

# OFFICE OF LEGISLATIVE LEGAL SERVICES

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## MEMORANDUM<sup>1</sup>

TO: Statutory Revision Committee

FROM: Esther van Mourik, Office of Legislative Legal Services

DATE: February 19, 2021

SUBJECT: Accurate statutory references to the types of taxes administered by the department of revenue for purposes of administrative requirements.

### Summary

Section 39-21-102, C.R.S. accurately specifies the scope and applicability of article 21 of title 39, C.R.S., and establishes all the taxes that the department of revenue is responsible for administering. Sections 39-21-119 and 39-21-120, C.R.S., attempt to reference similar lists of taxes for specified methods of filing and paying taxes. However, some of the tax types are omitted in these sections, making these sections defective. Therefore, sections 39-21-119 and 39-21-120, C.R.S., should be amended to remove the references to the tax types so that section 39-21-102, C.R.S., controls instead. The Department of Revenue (department) identified this provision.

### Analysis

Section 39-21-119 (1)(a), C.R.S., prescribes the date a return is deemed filed and the date a payment is deemed made for various tax types administered by the department. Section 39-21-120 (1), C.R.S., permits alternative methods for filing, signing, and transmitting returns for various tax types administered by the department. These sections reference many of the taxes and fees the department administers, but omits

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<sup>1</sup> This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

others. Because the applicability of the entire article 21 is properly set forth in section 39-21-102, C.R.S., it is unnecessary to include language in sections 39-21-119 and 39-21-120, C.R.S., regarding the types of taxes to which the methods of filing apply. Amending these sections to remove the incomplete references to the types of taxes administered by the department will also prevent future omissions.

## **Statutory Charge<sup>2</sup>**

The Statutory Revision Committee (SRC) is tasked with discovering "defects and anachronisms in the law" and recommending legislation "to effect such changes in the law as it deems necessary in order to modify . . . contradictory rules of law." The amendments of sections 39-21-119 and 39-21-120, C.R.S., fit within the SRC's charge because they modify contradictory rules of law.

## **Proposed Bill**

The attached bill amends sections 39-21-119 and 39-21-120, C.R.S., so that section 39-21-102, C.R.S., controls instead.

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<sup>2</sup> The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the SRC "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

## ADDENDUM A

**39-21-102. Scope.** (1) Unless otherwise indicated, the provisions of this article 21 apply to the taxes or fees imposed by articles 22 to 35 of this title 39 and article 60 of title 34, section 21 of article X of the state constitution, article 3 of title 42, part 5 of article 3 of title 44, articles 11 and 20 of title 30, article 4 of title 43, article 2 of title 40, and part 2 of article 20 of title 8.

(2) The provisions of this article 21 apply to the taxes imposed pursuant to articles 3, 4, and 32 of title 44, but only to the extent that the provisions of this article 21 are not inconsistent with the provisions of articles 3, 4, and 32 of title 44.

(3) Repealed.

(4) The provisions of this article apply to grants authorized pursuant to article 31 of this title to the extent that such provisions are not inconsistent with the provisions of said article 31.

(5) The provisions of this article apply to the taxes or fees imposed pursuant to articles 1, 2, 11, and 25 of title 29, C.R.S., but only to the extent that the provisions of this article are not inconsistent with the provisions of articles 1, 2, 11, and 25 of title 29, C.R.S.

(6) The provisions of this article apply to the taxes or fees imposed pursuant to title 32, C.R.S., but only to the extent that the provisions of this article are not inconsistent with the provisions of title 32, C.R.S.

## ADDENDUM B

**39-21-119. Filing with executive director - when deemed to have been made.** (1) (a) Any report, claim, tax return, statement, or other document required or authorized under articles 22, 26, 28, and 29 of this title and article 3 of title 42, C.R.S., to be filed with or any payment made to the executive director that is transmitted through the United States mail shall be deemed filed with and received by the executive director on the date shown by the cancellation mark stamped on the envelope or other wrapper containing the document required to be filed.

(b) Any such document which is mailed, but not received by the executive director, or is received and the cancellation mark is not legible, or is erroneous or omitted shall be deemed to have been filed and received on the date it was mailed if the sender establishes by competent evidence that the document was deposited in the United States mails on or before the date due for filing. In such cases of nonreceipt of a document by the executive director, the sender shall file a duplicate copy thereof within thirty days after written notification is given to the sender by the executive director of the failure to receive such document.

(2) If any report, claim, tax return, statement, remittance, or other document is sent by United States registered mail, certified mail, or certificate of mailing, a record authenticated by the United States postal service of such registration, certification, or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance, or other document was mailed to the executive director, to the state officer or state agency to which it was addressed, and the date of the registration, certification, or certificate shall be deemed to be the postmark date.

(3) If the date for filing any report, claim, tax return, statement, remittance, or other document falls upon a Saturday, Sunday, or legal holiday, it shall be deemed to have been timely filed if filed on the next business day.

(4) The date of receipt of returns or other documents made, filed, signed, subscribed, verified, transmitted, received, or stored under the alternative methods provided in section 39-21-120 shall be determined pursuant to rules and regulations adopted by the executive director pursuant to section 39-21-112 (1).

## ADDENDUM C

**39-21-120. Signature and filing alternatives for tax returns.** (1) For the purposes of any returns or other documents made, filed, signed, subscribed, verified, transmitted, received, or stored pursuant to articles 22 to 31 of this title 39, article 60 of title 34, article 3 of title 42, and articles 3 and 4 of title 44, the executive director may prescribe alternative methods for the making, filing, signing, subscribing, verifying, transmitting, receiving, or storing of returns or other documents pursuant to the statutory provisions of this article 21 and other articles referenced in this article 21. The executive director shall adopt rules as may be appropriate to define and implement acceptable alternatives for each article within the scope of this section.

(2) Any return or other document signed, subscribed, or verified under any method adopted under subsection (1) of this section shall be treated for all purposes, including penalties for perjury, in the same manner as if verified by signature.

(3) To enable alternative filing of tax returns, the executive director is hereby authorized to contract for communications services with governmental or private contractors. Such contractors shall be subject to the provisions of section 39-21-113 (4), and each contract entered into pursuant to this subsection (3) shall set forth the provisions of section 39-21-113 (4) and (6).

First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

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2.8.21

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LLS NO. 21-0723.01 Esther van Mourik x4215

COMMITTEE BILL

Statutory Revision Committee

**BILL TOPIC: "Accurate References For DOR Tax Administration"**

**A BILL FOR AN ACT**

101 **CONCERNING THE ACCURATE STATUTORY REFERENCE TO THE TYPES**  
102 **OF TAXES ADMINISTERED BY THE DEPARTMENT OF REVENUE FOR**  
103 **PURPOSES OF ADMINISTRATIVE REQUIREMENTS.**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Statutory Revision Committee.** Section 39-21-102, C.R.S., accurately specifies the scope and applicability of article 21 of title 39, C.R.S., and establishes all the taxes that the department of revenue is responsible for administering. However, sections 39-21-119 and 39-21-120, C.R.S., attempt to reference similar lists of taxes in order to

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

specify authorized methods of filing and paying the taxes. Unfortunately, some of the tax types are omitted in these sections, making these sections defective. The bill removes the references to the tax types in sections 39-21-119 and 39-21-120, C.R.S., so that section 39-21-102, C.R.S., controls instead.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, 39-21-119, **amend**  
3 (1)(a) as follows:

4           **39-21-119. Filing with executive director - when deemed to**  
5 **have been made.** (1) (a) Any report, claim, tax return, statement, or other  
6 document required or authorized ~~under articles 22, 26, 28, and 29 of this~~  
7 ~~title and article 3 of title 42, C.R.S.,~~ to be filed with or any payment made  
8 to the executive director that is transmitted through the United States mail  
9 ~~shall be~~ IS deemed filed with and received by the executive director on the  
10 date shown by the cancellation mark stamped on the envelope or other  
11 wrapper containing the document required to be filed.

12           **SECTION 2.** In Colorado Revised Statutes, 39-21-120, **amend**  
13 (1) as follows:

14           **39-21-120. Signature and filing alternatives for tax returns.**  
15 (1) ~~For the purposes of any returns or other documents made, filed,~~  
16 ~~signed, subscribed, verified, transmitted, received, or stored pursuant to~~  
17 ~~articles 22 to 31 of this title 39, article 60 of title 34, article 3 of title 42,~~  
18 ~~and articles 3 and 4 of title 44,~~ The executive director may prescribe  
19 alternative methods for the making, filing, signing, subscribing, verifying,  
20 transmitting, receiving, or storing of returns or other documents pursuant  
21 to the statutory provisions of this article 21 and other articles referenced  
22 in this article 21. The executive director shall adopt rules as may be  
23 appropriate to define and implement acceptable alternatives for each

1 article within the scope of this section.

2           **SECTION 3. Act subject to petition - effective date.** This act  
3 takes effect at 12:01 a.m. on the day following the expiration of the  
4 ninety-day period after final adjournment of the general assembly; except  
5 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
6 of the state constitution against this act or an item, section, or part of this  
7 act within such period, then the act, item, section, or part will not take  
8 effect unless approved by the people at the general election to be held in  
9 November 2022 and, in such case, will take effect on the date of the  
10 official declaration of the vote thereon by the governor.