Colorado Department of Revenue
Taxpayer Service Division
07/14

FYI For Your Information

General 11
Colorado Civil Tax Penalties and Interest

PENALTIES

In general, penalties are cumulative and multiple penalties can be combined for the same assessment. However, there are some exceptions and limitations. For specifics, please review the statutory references in each of the tax categories in this publication. The interest and penalty-interest table by year is on page 3. Interest calculation is discussed on page 4.

Corporate Officers Penalty

All officers of a corporation and all members of a partnership or a limited liability company who are required to but do not collect, account for, and pay over any tax administered by the Colorado Department of Revenue are subject to a penalty equal to 150 percent of the total amount of the tax not collected, accounted for, paid over, or otherwise evaded. [§39-21-116.5, C.R.S.]

STATE SALES, COUNTY SALES, CITY SALES, RTD/CD SALES, RETAILER'S USE AND CONSUMER USE TAX

- Sales/Use Interest: See table, page 3.
- Consumer Use Delinquent Payment Penalty: Penalty-interest (see table, page 3). §39-26-207, C.R.S.
- Sales/Use Deficiency Due to Negligence: 10% of tax due plus penalty-interest (see table, page 3). 39-26-115 C.R.S. Also, loss of vendor's fee. §39-26-105(1), C.R.S.
- Sales Tax Late Filing or Late Payment Penalty: or 10% of tax due plus 1/2% per month not to exceed 18%. §39-26-118(2) (a), C.R.S.
- Sales Tax Nonfiler Penalty: 10% plus 1/2% per month not to exceed 18%. §39-26-118(2), C.R.S.
- Retailer's Use Tax and Consumers Use Tax Nonfiler Penalty: 10% plus 1/2% per month. §39-26-204(5), C.R.S.
- Sales/Use Deficiency Due to Fraud: 100% of deficiency plus 3% per month. §39-26-115, C.R.S.
- Unregistered Vending Machine: $25. §39-26-714(d), C.R.S.

Penalties and interest in this sales tax section apply to state-collected taxes **only.** Home-rule jurisdictions which are self-collected may make their own regulations regarding the taxability of items, and interest and penalties on unpaid tax. You must contact a home-rule city directly for its tax regulations. A list of addresses and contact information for self-collected areas is contained in Colorado Sales/Use Tax Rates (DR 1002).

RTD/CD refers to the combined special taxing district comprising the Regional Transportation District and the Scientific and Cultural Facilities District.

Some counties have different combinations of the RTD/CD area taxes. The different areas are detailed in the Colorado Sales and Use Tax Rates (DR 1002).

INCOME AND WITHHOLDING TAX

- Interest: See table, page 3.
- Failure to File Penalty: Greater of $5 or 5% of tax due for first month or fraction thereof, plus 1/2% each additional month or fraction thereof, not to exceed 12%. §39-22-621(2) (a), C.R.S.
- Delinquent Payment Penalty: Greater of $5 or 5% of tax due for first month or fraction thereof, plus 1/2% each additional month or fraction thereof, not to exceed 12%. §39-22-621(2)(b), C.R.S.
- Recurring Distraint Warrant Penalties: Greater of $25 or 15% of tax, penalty and interest due. §39-21-114(7)(a), C.R.S., or greater of $50 or 30% of tax, penalty and interest due. §39-21-114(7)(b), C.R.S.
- Deficiency Due to Negligence: 25% of the deficiency. §39-22-621(2)(h), C.R.S.
- Fraudulent or Willful Failure to File: Greater of $75 or 100% of tax due. §39-22-621(2)(d), C.R.S.
- Filing of Fraudulent, Frivolous or Willfully False Return: Greater of $150 or 150% of tax due. §39-22-621(2)(e), C.R.S.
- Failure to Pay a Notice or Demand for Payment (collection penalty): 15% of tax demanded. §39-22-621(2)(f), C.R.S.
- Fraudulent Failure to Pay or Willful Evasion of Payment: 150% of tax due. §39-22-621(2)(g), C.R.S.
- Tax Return Preparers Penalty: $500 per occurrence. §39-22-621(2)(g.5), C.R.S.

SEVERANCE TAX AND OIL AND GAS WITHHOLDING

- Interest: See table, page 3.
- Delinquent Payment Penalty: Greater of $30 or 30% of tax due. §39-29-115(1), C.R.S.
- Assessment Penalty: 10% plus penalty/interest of 1/2% per month. §39-29-115(2), C.R.S.
- Failure to Withhold Penalty: Greater of $30 or 30% of tax that should have been withheld and is subsequently due. §39-29-115(1.5), C.R.S.
- Annual Reconciliation Failure to Timely File Penalty: Lesser of 15% of the total that should have been withheld or $1,500 §39-29-115(1.5), C.R.S.

CIGARETTE TAX AND TOBACCO PRODUCTS TAX

- Interest: See table, page 3.
- Delinquent Payment Penalty: 10% plus 1/2% per month not to exceed 18%. §39-28-108(2)(b), C.R.S. and §39-28.5-110(2)(b), C.R.S.
- Cigarette Tax Nonfiler Penalty: $100. §39-28-108(2)(a), C.R.S.
- Tobacco Products Tax Nonfiler Penalty: $25. §39-28.5-110(2)(a), C.R.S.
- Unstamped Cigarette Penalty: $.25 per cigarette. §39-28-107 (1)(a), C.R.S.
- Untaxed Tobacco Product Penalty: 500% of the tax due. §39-28.5-106(4)(b), C.R.S.

FERMENTED MALT BEVERAGES (3.2 BEER) AND ALCOHOL BEVERAGES

- Interest: 1% per month or fraction thereof on tax and penalty. §12-47-503(7), C.R.S.
- Delinquent Payment Penalty: 10% of tax due. §12-47-503(7), C.R.S.

AVIATION FUELS GASOLINE, GASOHOL, SPECIAL FUEL TAX AND ENVIRONMENTAL RESPONSE SURCHARGE

- Interest: See table, page 3.
- Late Filer and/or Delinquent Payment Penalty: Greater of $30 or 10% plus 1/2% per month not to exceed 18%. §39-27-105(2), C.R.S.
- Nonfiler or Incorrect Filer Penalty: 30% of tax. §39-27-105(3), C.R.S.

INTERNATIONAL FUEL TAX AGREEMENT (IFTA)

- Interest: Interest will be assessed at an annual rate of two (2) percentage points above the underpayment rate established under Section 6621(a)(2) of the Internal Revenue Code, adjusted on an annual basis on January 1 of each year. Interest shall accrue monthly at 1/12 this annual rate for each state for which tax is due. For current rates, go to www.iftach.org.
- Delinquent filing and/or payment penalty: Greater of $50 or 10% of tax due.
  (R1220.100 — IFTA Articles of Agreement)

PASSENGER MILE TAX

- Interest: See table, page 3.
- Delinquent Payment Penalty: 3% per month. §42-3-308 (1)(b), C.R.S.
- Nonfiler Penalty: 10% plus 1/2% per month not to exceed 18%. §42-3-308 (2), C.R.S.
- Assessment Penalty: 25% plus penalty/interest of 1/2 of 1% per month. §42-3-309 (5), C.R.S.
- Filing of False or Fraudulent Return: 100% of deficiency. §42-3-308 (3)(a), C.R.S.

TABLE OF INTEREST AND PENALTY-INTEREST RATES			
[§39-21-110.5, C.R.S.]			
Underpayment Period	**Annual Rate**	**Monthly Rate**	**Daily Rate**
2003 (a)	5%	.4166%	.013699%
2003 (b)	8%	.6667%	.021918%
2004 (a)	4%	.3333%	.010959%
2004 (b)	7%	.5833%	.019178%
2005 (a)	4%	.3333%	.010959%
2005 (b)	7%	.5833%	.019178%
2006 (a)	6%	.5000%	.016438%
2006 (b)	9%	.7500%	.024658%
2007 (a)	8%	.6667%	.021918%
2007 (b)	11%	.9167%	.030137%
2008 (a)	8%	.6667%	.021918%
2008 (b)	11%	.9167%	.030137%
2009 (a)	5%	.4166%	.013699%
2009 (b)	8%	.6667%	.021918%
2010 (a)	3%	.2500%	.008219%
2010 (b)	6%	.5000%	.016438%
2011 (a)	3%	.2500%	.008219%
2011 (b)	6%	.5000%	.016438%
2012 (a)	3%	.2500%	.008219%
2012 (b)	6%	.5000%	.016438%
2013 (a)	3%	.2500%	.008219%
2013 (b)	6%	.5000%	.016438%
2014 (a)	3%	.2500%	.008219%
2014 (b)	6%	.5000%	.016438%
2015 (a)	3%	.2500%	.008219%
2015 (b)	6%	.5000%	.016438%

(a) Rate applies if payment of tax, or agreement to pay, is made within 30 days of notice of underpayment or nonpayment. This rate also applies when a tax underpayment or nonpayment is cured voluntarily without notification from the Department of Revenue.

(b) Rate applies in all other cases.

"Penalty-interest" is a penalty which is assessed on the tax due, based upon the rates in the above table. When penalty-interest is applied, it is **in addition** to interest.

RETURN CHECK PENALTY

The civil penalty assessed when a check is returned due to insufficient funds, a closed account, or a stop payment order is $41. [§24-35-114(1), C.R.S.]

INTEREST CALCULATION

Interest on a balance due is calculated using a "simple interest" calculation. The interest rate(s) from the Table of Interest and Penalty-Interest Rates is the rate(s) that applies to the time period during which the amount is actually owed. If the balance due is paid in the same year as the tax is due, then only one interest rate is used to calculate the interest due. However, if the balance due is paid in a later year, then the interest rates for all years during which the tax is owed must be used to compute the interest due.

Example: Neil files his 2006 income tax return on the due date of April 15, 2007. He does not pay the $200 balance due until June 7, 2009. The simple interest rate is computed by adding the interest rates for each year during the underpayment period; 4/15/2007 to 12/31/2007 @ 11% (7.86%), 1/1/2008 to 12/31/2008 @ 11% (11%), 1/1/2009 to 6/7/2009 @ 8% (3.33%). Multiply the aggregate interest rate of 22.19% times the $200 net balance due to compute the interest due of $44.38.