



RESTAURANT, BAR, & FOOD SERVICES CONTRACTOR SPECIAL STATE SALES TAX DEDUCTION INSTRUCTIONS

Governor Jared Polis recently signed [House Bill 21-1265](#), which permitted a limited special deduction from state taxable sales and allowed eligible retailers to retain and spend the resulting state sales tax. This document provides instructions for restaurants, bars, and food services contractors to properly claim the special deduction allowed. A similar special deduction was allowed by House Bill 20B-1004.

Separate instructions are available for mobile food vendors and caterers at: [Tax.Colorado.gov/sales-tax-relief](https://tax.colorado.gov/sales-tax-relief).



Caution: This special deduction applies only to a limited amount of state taxable sales. Eligible retailers are required to collect all applicable state and state-administered local sales taxes, file returns on time, and pay all local sales taxes (in addition to state sales taxes in excess of the amount related to the special deduction). The special deduction does not apply to any taxes imposed by any state-administered city, county, or special district. Retailers should contact self-collecting home-rule cities regarding any similar programs they may offer.

Additional relief may be available for businesses that do not qualify for this program. For more information, visit the Colorado Office of Economic Development & International Trade's COVID-19 Business Resource Center <https://choosecolorado.com/covid19/>.

Eligible retailers

The special deduction described in these instructions is available to retailers in the industries described below. Retailers in these industries should receive a letter notifying them of their eligibility. If you did not receive a letter, carefully review the criteria below to determine whether you are eligible.

- **Alcoholic Beverage Drinking Places (Bars):** This industry is comprised of establishments open to the public known as bars, taverns, brew pubs, distillery pubs, nightclubs, sales rooms, vintner's restaurants, or drinking places primarily engaged in preparing and serving alcoholic beverages for immediate, on-premise consumption. Sandwiches and light snacks may also be available for consumption on the premises of these establishments. Breweries, distilleries, wineries, and retail liquor or drug stores offering tastings are not within this industry. Most businesses in this industry are assigned to North American Industry Classification System (NAICS) code 7224.
- **Restaurants and Other Eating Places (Restaurants):** The restaurants and other eating places industry is comprised of establishments open to the public and are known as restaurants, cafes, lunch counters, and carryout shops. These establishments are primarily engaged in one of the following:
 - Providing prepared food services at a fixed, physical premises to patrons who order and are served while seated, and pay after eating;
 - Providing prepared food services at a fixed, physical premises to patrons who generally order or select items (e.g., at a counter, or in a buffet line) and pay before eating; or
 - Preparing and/or serving at a fixed, physical premises specialty snacks (e.g., ice cream, frozen yogurt, or cookies) and/or nonalcoholic beverages (e.g., coffee, juices, or sodas) for consumption on or near the premises.

The industry does not include establishments selling food from mobile vehicles (see above); establishments presenting live theatrical productions and other entertainment facilities; specialty food stores; vending machines; caterers (see above); food services contractors (see below); or private cafeterias at workplaces, universities, or hospitals. Most businesses in this industry are assigned to NAICS code 7225.

- **Hotel-Operated Restaurants, Bars, and Catering Services:** A restaurant or bar (as described above) that is located on the premises of an establishment primarily engaged in providing short-term lodging facilities is an eligible site for purposes of this special deduction. This includes restaurants and bars in hotels, motor hotels, resort hotels, casino hotels, motels, bed and breakfast inns, tourist homes, guest houses, youth hostels, and housekeeping cabins.

Sales of catering services—single, event-based food services for events such as graduation parties, wedding receptions, business or retirement luncheons, or trade shows—are includable in the special deduction allowed to hotel operators. Retailers in the catering industry are also eligible for the deduction but should refer to the separate instructions for their industry.

Sales of rooms and accommodations, gifts, sundries, recreational services, conference rooms, convention services, laundry services, parking, and other goods and services offered to guests are not eligible for the special deduction.

- **Food Services Contractor:** Food services contractors operate establishments that are primarily engaged in providing food services for the convenience of the contracting organization or the contracting organization’s customers at institutional, governmental, commercial, or industrial locations of others, based on contractual arrangements with these types of organizations for a specified period of time. This industry includes airline food services contractors; food concession contractors at sporting, entertainment, or convention facilities; or cafeteria food services at schools, hospitals, or government offices. This industry does not include caterers (see above). Most businesses in this industry are assigned to NAICS code 72231.

Other Requirements:

- Retailers must make sales to customers at one or more permanent places of business in Colorado.
- Retailers must be scheduled to file sales tax returns on a monthly basis.
- Retailers must make taxable sales during the period for which the special deduction is claimed.
- Retailers must file a return and pay all state-administered local sales taxes on time (i.e. on or before the statutory due date).
- Retailers must report the special deduction, in accordance with these instructions, on a timely filed return, and pay any remaining state sales taxes due on time.

Periods for which a special deduction is allowed

The special deduction applies to payments due for the following tax periods:

Bill	Tax Period	Statutory Due Date	Eligible Retailers
HB 20B-1004	November 2020	December 21, 2020*	Restaurants and bars, but not including hotel-operated restaurants, bars, and catering services
	December 2020	January 20, 2021	
	January 2021	February 22, 2021*	Mobile food services (see separate instructions)
	February 2021	March 22, 2021*	
HB 21-1265	June 2021	July 20, 2021	Restaurants and bars, including hotel-operated restaurants, bars, and catering services
	July 2021	August 20, 2021	Food services contractors
	August 2021	September 20, 2021	Caterers (see separate instructions) Mobile food services (see separate instructions)

* Because the 20th of the month falls on a Saturday or Sunday, the due date is extended to the next business day.

Instructions for completing the Colorado Sales Tax Return (form DR 0100)

To claim the special deduction allowed by section 39-26-105(1.3), C.R.S., and to retain and spend the resulting state sales tax, complete the Colorado Sales Tax Return (form DR 0100) as follows. File the return and remit payment by the applicable due date.

 **Note:** The special deduction is available for no more than five physical reporting sites. A physical reporting site is used to report over-the-counter sales made at a permanent place of business in Colorado. Retailers may not deduct taxes collected on delivery sales, which are reported using non-physical reporting sites covering an entire taxing area. Retailers with five or fewer physical sites should repeat these instructions for each site. Retailers with more than five physical sites may claim the special deduction for any five physical sites.

Step 1: Report gross sales of goods and services for the site or location covered by the return as usual on line 1.

Step 2: Complete lines 1 through 13 of Schedule A listing amounts of deductions and exempt sales as usual. Enter the amount from line 13 of Schedule A on line 2 of the return.

Step 3: Subtract line 2 from line 1 and enter the result in each column of line 3. Enter the amount in the *State* column of line 3 on line 1 of the Schedule B Worksheet below.

Step 4: Complete lines 1 through 10 of Schedule B. Sum lines 1 through 10 of the *State* column of Schedule B, and enter the result on line 2 of the Schedule B Worksheet below.

Step 5: Determine the amount reportable on line 11 of the *State* column, if any, not including any amount related to this special deduction. Enter this amount on line 3 of the Schedule B Worksheet below. Do not enter this amount on line 11 at this time.

Step 6: On the return, skip the *State* column and enter the amounts, if any, reportable in the other columns of Schedule B, line 11 along with a description of the exemption.

Step 7: Complete the Schedule B Worksheet (below).

Schedule B Worksheet	
1. Enter the amount on line 3 in the <i>State</i> column of the return.	.
2. Enter the sum of lines 1 through 10 of the <i>State</i> column of Schedule B.	.
3. Enter the amount reportable on line 11 of the <i>State</i> column of Schedule B (not including this special deduction).	.
4. Add lines 2 and 3 together.	.
5. Subtract line 4 from line 1. This is your actual state net taxable sales.	.
6. Enter the lesser of line 5 or \$70,000.	.
7. Add line 6 to line 3. This is the amount you will report in the <i>State</i> column of Schedule B on line 11. Do not enter in any other column.	.

Step 8: Enter the amount from line 7 of the Schedule B Worksheet in the *State column only* of Schedule B, line 11 of the return.

 **Caution:** Do not enter this amount in any other column. The special deduction is not permitted for any state-administered local jurisdictions. All local sales taxes (in addition to state sales taxes in excess of the amount related to the special deduction) must be reported and paid by the applicable due date. Retailers who claim the special deduction for local jurisdictions will be billed for any local taxes due plus applicable penalties and interest.

Step 9: On the description line below Schedule B, line 11 of the return, in addition to the description of any exemptions included on line 3 of the Schedule B Worksheet above, enter: COVID Deduction.

Step 10: For each column of Schedule B, sum lines 1 through 11 and enter the total on line 12. Enter the amount from each column of Schedule B, line 12 in the corresponding column on line 4 of the return.

Step 11: On the return, subtract line 4 from line 3 and enter the result on line 5.

- The amount in the *State* column of line 5 may be zero, but it cannot be less than zero.
- If your actual state net taxable sales before the special deduction (see line 5 of the Schedule B Worksheet above) were greater than \$70,000, line 5 should not be zero.

Complete the remainder of the return as usual.

Retailers with five or fewer physical sites should repeat these instructions for each site. Retailers with more than five physical sites may claim the special deduction for any five physical sites.