

# FYI – For Your Information

## Colorado Civil Tax Penalties and Interest

### **PENALTIES**

In general, penalties are cumulative. However, there are some exceptions, and some caps. Maximum penalties for a tax could be any combination of the penalties listed under each tax type.

#### **Corporate Officers Penalty**

All officers of a corporation and all members of a partnership or a limited liability company who 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.]

### **INCOME AND WITHHOLDING TAX**

- Interest: See table, page 3.
- Failure to File Penalty: §39-22-621- (2) (a) C.R.S.
- Delinquent Payment Penalty: Greater of \$5 or 5% 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: 15% of tax, penalty and interest due. §39-21-114(7)(a) C.R.S. 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 or Willfully False Return: Greater of \$150 or 150% of tax due. §39-22-621(2)(e) C.R.S.
- Failure to Pay Notice and Demand (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.

### **ESTATE TAX**

- Interest: See table, page 3. Rates for unlisted years can be obtained by calling (303) 866-2381.
- Delinquent Payment Penalty: For date of death on or after Jan.1, 1986, greater of \$15 or 5% for first month plus 5% for each additional month or fraction thereof, not to exceed 20%. §39-23.5-110(1) C.R.S.
- Failure to File Return Penalty: For date of death on or after Jan. 1, 1986, 5% for first month plus 5% for each additional month or fraction thereof, not to exceed 20%. §39-23.5-110(6) C.R.S.
- Distraint Warrant Penalty: 15% of tax due. §39-23.5-110(4) C.R.S.
- Fraudulent or Willful Failure to File: Greater of \$75 or 100% of tax due. §39-23.5-110(2) C.R.S.
- Filing of Fraudulent or Willfully False Return: Greater of \$100 or 150% of tax due. §39-23.5-110(3) C.R.S.
- Fraudulent Failure to Pay or Willful Evasion of Payment: 150% of tax due. §39-23.5-110(5) C.R.S.



Colorado Department  
of Revenue  
Taxpayer Service Division  
1375 Sherman St.  
Denver, Colorado 80261

Sales Tax: (303) 232-2416  
Withholding Tax: (303) 232-2416  
Income Tax: (303) 232-2446  
Severance Tax: (303) 232-2446  
Fuel Tax: (303) 205-5602

**STATE SALES, COUNTY SALES, CITY SALES, RTD/CD/BD 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 Nonfiler Penalty: Greater of \$15 or 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. §39-26-114(7)(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 phone numbers for self-collected areas is contained in "Colorado Sales/Use Tax Rates" (DRP 1002), a publication available from the Colorado Department of Revenue. To order, call (303) 232-2414. The publication is updated each January and July.

RTD/CD/FD refers to the combined special taxing district comprising the Regional Transportation District, the Scientific and Cultural Facilities District, and the Metropolitan Football Stadium District.

**GASOLINE, GASOHOL, MTBE DISTRIBUTORS**

- Interest: See table, page 3.

- Nonfiler or Delinquent Payment Penalty: Greater of \$30 or 10% plus 1/2% per month not to exceed 18%. §39-27-105(2) and (3) C.R.S.

**SPECIAL FUEL DISTRIBUTORS AND USERS**

- Nonfiler or Delinquent Payment Penalty: Greater of \$30 or 10% plus 1/2% per month not to exceed 18%. §39-27-105.3(5)(a) C.R.S.
- Special Fuel Negligence Penalty: 25% of tax assessed plus 1/2% per month not to exceed 18%. §39-27-205(5)(b) C.R.S. Interest. §39-21-109 C.R.S.
- Interest: See table, page 3.

**GASOLINE AND SPECIAL FUEL REFUND PENALTY**

- False Statement on Application for Permit or Credit for Refund, or Submission of Invoices on Which Erasures, Changes, Alterations or Additions Have Been Made, or Which are Otherwise Incorrect: Any pending claim for refund canceled and 100% of amount claimed on any altered or incorrect invoice will be deducted from any subsequent claim. §39-27-103(4) C.R.S.

**INTERNATIONAL FUEL TAX AGREEMENT (IFTA)**

- Delinquent filing and/or payment penalty: Greater of \$50 or 10% of tax due. (R1220.100 — IFTA Articles of Agreement)

**PASSENGER MILE**

- Interest: See table, page 3.
- Delinquent Payment Penalty: 3% per month. §42-3-136 (1)(b) C.R.S.
- Nonfiler Penalty: 10% plus 1/2% per month not to exceed 18%. §42-3-136 (2) C.R.S.
- Assessment Penalty: 25% plus penalty/interest of 1/2% per month. §42-3-137 (5) C.R.S.
- Filing of False or Fraudulent Return: 100% of deficiency. §42-3-136 (3)(a) C.R.S.

**FERMENTED MALT BEVERAGES  
(3.2 BEER) AND ALCOHOL BEVER-  
AGES**

- 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.

**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) 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.

**SEVERANCE TAX**

- Interest: See table below.

- 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.

**FURTHER INFORMATION**

For more information on related topics, consult the following DOR publications:

- FYI General 1 “Department of Revenue Publications”;
- FYI General 5 “General Information About Colorado State Taxes.”

Single FYIs are free from the Taxpayer Service Division. They may be obtained at any statewide taxpayer service center; or by writing to the Colorado Department of Revenue, 1375 Sherman St., Denver, CO 80261; or by calling the DOR Forms Hotline at (303) 232-2414. Please use the FYI number (General 1, Sales 9, etc.) when ordering FYI publications. FYIs and commonly used forms are available on the Web at [www.revenue.state.co.us](http://www.revenue.state.co.us)

**TABLE OF INTEREST AND PENALTY-INTEREST RATES**  
[§39-21-110.5 C.R.S.]

| <b>Underpayment<br/>Period</b> | <b>Annual<br/>Rate</b> | <b>Monthly<br/>Rate</b> | <b>Daily<br/>Rate</b> |
|--------------------------------|------------------------|-------------------------|-----------------------|
| 1994(a)                        | 6%                     | .5000%                  | .016438%              |
| 1994(b)                        | 9%                     | .7500%                  | .024658%              |
| 1995(a)                        | 7%                     | .5833%                  | .019178%              |
| 1995(b)                        | 10%                    | .8333%                  | .027397%              |
| 1996(a)                        | 9%                     | .7500%                  | .024590%              |
| 1996(b)                        | 12%                    | 1.0000%                 | .032787%              |
| 1997(a)                        | 8%                     | .6667%                  | .021918%              |
| 1997(b)                        | 11%                    | .9167%                  | .030137%              |
| 1998(a)                        | 9%                     | .7500%                  | .024658%              |
| 1998(b)                        | 12%                    | 1.0000%                 | .032877%              |
| 1999(a)                        | 9%                     | .7500%                  | .024658%              |
| 1999(b)                        | 12%                    | 1.0000%                 | .032877%              |
| 2000(a)                        | 8%                     | .6667%                  | .021918%              |
| 2000(b)                        | 11%                    | .9167%                  | .030137%              |
| 2001(a)                        | 10%                    | .8333%                  | .027397%              |
| 2001(b)                        | 13%                    | 1.0833%                 | .035616%              |

- (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.