



Sales and Use Tax Simplification Task Force

July 26, 2018

Overview of Use Tax by the Colorado Department of Revenue (CDOR)

What is Use Tax?^{1 2}

- Colorado adopted a use tax in 1937. Consumer use tax must be paid by Colorado residents and businesses on purchases (items used for personal or business purposes, not resold) that did not include Colorado sales tax, such as those made over the Internet, by mail order, or by telephone.
 - Individuals and businesses have always been required to pay sales or use tax on taxable purchases from out-of-state vendors if the item is sold, leased, consumed, or delivered in Colorado for use, storage, distribution, or consumption in the State.
- In 1973, Colorado adopted statute specifying that state-collected local governments (does not include home-rule, self-collected municipalities) may only charge use tax on any construction or building materials or any motor and other vehicles on which registration is required.³
- Not including home-rule, self-collected municipalities, general use tax is collected at the state sales tax rate, 2.9 percent, and is also collected by some special districts such as the Metropolitan Denver Regional Transportation District (RTD) and the Metropolitan Scientific and Cultural Facilities District (SCFD). With proof of payment, sales tax paid to another state may be credited against state use tax due in Colorado for a particular item.

Notice and Reporting by Remote Sellers:

- In 2010, the Colorado General Assembly passed [House Bill 10-1193](#), which established notice and reporting requirements for retailers that make sales into Colorado but do not collect Colorado state sales tax.
- For 7 years, state and federal injunctions prevented CDOR from implementing this law. In February 2017, the parties in DMA v. Brohl entered into a settlement, resulting in the dissolution of the injunctions that had prevented enforcement of the notice and reporting requirements.
- CDOR began enforcement of the reporting and notification requirements on July 1, 2017.
 - CDOR has agreed to waive any penalties for failure to follow the law's notice and reporting requirements for transactions occurring prior to the effective date of July 1, 2017. CDOR promulgated [amendments to Rule 39-21-112\(3.5\)](#), effective January 1, 2018, to provide guidance to retailers that do not collect Colorado sales or use tax and are subject to the notice and reporting requirements of this law.

¹ <https://www.colorado.gov/pacific/tax/consumer-use-tax-quick-answers>

² **How Do I Pay Consumer Use Tax?** Taxpayers can elect to voluntarily report their consumer use tax owed to the State and some special districts on the Consumer Use Tax Return (DR 0252), Consumer Use Tax Reporting Schedule (DR 0104US) (when filing with an individual tax return).

³ Section 29-2-109, C.R.S.



- CDOR will conduct rulemaking on these two similar topics in order to streamline stakeholder meetings, outreach, implementation, and education.
- **This is a significant change for retailers and it is CDOR's goal is to make this process as easy as possible in order to ease the burden on businesses and streamline administration.**

Developing a State-Operated GIS:

- Currently CDOR certifies five private Geographic Information Systems (GIS) that provide retailers with information on taxing jurisdictions.
 - These GIS rely on information from local jurisdictions to ensure their systems are up to date and complete.
- Part of the Wayfair Decision stated that it was not an undue burden to determine taxing jurisdiction because South Dakota had a centralized state-operated GIS and filing platform.
 - CDOR has revived conversations with the Office of Information Technology (OIT) and the Statewide Internet Portal Authority (SIPA) on their capabilities to provide a state-operated GIS. If a viable option can be developed, legislation and a General Fund appropriation will be required to develop and maintain the system.

Is Use Tax Necessary and Implications for Marketplaces:

- While the Wayfair Decision may vastly increase the amount of retailers that will collect and remit sales tax, there is still a place for use tax. For example:
 - Goods purchased out of state where no sales tax is charged but the property is stored and used in Colorado, are still required to pay use tax.
 - Goods purchased from remote sellers that do not meet the de minimis threshold, thus sales tax was not charged, are still required to pay use tax.