



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 9, 2022)

Drafting Number: LLS 22-0481
Prime Sponsors: Rep. Daugherty

Date: March 11, 2022
Bill Status: House Appropriations
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Bill Topic: SALES & USE TAX REFUNDS

Summary of Fiscal Impact:

- | | |
|---|--|
| <input checked="" type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

The bill establishes criteria for sales and use tax refund claims filed with the Department of Revenue. The bill may minimally increase state revenue, and minimally increases or decreases state workload from July 1, 2022 to July 1, 2026.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The revised fiscal note reflects the introduced bill, as amended by the House Finance Committee.

Summary of Legislation

The bill makes changes regarding sales and use tax refunds. First, the bill reduces the time period during which interest is accrued on a sales tax refund claim, from when the refund claim is filed rather than the purchase date. Further, the bill creates civil penalties for frivolous claims of \$5,000 or more, equal to 5.0 percent of the refund claimed for incomplete claims, and equal to 10.0 percent of the refund claimed for those that are duplicative or unreasonable. The changes to interest payments and civil penalties take effect July 1, 2022, and end July 1, 2026. Lastly, the bill establishes criteria for determining frivolous claims, procedures for penalty notices and corrections to a claim, and the circumstances under which the department may waive the penalty.

Background

Purchasers or vendors may file a claim for a sales and use tax refund to the Department of Revenue up to three years after taxes were overpaid. Overpayments may occur in a number of situations including disputes over exemptions, tax collected on nontaxable services, or for other reasons. The Department of Revenue pays interest on some refund claims. From 2018 to 2021, the department paid less than \$75,000 in interest for sales and use tax refunds each year.

State Revenue

Civil penalties. Under the bill, the Executive Director of the Department of Revenue shall assess and collect a civil penalty equal to 5.0 percent of the refund claimed for an incomplete claim and 10.0 percent of the refund claimed for duplicative or unreasonable claims. The penalty applies only to claims totaling at least \$5,000. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of frivolous applications filed, cases that may be pursued, or penalties eventually waived by the department, the potential revenue impact of these civil penalties cannot be estimated.

State Expenditures

Interest payments. The bill will reduce the amount of interest paid to taxpayers by the Department of Revenue on sales tax refund claims by reducing the time period for which interest is accrued. However, the amount depends on the impact to the department's workload for processing claims, any reduction in refund claim backlogs, amount of filings, and other factors that cannot be determined.

Workload impacts. Workload in the Department of Revenue may increase or decrease depending on how many frivolous claims are deterred under the bill, and the need for updates to information and forms related to sales and use tax refunds. Any change is expected to be minimal.

Workload in the Judicial Department will minimally increase to the extent that frivolous claims are pursued. The fiscal note assumes that workload impacts can be met with existing resources.

Effective Date

The bill takes effect on July 1, 2022.

State and Local Government Contacts

Information Technology
Personnel

Judicial
Revenue