COLORADO
Department of Revenue
Taxation Division



Colorado Tobacco Products Tax Guide

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Colorado imposes a tax on the sale, use, consumption, handling, or distribution of all tobacco products in Colorado. This publication provides information regarding Colorado's tobacco products tax but does not apply to either cigarettes or nicotine products sold in Colorado, which are taxed separately. Please see the *Colorado Cigarette Tax Guide* and the *Colorado Nicotine Products Tax Guide* for additional information regarding the taxes imposed on cigarettes and nicotine products.

The tobacco products tax imposed in Colorado applies to every kind and form of tobacco that is prepared in such a manner as to be suitable for chewing or for smoking, or both, except for cigarettes that are subject to Colorado cigarette tax. Tobacco products that are subject to the tax include, but are not limited to, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, snuff, snuff flour, cavendish, plug, twist, fine-cut, and shorts:

The tax on tobacco products also applies to any refuse scraps, clippings, cuttings, and sweepings of tobacco. Additionally, wrapping materials made of tobacco, either in whole or in part, including blunt wraps, are tobacco products subject to the tax.

In general, anyone engaged in the business of distributing tobacco products in Colorado is liable for the tobacco products tax, including any distributor who makes sales from outside of Colorado for delivery to consumers at locations inside of Colorado. Remote retail sellers of cigars or pipe tobacco to consumers in Colorado are also liable for tobacco products tax.

Any distributor or remote retail seller who is liable for the tax must obtain and maintain a Colorado tobacco products tax license. They must also file returns and remit the applicable tax on a quarterly basis. Distributors and remote retail sellers must maintain all records necessary to determine the correct amount of tax and provide these records to the Department upon request.

This publication is designed to provide distributors with general guidance regarding licensing, tax calculation, filing, remittance, and recordkeeping requirements prescribed by law. Additional information, guidance, forms, and instructions can be found online at *Tax.Colorado.gov*. Nothing in this publication modifies or is intended to modify the requirements of Colorado's statutes and regulations. Distributors are encouraged to consult their tax advisors for guidance regarding specific situations.

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Part 1: Licensing

Every tobacco products distributor, distributing subcontractor, and remote retail seller is required to obtain and maintain an active license with the Colorado Department of Revenue. A *List of Licensed Distributors and Remote Retail Sellers* is available on the Department's website. This Part 1 provides information regarding distributors, distributing subcontractors, and remote retail sellers who are required to be licensed, as well as licensing applications, renewals, and revocations.

Licensing requirements

Anyone engaged in the business of distributing tobacco products at any place of business or making delivery or remote sales must first obtain a license granted and issued by the Department. For distributor located in Colorado, licenses are granted only to persons who own or operate the place where they engage in the business of distributing tobacco products. Licensing requirements apply to distributors and distributing subcontractors, both defined below.

Distributors

A distributor license is required for anyone:

- who first receives tobacco products in Colorado;
- who sells tobacco products in Colorado and is primarily liable for the tobacco products tax on such products;
- who first sells or offers for sale in Colorado tobacco products imported into this state from any other state or country.
- who is located outside of Colorado and accepts orders for tobacco products from consumers in Colorado, over the phone, internet, or by any other means, for delivery into Colorado by common carrier, private delivery service, mail, or any other means.

Distributing subcontractors

A distributing subcontractor license is required for any person, firm, limited liability company, partnership, or corporation who purchases tobacco products from a distributor for resale to a retailer in Colorado.

Remote retail sellers

A remote retail seller is anyone who is located outside of Colorado and accepts orders for cigars or pipe tobacco from consumers in Colorado, over the phone, internet, or by any other means, for delivery into Colorado by common carrier, private delivery service, mail, or any other means.

Application for licensing

A distributor, distributing subcontractor, or remote retail seller must apply for licensure through *Revenue Online* and pay the applicable fee. The standard license fee is $10 per year. For an initial license application, the fee will be prorated based on the number of calendar quarters remaining before the expiration of the license on June 30th. If such business is operated in two or more separate places, a separate license is required for each place of business. Additional information about *Tobacco Products* licensing is available on the Department's website.

An applicant must have a current Colorado sales tax license and must not owe any delinquent Colorado taxes, unless the applicant has entered into an agreement with the Department to pay such tax. Please see Part 5 of the *Colorado Sales Tax Guide* for information about sales tax licenses.

Additional requirements for distributors

As a condition for licensure, distributors must comply with requirements relating to the Master Settlement Agreement and Tobacco Escrow Funds, including, but not limited to, the filing of Department *form DR 1285* and/or *form DR 1286*. Please see Department publication *Special Topics: Master Settlement Agreement* for additional information regarding these requirements.

Business changes for a licensee

If a distributor, distributing subcontractor, or remote retail seller relocates or changes the name of the business, they must notify the Department by submitting a web message through their *Revenue Online* account, sending an email to *DOR_ExciseTax@state.co.us,* or by calling 303-205-8287. The Department will issue a license with the new business name or location at no charge.

If there is a change in ownership of the business, the new owner must apply for a new license, as described earlier in this publication. A change in ownership may occur if an existing business is sold to a new owner or if the ownership structure of an existing business changes so as to create a new legal entity. However, any changes in stockholders of a corporation, partners in a partnership, or members in a limited liability company is not a change of ownership and does not require a new license.

License renewals

Licenses, if not renewed, will expire on June 30th. A license renewal application will be mailed to each licensed distributor and distributing subcontractor. Licenses can be renewed electronically through *Revenue Online*. A current Colorado sales tax license and a license fee of $10 are required for renewal of a tobacco products license. A license cannot be renewed if the licensee owes any delinquent Colorado taxes, unless the licensee has entered into an agreement with the Department to pay such tax. Additionally, a distributor's license cannot be renewed if the licensee has not filed all required reports related to the Master Settlement Agreement. Please see Department publication *Special Topics: Master Settlement Agreement*.

License revocations

If a licensee violates any provision of law applicable to the tax on tobacco products, the Department will, on reasonable notice and after a hearing, suspend or revoke the license. The distributor or remote retail seller will not be eligible for a new license for a period of two years thereafter.

Penalty for operating without a license

It is unlawful for anyone to sell and distribute any tobacco products in Colorado without a license. Any distributor, remote retail seller, or agent thereof who willfully violates licensing requirements is subject to criminal penalties.

Additional resources

The following is a list of statutes, forms, and guidance pertaining to licensing for tobacco products tax. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

Statutes and regulations

- § 39-28.5-101, C.R.S. Definitions.
- § 39-28.5-104, C.R.S. Licensing required.
- § 39-28.5-104.5, C.R.S. Licensing of distributing subcontractors.
- § 39-28.5-110, C.R.S. Prohibited acts – penalties.
- § 39-28.5-112, C.R.S. List of licensed distributors.

Forms and guidance

- *Tax.Colorado.gov*
- *Tobacco Products*
- *List of Licensed Distributors and Remote Retail Sellers*
- *Forms & Instructions for Tobacco Products Tax*
- *Revenue Online*
- *Special Topics: Master Settlement Agreement*
- *Licensed Distributor Reporting Form for Cigarette Sales of Non-Participating Manufacturer Brands (DR 1285)*
- *Tobacco Distributor's Certificate for Exemption MSA/Non-Participating Manufacturer Brands (DR 1286)*

Part 2: Prohibited Acts

Section 39-28.5-111, C.R.S., prohibits certain acts in relation to the importation, sale, labeling, and handling of tobacco products in Colorado. This Part 2 provides a list of certain prohibited acts. Any violation of section 39-28.8-111, C.R.S., is a class 2 misdemeanor.

Any package or container of tobacco products found at any place in Colorado that is marked for use outside of the U.S. is declared to be contraband goods and may be seized without a warrant by the Department, its agents or employees, or by any peace officer in Colorado when directed or requested by the Department to do so.

Importation in violation of federal requirements

No one shall import into Colorado any tobacco product that violates any federal requirement for the placement of labels, warnings, or other information, including health hazards, required to be placed on the container or individual package.

Sales in violation of federal law

No one shall sell or offer to sell any tobacco product unless the package or container of the tobacco product complies with all federal tax laws, federal trademark and copyright laws, and federal laws regarding the placement of labels, warnings, or any other information upon a package or container of tobacco products.

Tobacco products manufactured for use outside the U.S.

No one shall sell or offer to sell any tobacco product if the package or container is marked as manufactured for use outside of the United States or if any label or language has been altered from the manufacturer's original packaging and labeling to conceal the fact that the package or container of tobacco products was manufactured for use outside of the United States.

No one shall affix a stamp, label, or decal on a package or container of tobacco products to conceal the fact that the package or container of tobacco products was manufactured for use outside of the United States.

No one shall sell or offer to sell any tobacco product on which a stamp, label, or decal was affixed to conceal the fact that the package or container of tobacco products was manufactured for use outside of the United States.

Additional resources

The following is a list of statutes prohibiting certain acts involving tobacco products in Colorado. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

Statutes

- § 39-28.5-110, C.R.S. Prohibited acts – penalties.
- § 39-28.5-111, C.R.S. Federal requirements.
- § 39-21-118, C.R.S. Criminal penalties.

Part 3: Tobacco Products Tax

In general, Colorado imposes its tobacco products tax on any tobacco products manufactured in or transported into Colorado for sale in Colorado. The distributor or remote retail seller is liable for the tax but, if the distributor has not paid the tax, anyone who possesses untaxed tobacco products in Colorado may be held liable for the tax. The tax is generally calculated as a percentage of the manufacturer's list price for the tobacco product, but special rules apply to the calculation of the tax on modified risk tobacco products and moist snuff. This Part 3 provides information regarding the imposition and calculation of the tobacco products tax in Colorado.

Tobacco products tax

The tobacco products tax is levied upon the sale, use, consumption, handling, or distribution of all tobacco products in Colorado, except for cigarettes, which are taxed separately. Taxable sales include any transfer, exchange, or barter, in any manner or by any means whatsoever, for consideration, including delivery sales and remote retail sales described below. Additionally, any gift by a person engaged in the business of selling tobacco products is treated as a taxable sale, whether such gift was made for the purpose of advertising, in an effort to evade the tax, or for any other purposes whatsoever.

Delivery and remote retail sales

The tobacco products tax applies not only to tobacco products sold over-the-counter in Colorado, but also to any tobacco products delivered to any consumer in Colorado. The tax applies whenever a consumer in Colorado submits an order to a seller located outside of the state by any means including, but not limited to, telephone or other voice transmission, the mail or other delivery service, or the internet or other online service and the tobacco products are delivered to the consumer in Colorado by use of a common carrier, private delivery service, mail, or any other means.

Imposition of the tax

The tobacco products tax is imposed at the time the distributor does any of the following:

- brings tobacco products into Colorado for sale;
- causes tobacco products to be brought into Colorado for sale;
- makes, manufactures, or fabricates tobacco products in Colorado for sale in Colorado;
- ships or transports tobacco products to retailers in Colorado to be sold by those retailers; or
- makes a sale of tobacco products delivered to a consumer in Colorado by use of a common carrier, private delivery service, mail, or any other means.

In the case of a remote retail sale of cigars or pipe tobacco, the tax is imposed at the time the remote retail seller makes the sale.

Liability for the tax

In general, tobacco products tax is imposed upon the distributor or remote retail seller who is liable and responsible for the tax. Distributors and remote retail sellers are required to file returns and remit taxes as described in Part 4 of this publication.

However, if anyone who is not a distributor possesses tobacco products in Colorado for which taxes have not otherwise been remitted, they are liable and responsible for the uncollected tax and must file a *Tobacco Products Tax Return for Non-Licensed Distributors* (DR 0225). The person or entity must file the return and make the payment of the tax due to the Department within 30 days of first taking possession of the tobacco product. Anyone who fails to remit the required tax is subject to a penalty of up to 500% of the tax due.

Tax calculation

Tobacco products tax is generally calculated as a percentage of the manufacturer's list price for the product. The tax rate increases incrementally up to July 1, 2027. Special rules apply to the calculation of tax for modified risk tobacco products and moist snuff.

Manufacturer's list price

The manufacturer's list price used for calculating the tax is the invoice price for which a manufacturer or supplier sells a tobacco product to a distributor or remote retail seller. The manufacturer's list price is determined without regard to any discounts or other price reductions allowed by the manufacturer or supplier. Special rules, discussed later in the publication, apply in determining the manufacturer's list price for delivery and remote retail sales and for manufacturers who make retails sales directly to consumers.

The taxable invoice price includes all consideration the manufacturer or supplier receives from the distributor in whatever form and regardless of the time of receipt. It also includes any and all charges reflected on an invoice from the manufacturer or supplier to the distributor, whether separately stated or not, including, but not limited to, any federal excise tax and any charge for shipping, transportation, and storage.

However, any charges separately stated on the invoice for any tangible personal property that is not a tobacco product are excluded from the invoice price upon which the tax is calculated. If services provided in connection with the purchase of both tobacco products and non-tobacco products are aggregated on an invoice, the portion of any aggregated service charges that are properly allocable to non-tobacco products may be excluded from the taxable invoice price. The portion of any aggregated service charges that are properly allocable to non-tobacco products is determined by multiplying the service charges by a fraction, the numerator of which is the sum total of all non-tobacco products on the invoice and the denominator of which is the sum total of all charges for tobacco and non-tobacco products on the invoice, excluding from both the numerator and denominator any discounts or other price reductions allowed by the manufacturer or supplier.

Delivery and remote retail sales

If determining the invoice price as described earlier in this publication is impracticable for a delivery or remote retail seller, then the tax may be calculated using an alternate method. The tax is instead calculated as a percentage of the average of the actual price paid during the preceding calendar year for the stock keeping unit ("SKU") assigned by the distributor or remote retail seller to the tobacco product in order to track inventory. The average of the actual price paid is determined exclusive of any rebates or discounts applied.

The Department may, by written notice to the delivery or remote retail seller, prospectively require a delivery or remote retail seller to calculate the tax on the invoice price if the Department finds that the delivery or remote retail seller's use of the average price paid was for the purpose of avoiding tax.

Retail sales by manufacturers

If a manufacturer sells tobacco products exclusively to consumers and not to suppliers or distributors, the tax is calculated as a percentage of the manufacturer's cost to manufacture the tobacco product, including the manufacturing overhead and the cost of all direct materials and direct labor used.

Tax rates

The tax rate for calculating tobacco products tax increases incrementally up to July 1, 2027, as reflected in the following table:

Tax Rates for Tobacco Products

Period	*Tax Rate*
January 1, 2021, through June 30, 2024	50%
July 1, 2024, through June 30, 2027	56%
July 1, 2027, and later	62%

Modified risk tobacco products

The tobacco products tax for modified risk tobacco products is imposed at a lower rate. A tobacco product qualifies for the lower tax rate only if the Secretary of the U.S. Department of Health and Human Services ("HHS") has issued an order authorizing the product to be commercially marketed as a modified risk tobacco product in accordance with 21 U.S.C. sec. 387k, or any successor section. *Modified Risk Granted Orders* can be found on the website of the U.S. Food and Drug Administration.

The tax rate for calculating tobacco products tax on modified risk tobacco products increases incrementally up to July 1, 2027, as reflected in the following table:

Tax Rates for Modified Risk Tobacco Products

Period	*Tax Rate*
January 1, 2021, through June 30, 2024	35%
July 1, 2024, through June 30, 2027	38%
July 1, 2027, and later	41%

Minimum tax for moist snuff

Colorado law establishes a minimum tax for moist snuff. Moist snuff that is subject to the minimum tax includes any finely cut, ground, or powdered tobacco that is not intended to be smoked or to be placed in the nasal cavity. The minimum tax amounts listed in the following table apply specifically to 1.2 ounce containers of moist snuff.

The minimum tax for moist stuff increases incrementally up to July 1, 2027, as reflected in the following table:

Minimum Tax Per 1.2 Oz. Container of Moist Snuff

Period	*Minimum tax*
January 1, 2021, through June 30, 2024	$1.48
July 1, 2024, through June 30, 2027	$1.84
July 1, 2027, and later	$2.26

For any container of moist snuff that is larger than 1.2 ounces, the minimum tax amount listed in the preceding table is proportionately increased. For example, the minimum tax for a 1.8 ounce container of moist snuff sold in 2022 is $2.22. Because the 1.8 ounce container is 50% larger than the 1.2 ounce container for which the standard $1.48 minimum tax is prescribed, the minimum tax for the 1.8 ounce container is 50% greater.

Exempt sales

If the sale, use, consumption, handling, or distribution of any tobacco product is exempt from state taxation under the U.S. Constitution or federal law, the distributor must nonetheless report the exempt tobacco product to the Department on the distributor's quarterly tobacco products tax return.

Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to the imposition of the tobacco products tax. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

Statutes and regulations

- § 39-28.5-101, C.R.S. Definitions.
- § 39-28.5-102, C.R.S. Tax levied.
- § 39-28.5-102.5, C.R.S. Tax levied – state constitution.
- § 39-28.5-103, C.R.S. Exempt sales.
- § 39-28.5-106, C.R.S. Returns and remittance of tax.
- Colo. Const. Art. X, § 21. Tobacco taxes.
- Rule 39-28.5-101-1. Manufacturer's List Price.

Forms and guidance

- *Tax.Colorado.gov*
- *Tobacco Products*
- *Forms & Instructions for Tobacco Products Tax*
- *Tobacco Products Tax Return for Non-Licensed Distributors (DR 0225)*
- *Modified Risk Granted Orders*

All distributors and remote retail sellers are required to file returns and remit taxes every calendar quarter and maintain any records necessary for the determination of the amount of tax due. Both the filing of returns and the remittance of tax must be made electronically. A distributor or remote retail seller who remits the tax due on or before the applicable due date is allowed to retain a specified portion of the tax otherwise due. If a distributor or remote retail seller fails to file and pay the tax due by the applicable due date, the Department may impose penalties and interest. This Part 4 provides information regarding filing, remittance, and recordkeeping requirements for the Colorado tobacco products tax.

Filing requirements

Every distributor and remote retail seller must file quarterly returns reporting the total amount of tobacco products purchased by the distributor or remote retail seller during the quarter. A return must be filed for each calendar quarter, even if no tax is due. Quarterly returns are due on the 20th day of the month immediately following the close of the quarter. For example, a return for the 3rd quarter (July through September) is due October 20th. If the 20th falls on a Saturday, Sunday, or legal holiday, the distributor's return and tax remittance is due the next business day.

Electronic filing

Distributors and remote retail sellers must file their tobacco products tax returns electronically through *Revenue Online*. Distributors and remote retail sellers must create an account through Revenue Online prior to filing. Forms & Instructions for Tobacco Products Tax are available on the Department's website.

Any distributor or remote retail seller who is not able to file electronically should contact the Excise Tax Unit by email at *DOR_ExciseTax@state.co.us* or by phone at 303-205-8287.

Failure to file

If anyone neglects or refuses to file a return for any period for which they have an active tobacco products tax license or any return that is otherwise due, the Department will estimate the tax due based upon the best available information and issue a notice of deficiency for the estimated tax, plus any applicable penalties and interest. If no tax is due, a penalty of $25 will apply.

Other filing obligations

In addition to filing tobacco products tax returns, distributors must comply with other filing requirements relating to the Master Settlement Agreement and the PACT Act.

Master Settlement Agreement

Distributors are required to file either monthly or annual reports with the Department in relation to the Master Settlement Agreement (MSA) using *form DR 1285* or *form DR 1286*, respectively. Please see Department publication *Special Topics: Master Settlement Agreement* for additional information regarding MSA reporting requirements.

Preventing All Cigarette Trafficking (PACT) Act

Additionally, distributors may be subject to registration and reporting requirements under the Preventing All Cigarette Trafficking (PACT) Act. Anyone who, in interstate commerce, offers, advertises, sells, transfers, or ships for profit cigarettes, roll-your-own tobacco, or smokeless tobacco and who ships to or advertises in Colorado must register with both the state and federal governments and submit monthly filings to the state. The federal Bureau of Alcohol, Tobacco, Firearms and Explosives provides specific forms, instructions, and information for *PACT Act* requirements on its website. The required registration form and monthly filings must be submitted to the Department either via web message through *RevenueOnline* or by email to *DOR_ExciseTax@state.co.us*.

Remittance requirements

Distributors and remote retail sellers must remit payment of all tax due on or before the applicable due date for the filing of their return. Tax payments not made by the applicable due date are subject to penalty and interest, as described later in this publication. A distributor or remote retail seller who remits the applicable tax on or before the due date is allowed to deduct and retain a service fee, as described later in this publication.

Electronic funds transfer (EFT)

Distributors and remote retail sellers are required to remit tobacco products tax via electronic funds transfer (EFT). *Excise & Fuel Tax Payment* information is available on the Department's website.

In general, payments made by EFT must be made by the end of the day on the due date. Please see Department Rule 39-21-119.5 in *1 CCR 201-1* for additional information regarding the timeliness of payments made via EFT.

Service fee

For tax periods beginning before January 1, 2027, unless a distributor or remote retail seller is delinquent in remitting the tax due, they may retain a service fee that is generally equal to a certain percentage of the tax otherwise due to cover their expenses for remitting the tax. If any distributor or remote retail seller is delinquent in remitting the tax due, they may not retain any service fee.

In general, the service fee is calculated as a percentage of tax otherwise due. The percentage varies depending on the filing period and whether the tobacco products are modified risk tobacco products ("MRTP"), as reflected in the following table. However, the actual amount of the service fee may differ for moist snuff subject to the minimum tax. The allowable service fee is calculated automatically by the Department's electronic filing system.

Percentage of Tax Distributor May Retain

Tax Period	*Regular Percentage*	*Percentage for MRTP*
January 1, 2021, through June 30, 2024	0.9600%	0.6857%
July 1, 2024, through December 31, 2026	1.0286%	0.7579%

If a licensee has appropriately retained a service fee as described above and, subsequent to the applicable due date, owes additional tax for the filing period as the result of an amended return or an adjustment made by the Department, the licensee is not allowed to retain any service fee from the additional tax, but the licensee is allowed to retain the service fee from the original return, so long as the licensee filed the original return in good faith.

No service fee is allowed for tax periods beginning on or after January 1, 2027.

Penalties and interest

Penalties and interest are imposed under Colorado law whenever a distributor or remote retail seller fails to file a required return or to pay any tax due by the applicable due date.

Penalties

A distributor or remote retail seller who neglects or refuses to file any required return is subject to a penalty of $25 if no tax is due for the filing period.

If a distributor or remote retail seller fails to pay any tax due by the applicable due date, they will owe a penalty equal to 10% of the unpaid tax, plus an additional 0.5% for each month the tax remains unpaid, not to exceed a total of 18%.

Additionally, criminal penalties apply if anyone willfully makes a false or fraudulent return or false statement on any return or willfully evades the payment of any tax.

Interest

Interest accrues on any late payment of tax from the original due date for the tax to the date the tax is paid. The rate of interest accrual depends on the calendar year(s) over which the deficiency continues. Additionally, a discounted rate is allowed if the distributor:

- pays the tax in full prior to the issuance of a notice of deficiency;
- pays the tax in full within 30 days of the issuance of a notice of deficiency; or
- within 30 days of the issuance of a notice of deficiency, enters into an agreement with the Department to pay the tax.

The discounted and non-discounted, regular interest rates for recent years are listed in the following table:

Annual Interest Rates

Calendar year	*Discounted rate*	*Regular rate*
2023	5%	8%
2024	8%	11%
2025	9%	12%
2026	8%	11%
2027	7%	10%

Recordkeeping requirements

Every distributor must keep at each licensed place of business complete and accurate records for that place of business for a period of at least three years. These records must include itemized invoices for all tobacco products that are or were:

- held, purchased, manufactured, or sold;
- brought into Colorado or caused to be brought into Colorado from outside the state;
- shipped or transported to retailers in Colorado; or
- transferred to other retail outlets owned or controlled by that licensed distributor.

The distributor's records must show the names and addresses of purchasers, the inventory of all tobacco products on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of tobacco products.

Distributors are not required to retain invoices for any sales they make at their licensed business location in Colorado to the ultimate consumer of the tobacco products.

Every remote retail seller must keep complete and accurate records necessary for the determination of the correct tax liability, including itemized invoices, to validate the actual costs they paid for all cigars and pipe tobacco offered for sale to consumers in Colorado.

Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to filing, remittance, and recordkeeping requirements for tobacco products tax. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

Statutes and regulations

- § 39-28.5-102, C.R.S. Tax levied.
- § 39-28.5-102.5, C.R.S. Tax levied – state constitution.
- § 39-28.5-105, C.R.S. Books and records to be preserved.
- § 39-28.5-106, C.R.S. Returns and remittance of tax.
- § 39-28.5-110, C.R.S. Prohibited acts – penalties.
- § 39-21-109, C.R.S. Interest on underpayment.
- § 39-21-110.5, C.R.S. Rate of interest to be fixed.
- § 39-21-113, C.R.S. Reports and returns.
- § 39-21-119, C.R.S. Filing with executive director.
- § 39-21-119.5, C.R.S. Mandatory electronic filing.
- Rule 39-28.5-106. Filing Tobacco Products Tax Returns.
- Rule 39-21-119.5. Requirements for Electronic Filing and Electronic Payment.

Forms and guidance

- *Tax.Colorado.gov*
- *Tobacco Products*
- *File & Pay Tobacco Products Tax*
- *Forms & Instructions for Tobacco Products Tax*
- *Revenue Online*
- *Special Topics: Master Settlement Agreement*
- *Licensed Distributor Reporting Form for Cigarette Sales of Non-Participating Manufacturer Brands (DR 1285)*
- *Tobacco Distributor's Certificate for Exemption MSA/Non-Participating Manufacturer Brands (DR 1286)*
- *Prevent All Cigarette Trafficking (PACT) Act*

Part 5: Credits and Refunds

State law prescribes specific conditions under which a distributor or remote retail seller can claim a refund or credit for taxes previously paid. In general, distributors can claim a credit for taxes previously paid on tobacco products that are returned to the manufacturer, destroyed by the distributor, or shipped outside of Colorado. This Part 5 provides information regarding credits and refunds allowed for tobacco products taxes.

Credits for tax paid

A distributor may claim credit on their tobacco products tax return for tax the distributor paid on tobacco products that are:

- returned to the manufacturer by the distributor or destroyed by the distributor;
- shipped or transported by the distributor to retailers outside of Colorado to be sold by those retailers; or
- shipped or transported by the distributor to a consumer outside of Colorado.

If the credit claimed exceeds the amount of tax otherwise due on the distributor's return, the distributor may submit a completed *Excise, Fee and Fuel Claim for Refund* (DR 0137E) to request a refund. The distributor must submit with the refund claim appropriate documentation in support of the refund claimed.

Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to credits and refunds allowed for the tobacco products tax. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

Statutes and regulations

- § 39-28.5-107, C.R.S. When credit may be obtained for tax paid.

Forms and guidance

- *Tax.Colorado.gov*
- *Tobacco Products*
- *Forms & Instructions for Tobacco Products Tax*
- *Excise, Fee and Fuel Claim for Refund (DR 0137E)*

Part 6: Assessments

If a distributor or remote retail seller has not paid any applicable tax, the Department may issue a notice of deficiency and subsequently assess the tax due, regardless of whether the distributor or remote retail seller has filed a return. A distributor or remote retail seller may file a protest and request a hearing with respect to a notice of deficiency. This Part 6 provides information regarding assessments, protests, and appeals.

Assessments

If, upon examination of a filed return, the Department determines the correct amount of tax has not been paid, the Department will issue a notice of deficiency to the distributor or remote retail seller. In general, the Department may issue such notice no later than three years after the return was filed or three years after the return was due, whichever is later. In the case of a false or fraudulent return with intent to evade tax, there is no limit on the time for the Department to issue a notice of deficiency.

If anyone neglects or refuses to file a required return, the Department may estimate the tax due, based upon the information that may be available. The Department will issue a written notice to the distributor or remote retail seller of the estimated taxes due, along with any applicable penalty and interest. If a distributor or remote retail seller does not file a required return, there is no limit on the time for the Department to estimate the tax due and issue a notice of deficiency.

Please see Part 4 of this publication for information about penalties and interest.

Protests and appeals

A distributor or remote retail seller who receives a notice of deficiency or notice of refund rejection may submit a written protest and request a hearing to dispute the notice. Any protest or request for hearing must be submitted within 30 days of the date of the notice. The protest or request for hearing must be signed by the distributor or remote retail seller and contain at least the following information:

- the distributor's or remote retail seller's name, address, and account number;
- the tax period(s) involved; and
- the type and amount of tax in dispute.

The distributor or remote retail seller must also provide, in writing, a summary statement of the findings with which they do not agree and the grounds upon which they rely for the purpose of showing that the tax is not due. Additional information about *Taxation Disputes* is available on the Department's website.

Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to assessments. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

Statutes and regulations

- § 39-21-103, C.R.S. Hearings.
- § 39-21-104, C.R.S. Rejection of claims.
- § 39-21-107, C.R.S. Limitations.
- § 39-28.5-110, C.R.S. Prohibited acts – penalties.
- Rule 39-21-103-1. Request for Hearing