



COLORADO
Department of Revenue

SB17-194

Exception to Deadlines Due to Refund-Related Fraud

Sponsors: Senator Neville & Representative Pabon

Concerning an exception to the statutory deadlines for making income tax refunds for returns suspected of refund-related fraud.

What Would This Bill Do?

This Bill would add to the list of current refund deadline exceptions (full list on back of page), as outlined in Section 39-22-622(4), C.R.S.:

- "A return where there is a suspicion of identity theft or other refund-related fraud."

Background:

Since 2014 there has been a spike in identity theft and refund-related fraud. In 2015, approximately 80,000 tax returns were flagged in this category. In 2016, approximately 115,000 tax returns were flagged in this category.

Why is it Necessary?

The refund deadlines and exceptions were written before identity theft and refund-related fraud became prevalent and when tax returns were less complex and had fewer refundable credits. The current statutory deadlines discourage due diligence in validating all refundable credits. The Colorado Department of Revenue (CDOR) needs additional time to further examine suspicious returns or follow up with taxpayers and ask for additional information. It is difficult to recover refund dollars after they are issued, especially if it involves identity theft because those monies are often not traceable and the fraud is perpetrated by overseas individuals and groups.

This Bill would:

- Combat an increase in refund-related fraud.
- Protect taxpayer information.
- Ensure taxpayers receive the Colorado state income tax refund to which they are entitled.
- Allow CDOR time to exercise due diligence in its administration of the tax code.
- Ensure state financial resources are not at risk.

If Denied:

- If CDOR does not meet refund deadlines due to additional processing where there is a suspicion of identity theft or refund-related fraud, then the State will be required to issue penalty and interest to those taxpayers, resulting in a loss of State revenue.
- If CDOR meets deadlines but does not have adequate time for due diligence, then there may be an increase in fraud, risk to taxpayers, and a potential loss of State revenue.

Support: CDOR

For Questions, Please Contact:

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(see front side)

Useful Information:

Section 39-22-622, C.R.S.:

Current statute requires CDOR to meet certain refund deadlines:

- 14 days for returns filed in January.
- 21 days for returns filed in February.
- 28 days for returns filed in March.
- 45 days for returns filed in April.

Current statute identifies certain exceptions to the deadlines:

- Any return that is being audited.
- Any return that may take longer than normal to process due to the mathematical or clerical errors contained in said return.
- Unforeseen delays caused by the failure of processing equipment.
- Because of the Colorado Job Growth Incentive tax credit (Section 39-22-531, C.R.S.).
- Because the taxpayer claimed an enterprise zone tax credit and CDOR is awaiting confirmation from the Colorado Office of Economic Development that the taxpayer is eligible for the credit.

If deadlines are not met, current statute dictates that penalty and interest shall be added as follows:

- A penalty of 5% of the amount of tax to be refunded, plus daily interest calculated at the prime rate rounded to the nearest percent.
 - If the refund is less than \$5,000 or less than 10% of the taxpayer's total liability, an additional 3 percentage points are added to the daily interest rate (Section 39-21-110.5, C.R.S.).

Refund Fraud Statistics:

>Returns	2015	2014	2013	2012	2011	2010
Return Source						
Modem E-File (MeF) Returns	2,229,000	2,059,000	1,913,000	1,797,000	1,695,000	1,569,000
Revenue Online Returns	97,000	129,000	172,000	181,000	198,000	168,000
Total Electronic Returns	2,326,000	2,188,000	2,085,000	1,978,000	1,893,000	1,737,000
Paper Returns	411,000	433,000	445,000	478,000	522,000	618,000
Total Returns	2,737,000	2,621,000	2,530,000	2,456,000	2,415,000	2,355,000
Electronic Percentage	85%	83%	82%	81%	78%	74%
Refunds	2015	2014	2013	2012	2011	2010
Refund Type						
Direct Deposit	660,000	554,000	1,138,000	1,098,000	1,047,000	996,000
Paper	527,000	431,000	400,000	432,000	457,000	488,000
Converted Direct Deposit to Paper	801,000	606,000	N/A	N/A	N/A	N/A
Total Refunds	1,988,000	1,591,000	1,538,000	1,530,000	1,504,000	1,484,000
Refund Fraud	2015	2014	2013	2012	2011	2010
Total Number of Returns	2,737,000	2,621,000	2,530,000	2,456,000	2,415,000	2,355,000
Number of Suspicious Returns	114,090	78,261	51,236	65,952	29,614	24,223
Confirmed Fraud - Count	14,458	8,688	4,624	3,525	2,584	1,543
Confirmed Fraud - Amount	\$8,518,976	\$7,836,143	\$ 5,432,301	\$1,979,635	\$1,725,608	\$ 1,080,427