Payments (DR 5785)*

Colorado law prohibits various acts in relation to the importation, sale, labeling, handling, and stamping of cigarettes in Colorado. Additionally, cigarettes that do not comply with applicable requirements may be deemed contraband, subject to seizure and forfeiture. This *Part 2* discusses certain acts prohibited under Colorado law and conditions under which cigarettes may be seized as contraband. This *Part 2* does not, and is not intended to, provide an exhaustive list of all acts prohibited by law in relation to cigarettes sold in Colorado.

License suspension and revocation

In addition to any civil and criminal penalties prescribed by law, the Department may, on reasonable notice and after a hearing, suspend or revoke the license of any licensed wholesaler who violates any of the prohibitions described in this *Part 2*.

Acts subject to criminal penalties

It is unlawful for any wholesaler to do any of the following:

- sell and distribute any cigarettes in Colorado without a license;
- sell and distribute any cigarettes in Colorado without first affixing a cigarette stamp;
- willfully make any false or fraudulent return;
- willfully make any false statement on any return; or
- willfully evade the payment of the tax.

Any wholesaler, or agent thereof, who willfully commits any of these acts is subject to criminal penalties.

Cigarette stamping and sales

Several prohibitions apply to the stamping and sales of cigarettes in relation to tax rate increases, brand and manufacturer certification, and *federal requirements* discussed later in this publication.

Unstamped cigarettes

It is unlawful to sell, offer for sale, display for sale, or possess with intent to sell any cigarettes, the package of which does not bear a cigarette tax stamp.

Any package of cigarettes found at any place in Colorado without a Colorado cigarette tax stamp is subject to a penalty of up to 25 cents per cigarette, unless the cigarettes are in an original unopened shipping package in transit to, or in the possession of, a licensed wholesaler.

Tax rate increases

Cigarette tax rates increase incrementally as described in *Part 3* of this publication. It is unlawful for any person to affix a stamp on or after 12:01 a.m. on the day that a rate increase takes effect, to a package of cigarettes that reflects payment of the tax imposed prior to the increase. Please see *Part 5* for information about the redemption of stamps purchased at the prior tax rate.

Uncertified cigarettes

Cigarette manufacturers are required to certify with the Department each brand of cigarettes sold in Colorado. The Department publishes a directory of certified brands and manufacturers online at [Tax.Colorado.gov/certified-brands-manufacturers](https://tax.colorado.gov/certified-brands-manufacturers).

It is a class 2 misdemeanor for any person to affix a stamp to a package or other container of cigarettes or to sell, offer, or possess for sale in Colorado cigarettes of a tobacco product manufacturer or brand family not included in the directory.



Acts Prohibited in Relation to Federal Requirements

The following acts, related to federal requirements, are prohibited under section 39-28-104.5, C.R.S. Any violation of the provisions of section 39-28-104.5, C.R.S., is a class 2 misdemeanor.

Importation in violation of federal requirements

No one shall import into Colorado any package of cigarettes that violates any federal requirement for the placement of labels, warnings, or other information, including health hazards, required to be placed on the container or individual package.

Sales and stamping of cigarettes that do not comply with federal law

No one shall sell or offer to sell a package of cigarettes or affix a Colorado cigarette stamp on a package of cigarettes unless that package of cigarettes complies with all federal tax laws, federal trademark and copyright laws, and federal laws regarding the placement of labels, warnings, or any other information upon a package or container of cigarettes.

Sales and stamping of cigarettes manufactured for use outside the U.S.

No one shall sell or offer to sell a package of cigarettes or affix a Colorado cigarette stamp on a package of cigarettes that is marked as manufactured for use outside of the United States or if any label or language has been altered from the manufacturer's original packaging and labeling to conceal the fact that the package of cigarettes was manufactured for use outside of the United States.

No one shall affix a stamp, label, or decal on a package of cigarettes to conceal the fact that the package of cigarettes was manufactured for use outside of the United States.

No one shall sell or offer to sell a package of cigarettes on which a stamp, label, or decal was affixed to conceal the fact that the package or container of cigarettes was manufactured for use outside of the United States.

Seizure of contraband goods

Any package of cigarettes is declared contraband and subject to seizure in any of the following situations:

- It is found for sale at any place in Colorado and it is marked for use outside of the U.S.; or
- It is found at any place in Colorado without a Colorado cigarette tax stamp, except for cigarettes in an original unopened shipping package in transit to, or in the possession of, a licensed wholesaler; or
- It is sold, offered for sale, or possessed for sale in Colorado, but is not included in the directory of brands and manufacturers certified for sale in Colorado.

Additional resources

The following is a list of statutes prohibiting certain acts, establishing penalties, and authorizing seizure of cigarettes in Colorado. 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

- § 39-28-102, C.R.S. Licensing of wholesalers.
- § 39-28-103.3, C.R.S. Inventory tax.
- § 39-28-104.5, C.R.S. Federal requirements.
- § 39-28-107, C.R.S. Unstamped packages.
- § 39-28-108, C.R.S. Penalties.
- § 39-28-114, C.R.S. Prohibited acts - penalties.
- § 39-28-303, C.R.S. Certifications - directory.
- § 39-28-306, C.R.S. Penalties and other remedies.
- § 39-21-118, C.R.S. Criminal penalties.

Forms and guidance

- [Tax.Colorado.gov](https://tax.colorado.gov)
- [Tax.Colorado.gov/certified-brands-manufacturers](https://tax.colorado.gov/certified-brands-manufacturers)

Part 3: Cigarette Tax and Stamping



In general, Colorado imposes a tax on every cigarette sold in Colorado. The wholesaler is liable for the tax and must affix to each package of cigarettes a tax stamp purchased from the Department. The tax is calculated on a per-cigarette basis and the tax rates increase incrementally over time. This *Part 3* provides information regarding the imposition of the cigarette tax, the calculation thereof, and cigarette tax stamps required to prove the applicable tax has been paid.

Cigarette tax

The cigarette tax is levied upon every cigarette sold in Colorado. The tax applies to any exchange, barter, or transfer of title or possession, or both, for a consideration to any other person, firm partnership, limited liability company, or corporation within Colorado, including delivery sales described below. Additionally, any gift by a person engaged in the business of selling cigarettes is treated as a taxable sale, whether such gift was made for the purpose of advertising, in an effort to evade the tax, or for any other purposes whatsoever.

Delivery sales

The cigarette tax applies not only to cigarettes sold over-the-counter in Colorado, but also to any cigarettes delivered to any consumer in Colorado. The tax applies whenever a consumer in Colorado submits an order to a seller located outside of the state by any means including, but not limited to, telephone or other voice transmission, the mail or other delivery service, or the internet or other online service and the cigarettes are delivered to the consumer in Colorado by use of a common carrier, private delivery service, mail, or any other means.

Tax calculation

Cigarette tax is imposed on each cigarette sold in Colorado. The tax rate increases incrementally from December 31, 2020 to July 1, 2027. A separate, reduced tax rate applies to cigarettes that are modified risk tobacco products.

Tax rates

The cigarette tax rate increases incrementally from December 31, 2020 to July 1, 2027, as reflected in the following table:

Tax Per Cigarette (in cents)

Period	Tax
December 31, 2020 and prior	4.2¢
January 1, 2021 through June 30, 2024	9.7¢
July 1, 2024 through June 30, 2027	11.2¢
July 1, 2027 and later	13.2¢

Modified risk tobacco products

The tax for cigarettes that are modified risk tobacco products is imposed at a lower rate. Cigarettes qualify for the lower tax rate only if the Secretary of the U.S. Department of Health and Human Services (“HHS”) has issued an order authorizing them to be commercially marketed as a modified risk tobacco product in accordance with 21 U.S.C. sec. 387k, or any successor section. Orders issued by HHS regarding modified risk tobacco products can be found online at [fda.gov/tobacco-products/advertising-and-promotion/modified-risk-orders](https://www.fda.gov/tobacco-products/advertising-and-promotion/modified-risk-orders).

The tax rate for cigarettes that are modified risk tobacco products increases incrementally from January 1, 2020 to July 1, 2027, as reflected in the following table:

Tax Per Cigarette for Cigarettes That Are Modified Risk Tobacco Products (in cents)

Period	Tax
December 31, 2020 and prior	4.2¢
January 1, 2021 through June 30, 2024	6.45¢
July 1, 2024 through June 30, 2027	7.2¢
July 1, 2027 and later	8.2¢

Tax liability and cigarette stamping

Wholesalers selling cigarettes in Colorado are liable for the cigarette tax, including any wholesaler who makes sales from outside of Colorado for delivery to consumers at locations inside of Colorado. Wholesalers are required to affix cigarette stamps to each package of cigarettes they sell as evidence of payment of the applicable tax.

Ordering stamps

Wholesalers may place orders for cigarette stamps by sending an email to the Department at dor_afs_piercecashiers@state.co.us. Stamps are available in 20 cigarettes per stamp rolls, wide 20 count rolls, 20 count sheets, and 25 cigarette per stamp rolls. Wholesalers must make arrangements for delivery of the stamps, notify the Department of the carrier the wholesaler has chosen for delivery, and assume all costs for delivery.

The Department will provide with each order of stamps a “Cigarette Tax Shipment Advice” stating information the wholesaler will need to file their cigarette tax return and remit the tax due. Payment for cigarette stamps is due by the 10th day of the month following the month during which the wholesaler ordered the stamps. If the 10th falls on a Saturday, Sunday, or legal holiday, the wholesaler’s return and tax remittance is due the next business day. Please see [Part 4](#) of this publication for additional information about cigarette tax filing and remittance.

Credits, refunds, and redemption

Under certain circumstances, wholesalers may claim credits or refunds for previously purchased cigarette stamps. Please see [Part 5](#) of this publication for additional information.

Stamping restrictions and penalties

Several restrictions and penalties apply to the stamping and sales of cigarettes, described below and in [Part 2](#) of this publication. The Department may investigate and examine the stock of cigarettes upon any premises where they are possessed, stored, or sold for the purpose of determining whether they comply with legal requirements.

Unstamped cigarettes

It is unlawful to sell, offer for sale, display for sale, or possess with intent to sell any cigarettes, the package of which does not bear a cigarette tax stamp.

Any package of cigarettes found at any place in Colorado without a Colorado cigarette tax stamp, is declared to be contraband goods, may be seized without a warrant by the Department, and is subject to a penalty of up to 25 cents per cigarette, unless the cigarettes are in an original unopened shipping package in transit to, or in the possession of, a licensed wholesaler.

Tax rate increases

Cigarette tax rates increase incrementally as described in [Part 3](#) of this publication. It is unlawful for any person to affix a stamp on or after 12:01 a.m. on the day that a rate increase takes effect, to a package of cigarettes that reflects payment of the tax imposed prior to the increase. Please see [Part 5](#) for information about the redemption of stamps purchased at the prior tax rate.

Uncertified cigarettes

Cigarette manufacturers are required to certify with the Department each brand of cigarettes sold in Colorado. The Department publishes a directory of certified brands and manufacturers online at [Tax.Colorado.gov/certified-brands-manufacturers](https://tax.colorado.gov/certified-brands-manufacturers).

It is a class 2 misdemeanor for any person to affix a stamp to a package or other container of cigarettes or to sell, offer, or possess for sale in Colorado cigarettes of a tobacco product manufacturer or brand family not included in the directory.

Exempt sales

Colorado cigarette tax does not apply to sales of cigarettes to the United States government or any of its agencies or transactions the U.S. Constitution prohibits the state from taxing. The wholesaler must nonetheless report the sale of exempt cigarettes in Colorado to the Department.

Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to the imposition of Colorado's cigarette 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

- § 39-28-101, C.R.S. Definitions.
- § 39-28-103, C.R.S. Tax levied.
- § 39-28-103.3, C.R.S. Inventory tax.
- § 39-28-103.5, C.R.S. Tax levied - state constitution.
- § 39-28-104, C.R.S. Evidence of payment of tax.
- § 39-28-109, C.R.S. Records - examination - returns.
- § 39-28-111, C.R.S. Exempt sales.
- § 39-28-303, C.R.S. Certifications - directory.
- § 39-28-306, C.R.S. Penalties and other remedies.
- Colo. Const. Art. X, § 21. Tobacco taxes.
- 21 U.S.C. § 387k. Modified risk tobacco products.

Forms and guidance

- [Tax.Colorado.gov](https://tax.colorado.gov)
- [Tax.Colorado.gov/cigarette-tax](https://tax.colorado.gov/cigarette-tax)
- [Tax.Colorado.gov/cigarette-stamps](https://tax.colorado.gov/cigarette-stamps)
- [Tax.Colorado.gov/certified-brands-manufacturers](https://tax.colorado.gov/certified-brands-manufacturers)
- fda.gov/tobacco-products/advertising-and-promotion/modified-risk-orders

All cigarette wholesalers are required to file returns and remit taxes every month and maintain any records necessary for the determination of the amount of tax due. Both the filing of returns and the remittance of tax must be made electronically. A wholesaler who remits the tax due on or before the applicable due date is allowed to retain a specified portion of the tax otherwise due. If a wholesaler fails to file and pay the tax due by the applicable due date, the Department may impose penalties and interest. This *Part 4* provides information regarding filing, remittance, and recordkeeping requirements for the Colorado cigarette tax.

Filing requirements

Every wholesaler must file monthly returns reporting all cigarette stamps the wholesaler purchased during the month. A return must be filed for each month, regardless of whether the wholesaler purchased any stamps. Monthly returns are due on the 10th day of the month following the month reported on the return. If the 10th falls on a Saturday, Sunday, or legal holiday, the wholesaler's return and tax remittance is due the next business day.

Electronic filing

Wholesalers must file their cigarette tax returns electronically at [Colorado.gov/RevenueOnline](https://colorado.gov/revenueonline). Wholesalers must create an account through Revenue Online prior to filing. Form instructions are available online at [Tax.Colorado.gov/cigarette-tobacco-products-forms](https://tax.colorado.gov/cigarette-tobacco-products-forms).

Any wholesaler who is unable to file their return electronically should contact the Department's Excise Tax Unit by email at DOR_ExciseTax@state.co.us or by phone at 303-205-8287.

Failure to file

If a wholesaler neglects or refuses to file a return for any period for which the wholesaler has an active cigarette tax license, the Department will impose a penalty of \$100 for such failure to file, estimate the tax due based upon the best available information, and issue a notice of deficiency for the estimated tax, penalties, and interest due.

Other filing obligations

In addition to filing cigarette tax returns, wholesalers must comply with other filing requirements relating to the Master Settlement Agreement and the PACT Act.

Master Settlement Agreement

Wholesalers are required to file either monthly or annual reports with the Department in relation to the Master Settlement Agreement (MSA) using *form DR 1285* or *DR 1286*, respectively. Please see Department publication *FYI Excise 18: Master Settlement Agreement* for additional information regarding MSA reporting requirements.

Preventing All Cigarette Trafficking (PACT) Act

Additionally, wholesalers may be subject to registration and reporting requirements under the Preventing All Cigarette Trafficking (PACT) Act. Anyone who, in interstate commerce, offers, advertises, sells, transfers, or ships for profit cigarettes, roll-your-own tobacco, or smokeless tobacco and who ships to or advertises in Colorado must register with both the state and federal governments and submit monthly filings to the state. Specific forms, instructions, and requirements are available online at atf.gov/alcohol-tobacco/prevent-all-cigarette-trafficking-pact-act and atf.gov/file/102101/download. The required registration form and monthly filings must be submitted to the Department either via web message through Revenue Online or by email to DOR_ExciseTax@state.co.us.

Part 4: Filing, Remittance & Recordkeeping

Remittance requirements

Wholesalers must remit payment for all cigarette stamps purchased during the month by the 10th day of the following month. If any payment is not made by the applicable due date, *penalty and interest* will be due, as described later in this publication. A wholesaler who remits the applicable tax on or before the due date is allowed to deduct and retain a service fee.

In any month that a wholesaler wishes to purchase stamps in an amount exceeding the wholesaler's anticipated total monthly amount, as determined for the *surety bond* discussed earlier in this publication, the wholesaler must remit payment, prior to placing the order, for the amount exceeding the anticipated total monthly amount of stamps. The payment must be made with cash, certified funds, or one of the electronic payment options offered by the Department. Any wholesaler who is exempt from the surety bond requirement is also exempt from this requirement to remit advance payment.

Electronic funds transfer (EFT)

Wholesalers are required to remit cigarette tax via electronic funds transfer (EFT). Payments made by EFT must be made on or before 4:00 P.M. Mountain Time on the due date of the tax payment in order to be treated as paid on that day. Payments made after 4:00 P.M. Mountain Time are considered to be made on the following day. If a payment is made on a weekend or legal holiday, it is treated as paid before 4:00 P.M. of the next business day.

Wholesalers must register with the Department to make payments via EFT. Registration can be made either online at [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline) or by completing and submitting an *Electronic Funds Transfer (EFT) Account Setup For Tax Payments (DR 5785)*. A wholesaler must first sign up and create a login ID for Revenue Online in order to register for EFT online. Please see *Colorado Department of Revenue Electronic Funds Transferred (EFT) Program For Tax Payments (DR 5782)* for additional information regarding EFT payments and registration.

Wholesaler's service fee

Unless a wholesaler is delinquent in remitting the tax, the wholesaler may retain a service fee equal to a certain percentage of the tax otherwise due to cover their expenses for remitting the tax. If any wholesaler is delinquent in remitting the tax, the wholesaler is not allowed to retain any service fee.

The service fee is calculated as a percentage of tax otherwise due. The percentage varies depending on the filing period and whether the cigarettes are modified risk tobacco products ("MRTP"), as reflected in the following table. The allowable service fee is calculated automatically by the Department's electronic filing system.

Percentage of Tax Wholesaler May Retain

<i>Tax Period</i>	<i>Regular Percentage</i>	<i>Percentage for MRTP</i>
December 31, 2020 and prior	0.9254%	0.9254%
January 1, 2021 through June 30, 2024	0.2680%	0.2016%
July 1, 2024 through June 30, 2027	0.28571%	0.22222%
July 1, 2027 and later	0.3030%	0.2439%

If a wholesaler has appropriately retained a service fee as described above 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 wholesaler is not allowed to retain any service fee from the additional tax, but the wholesaler is allowed to retain the service fee from the original return, so long as the wholesaler filed the original return in good faith.

Part 4: Filing, Remittance & Recordkeeping

Recordkeeping requirements

Wholesalers are required to keep and preserve any books, accounts, and records as may be necessary to determine the correct amount of tax for a minimum of three years. Such books, accounts, and records must include complete and accurate records of all cigarettes purchased and sold. A wholesaler must produce all such books, accounts, invoices, and records upon request from the Department.

Penalties and interest

Penalties and interest are imposed under Colorado law whenever a wholesaler fails to file a required return or to pay any tax due by the applicable due date.

A wholesaler who neglects or refuses to file any required return is subject to a penalty of \$100.

If a wholesaler fails to pay any tax due by the applicable due date, the wholesaler will owe a penalty equal to 10% of the unpaid tax, plus an additional 0.5% for each month the tax remains unpaid, not to exceed a total of 18%.

Other penalties

Please see [Part 2](#) and [Part 3](#) of this publication for information about other penalties related to cigarette tax.

Interest

Interest accrues on any late payment of tax from the original due date for 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 wholesaler:

- pays the tax in full prior to the issuance of a notice of deficiency;
- 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, enters into an agreement with the Department to pay the tax.

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

Annual Interest Rates

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

Part 4: Filing, Remittance & Recordkeeping

Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to filing, remittance, and recordkeeping requirements for Colorado's cigarette 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

- § 39-28-103, C.R.S. Tax levied.
- § 39-28-103.5, C.R.S. Tax levied - state constitution.
- § 39-28-104, C.R.S. Evidence of payment of tax.
- § 39-28-108, C.R.S. Penalty.
- § 39-28-109, C.R.S. Records - examination - returns.
- § 39-21-109, C.R.S. Interest on underpayment.
- § 39-21-110.5, C.R.S. Rate of interest to be fixed.
- § 39-21-113, C.R.S. Reports and returns.
- § 39-21-119, C.R.S. Filing with executive director.
- § 39-21-119.5, C.R.S. Mandatory electronic filing.
- Rule 39-28-104. Filing Cigarette Tax Returns.
- Special Rule 1. Electronic Funds Transfer.
- Colo. Const. Art. X § 21. Tobacco taxes for health related purposes.

Forms and guidance

- [Tax.Colorado.gov](https://tax.colorado.gov)
- [Tax.Colorado.gov/cigarette-tax](https://tax.colorado.gov/cigarette-tax)
- [Tax.Colorado.gov/file-pay](https://tax.colorado.gov/file-pay)
- [Tax.Colorado.gov/cigarette-tobacco-products-forms](https://tax.colorado.gov/cigarette-tobacco-products-forms)
- [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline)
- *FYI Excise 18: Master Settlement Agreement*
- *Licensed Distributor Reporting Form for Cigarette Sales of Non-Participating Manufacturer Brands (DR 1285)*
- *Tobacco Distributor's Certificate for Exemption MSA/Non-Participating Manufacturer Brands (DR 1286)*
- atf.gov/alcohol-tobacco/prevent-all-cigarette-trafficking-pact-act
- *Electronic Funds Transfer (EFT) Account Setup for Tax Payments (DR 5785)*
- *Colorado Department of Revenue Electronic Funds Transferred (EFT) Program for Tax Payments (DR 5782)*

State law prescribes specific conditions under which a wholesaler can redeem unused stamps or claim a refund or credit for previously paid taxes. Unused stamps can be redeemed within one year after they were issued to the wholesaler. In general, wholesalers can claim a credit for taxes previously paid for stamps affixed to cigarette packages that are unsalable and either returned to the manufacturer or destroyed by the wholesaler. Additionally, wholesalers may be able to claim a refund for taxes attributable to bad debts, but only if certain conditions are met. This *Part 5* provides information regarding the redemption of stamps and credits and refunds allowed for cigarette taxes.

Redemption of unused stamps

A wholesaler may claim a refund for unused stamps any time within one year after the date the stamps were issued, including any stamps that are unusable because the tax rate has changed. The wholesaler must submit a completed *Claim for Refund (DR 137)* to the Department, along with unused stamps.

Credits for tax paid

A wholesaler may claim credit on their cigarette tax return for stamps affixed to cigarette packages that are unsalable and have been either returned to the manufacturer or destroyed by the wholesaler. If the credit claimed exceeds the amount of tax otherwise due on the wholesaler's return, the wholesaler may submit a *Claim for Refund (DR 0137)* to request a refund. Any wholesaler claiming a credit or refund for stamps on unsalable cigarettes returned to the manufacturer must submit to the Department a copy of the manufacturer's credit invoice.

Refunds for bad debts

Wholesalers may claim a refund of previously paid tax attributable to any portion of a debt related to a sale of cigarettes if the debt has become worthless or uncollectible in the time after the tax has been paid. Refunds are allowed only if:

- the tax is not otherwise deductible or excludable;
- the debt has been charged off as uncollectible on the books of the wholesaler; and
- the wholesaler is allowed an income tax deduction for the debt pursuant to section 166 of the Internal Revenue Code.

The allowable refund is limited to the amount of tax previously paid on cigarettes that the wholesaler no longer possesses. No refunds are allowed for:

- any interest on the wholesale price of cigarettes;
- uncollectible amounts on property that remain in the possession of the wholesaler;
- expenses incurred in attempting to collect any account receivable or any portion of the debt recovered;
- an account receivable that has been sold to a third party for collection; or
- repossessed property.

Part 5: Credits and Refunds

Claims for refunds

Wholesalers may claim a refund for bad debts by filing *form DR 0137, Claim for Refund*. The wholesaler must submit the following documentation with the claim:

- a copy of the original invoice issued by the wholesaler;
- evidence that the cigarettes described in the invoice were delivered to the person who ordered them;
- evidence that the person who ordered and received the cigarettes did not pay the wholesaler for them; and
- evidence that the wholesaler used reasonable collection practices in attempting to collect the debt.

Repayment of refund for bad debts recovered

Subsequent to receiving a refund, if the wholesaler receives a payment for the bad debt, the wholesaler will be liable to the Department for payment of the tax attributable to the amount received. The wholesaler must remit the tax with the return filed for the month in which payment for the bad debt was received.

Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to the redemption of stamps and to credits and refunds allowed for Colorado's cigarette 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

- § 39-28-104, C.R.S. Evidence of payment of tax - credits - redemption.

Forms and guidance

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

If a wholesaler has not paid any applicable tax, the Department may issue a notice of deficiency and subsequently assess the tax due, regardless of whether the wholesaler has filed a return. A wholesaler may file a protest and request a hearing with respect to a notice of deficiency. This *Part 6* provides information regarding assessments, protests, and appeals.

Assessments

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 wholesaler. 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 a wholesaler neglects or refuses to file a return, the Department may estimate the tax due, based upon the information that may be available. The Department will issue a written notice to the wholesaler of the estimated taxes due, along with any applicable penalty and interest. If a wholesaler does not file a required return, there is no limit on the time for the Department to estimate the tax due and issue a notice of deficiency to the wholesaler.

Please see *Part 4* for information about *penalties and interest*.

Protests and appeals

A wholesaler 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 wholesaler and contain at least the following information:

- the wholesaler's name, address, and account number;
- the tax period(s) involved; and
- the type and amount of tax in dispute.

The wholesaler must also provide, in writing, a summary statement of the findings with which they do not agree and the grounds upon which they rely for the purpose of showing that the tax is not due.

Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to 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.
- § 39-28-108, C.R.S. Penalty.
- Rule 39-21-103. Hearings.

Forms and guidance

- [Tax.Colorado.gov](https://tax.colorado.gov)
- [Tax.Colorado.gov/conferree](https://tax.colorado.gov/conferree)