



LOCAL GOVERNMENT SALES AND USE TAXES

By Greg Sobetski

In Colorado, sales taxes are imposed by the state government, counties, municipalities, and special districts. Overlapping boundaries create 754 unique tax jurisdictions, many with different tax bases, rates, and administrators. This *issue brief* summarizes information on how local government sales and use taxes are assessed and administered.

Statutory and Home Rule Jurisdictions

By default, counties and municipalities are **statutory** jurisdictions, meaning that they may exercise only the powers specifically granted to them in state law. However, Article XX, Section 6, of the Colorado Constitution empowers residents of incorporated municipalities to broaden the authority of their city or town by adopting a home rule charter. **Home rule** jurisdictions operate with greater autonomy than statutory jurisdictions.

Colorado has 269 municipalities, including 171 statutory municipalities, 97 home rule municipalities, and Georgetown, a municipality incorporated under the territorial charter that existed prior to statehood. The consolidated city-county governments of Broomfield and Denver operate as home rule jurisdictions, while the state's 62 other counties operate as statutory jurisdictions.

Tax Base

The state sales tax is applied to sales of goods except when certain exemptions apply. Services are exempt unless specified as taxable under state law. More information on the state sales tax base is available in the Colorado Online Tax Handbook: <http://leg.colorado.gov/agencies/legislative-council-staff/colorado-online-tax-handbook>

Statutory counties and municipalities are authorized to levy a sales tax on the same tax base as the state. Generally, legislation altering the state sales tax base automatically alters these jurisdictions' tax base in an identical fashion. However, state law includes a list of state sales tax exemptions that are not extended to statutory governments by default.¹ Local governments may extend the listed exemptions in their jurisdiction. For example, sales of food for home consumption are exempt from taxation at the state level but may be taxed at the local level. By contrast, wholesale sales are exempted from the state sales tax and from the local taxes of all statutory counties and municipalities.

Home rule governments are empowered to determine their own tax base. Because these governments construct their tax base independently of the state base, they may tax goods or services that are untaxed at the state level, exempt goods and services that are taxed at the state level, or some combination of the two. Additionally, home rule governments may

¹Section 29-2-105 (1)(d), C.R.S.

define certain goods differently from the definitions used by the state.

Special districts collecting sales tax have disparate tax bases depending on their foundational documents and governance. State law requires two special districts in the Denver Metro Area, the Regional Transportation District (RTD) and the Scientific and Cultural Facilities District (SCFD), to use the same sales tax base as the state.² Accordingly, legislation altering the state sales tax base automatically alters the RTD and SCFD tax bases in an identical fashion.

Tax Rate

The state sales tax rate is 2.9 percent, the lowest in the country among states collecting sales tax.³ A 2017 study by the Tax Foundation estimated that local sales tax rates in Colorado averaged an additional 4.6 percent on a population-weighted basis, the nation's third-highest rate after Alabama and Louisiana.⁴

Local tax rates vary widely across the state. The highest sales tax rate is assessed in Winter Park, where combined state, county, and municipal sales taxes total 11.2 percent. Several locations in the state are subject to only the 2.9 percent state sales tax, including unincorporated areas of 11 of the 12 counties that do not collect a sales tax.⁵

Vendor fee. Some jurisdictions allow retailers to retain a portion of tax collections to offset the cost of collecting the tax on behalf of the government. The state vendor fee is 3.33 percent, meaning that 96.67 percent of state sales taxes collected by retailers are remitted to the state government. Retailers that remit taxes late are not entitled to retain the vendor fee.

Local jurisdictions may or may not permit retailers to retain a vendor fee for the collection

of local taxes. Local vendor fees range from zero in various jurisdictions to 4.0 percent in the city of Gunnison.

Tax Administration

The Colorado Department of Revenue (DOR) is responsible for the collection, administration, enforcement, and auditing of the state sales tax, all county sales taxes, sales taxes assessed by statutory cities, and most special district taxes.⁶ Additionally, a home rule government may choose to delegate all administrative responsibilities for its sales tax to DOR. A full list of jurisdictions for which taxes are administered by the state, including applicable exemptions and vendor fees, can be found at the department's website: <http://www.colorado.gov/pacific/sites/default/files/DR1002.pdf>

Home rule governments that choose not to have their taxes administered by the state are responsible for the collection, administration, and enforcement of their own taxes. The consolidated city-county governments of Denver and Broomfield collect and administer their own sales tax.

Use Tax

Use tax is levied when sales tax is due but was not collected, including some online transactions involving out-of-state retailers. The state levies a 2.9 use tax that complements the state sales tax. Home rule and statutory counties and municipalities may establish their own use tax.

If imposed, a local government use tax is usually assessed at the same rate as the local government's sales tax and applies to the same tax base. State law also includes specific requirements governing where an item may be taxed if it is purchased in one jurisdiction and stored, used, or consumed in another.

The Department of Revenue's form DR1002, linked above, provides use tax information for state-administered jurisdictions.

²Section 39-26-706 (1)(c)(II), C.R.S.

³Alaska, Delaware, Montana, New Hampshire, and Oregon do not collect sales tax.

⁴<http://taxfoundation.org/state-and-local-sales-tax-rates-in-2017/>

⁵Baca, Cheyenne, Conejos, Dolores, Gilpin, Kiowa, Kit Carson, Las Animas, Morgan, Weld, and Yuma. Montezuma County does not collect a sales tax, but a countywide hospital district tax applies.

⁶Sections 29-2-106 (1) and 32-1-1106 (2)(a), C.R.S.