

# 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 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.]

### 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: 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, 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.

### ESTATE TAX

- Interest: See table, page 3. Rates for unlisted years can be obtained by calling (303) 205-8211 X6871.
- 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.



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

Forms and other services:  
(303) 238-FAST (3278)  
Assistance:  
(303) 238-SERV (7378)  
Fuel Tax: (303) 205-8205  
[www.taxcolorado.com](http://www.taxcolorado.com)

- Fraudulent Failure to Pay or Willful Evasion of Payment: 150% of tax due. §39-23.5-110(5) C.R.S.

**STATE SALES, COUNTY SALES, CITY SALES, RTD/CD/FD 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. For a copy visit the Web site at [www.taxcolorado.com](http://www.taxcolorado.com). 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.

Douglas County has different combinations of the RTD/CD/FD area taxes

depending on the county. The different areas are detailed in the "Colorado Sales and Use Tax Rates" publication DRP 1002 located on the Web at [www.taxcolorado.com](http://www.taxcolorado.com)

**GASOLINE, GASOHOL, MTBE, SPECIAL FUEL TAX AND ENVIROMENTAL 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.

**GASOLINE AND SPECIAL FUEL TAX 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)**

- Interest: Interest will be assessed at the rate of one percent per month for each state for which tax is due.
- 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. §42-3-136 (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 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.

**CIGARETTE TAX AND TOBACCO PRODUCTS TAX**

- Interest: See table, page 3 (below).
- 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.

**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.

**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.

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

<b>Underpayment Period</b>	<b>Annual Rate</b>	<b>Monthly Rate</b>	<b>Daily Rate</b>
1999 (a)	9%	.7500%	.024658%
1999 (b)	12%	1.0000%	.032877%
2000 (a)	8%	.6667%	.021858%
2000 (b)	11%	.9167%	.030055%
2001 (a)	10%	.8333%	.027397%
2001 (b)	13%	1.0833%	.035616%
2002 (a)	7%	.5833%	.019178%
2002 (b)	10%	.8333%	.027397%
2003 (a)	5%	.4166%	.013699%
2003 (b)	8%	.6667%	.021918%
2004 (a)	4%	.3333%	.010929%
2004 (b)	7%	.5833%	.019126%
2005 (a)	4%	.3333%	.010959%
2005 (b)	7%	.5833%	.019178%
2006 (a)	6%	.5000%	.016438%
2006 (b)	9%	.7500%	.024658%

- (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.

## ***FURTHER INFORMATION***

FYIs, publications, commonly used forms and additional tax information are available on the Web at *www.taxcolorado.com*

For additional tax information visit the "Tax Information Index" which covers a variety of topics including links to forms, publications, regulations, statutes and general questions and answers. The "Tax Information Index" is located on the Web at *www.taxcolorado.com*

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having authority to bind the Department, has not formally reviewed and/or approved these FYIs.