



## **FYI Sales 55**

# **Sales Tax Requirements for Flea Market and Swap Meet Operators**

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### **GENERAL INFORMATION**

If you are the operator of a flea market or similar facility, you must obtain a Colorado sales tax license and must remit to the Department of Revenue the sales tax charged on items sold by unlicensed flea market vendors. [§39-26-103, C.R.S.]

Apply for a state sales tax license online at [www.Colorado.gov/coloradobusinessexpress](http://www.Colorado.gov/coloradobusinessexpress) and receive your Colorado Account Number (CAN) license number immediately. If you cannot apply online, you may complete and mail in the Colorado Sales Tax/Withholding Account Application (CR 0100). You will receive your license and account number by mail. Allow four to six weeks for processing. Also available is the **Sales and Use Tax Reference Guide (DR 0099)**, which will instruct you when and how to file your sales tax return.

At the start of each sales day, you are required to give all licensed and unlicensed vendors a remittance envelope and inform the vendors what the applicable sales tax rate is for the location.

Colorado sales tax and, if applicable, state-collected city, county and Regional Transportation District/Cultural & Scientific Facilities District (RTD/CD) and Rural Transportation Authority (RTA) sales taxes must be collected in addition to any other applicable special district taxes. These sales taxes apply to all sales of tangible personal property. If your market is located in a home-rule city such as Denver, you must contact city officials directly about applicable city taxes and requirements that may apply.

For detailed information about local sales rates in cities and counties where the state collects the tax, see Revenue Online, [www.Colorado.gov/RevenueOnline](http://www.Colorado.gov/RevenueOnline), click the Business button, and see the listing under BusinessServices. Or refer to the publication Colorado Sales/Use Tax Rates (DR 1002).

At the end of each sales day, you must collect from the vendors the envelopes plus the sales tax that was collected by unlicensed vendors. Licensed vendors must remit the tax they collect directly to the Department of Revenue.

It is your responsibility to keep a record of the serial numbers of the envelopes used by all vendors. The record shall contain the name and address of the vendor, social security number, date, a vendor's sales tax license number (if applicable), gross sales and the amount of sales tax collected. All of the above information must be maintained for three years and, during that time, be available for inspection upon request by the Department of Revenue.

As the operator, you may order the remittance envelopes free of charge from the Colorado Department of Revenue Forms Section, 1375 Sherman St., Room 136, Denver, CO 80261; (303) 866-5617 or you may print your own envelopes provided all the specifications are followed.

### **UNLICENSED VENDORS**

If you are selling items that are your personal possessions, and do not sell or trade more than five weekends in a calendar year, you are not required to have a sales tax license. If, however, you are selling items which you purchased for resale, or you sell or trade more than five weekends in a calendar year, you must have a sales tax license. A weekend is defined as Friday through Monday. If you are required to have a license, the section below titled, "Licensed Vendors," applies to you.

If you are not required to have a license, you should collect and remit the tax to the flea market or swap meet operator. Unlicensed vendors are considered to be selling at retail under the license issued to the operator. Should a customer ask to see your sales tax license, he/she should be directed to inspect the license displayed by the facility or event operator.

Vendor Name	
Vendor Address	
Vendor Phone #	
Vendor SSN	
Sales Tax ID (if applicable)	
Gross Sales	\$
Sales Tax Rate	<b>5%</b>
Sales Tax Remitted	\$



## Sales 9 Sales Tax Licenses and Filing Requirements

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There are two types of Colorado sales tax licenses. The **Standard License** is for those businesses with one or more permanent locations in Colorado. The **Special Event License** is for **1)** businesses that have no permanent place of business but sell goods at fairs, festivals, bazaars, etc.; and **2)** businesses that meet the requirements for a Standard License, but also sell at other locations, such as fairs and festivals. Flea markets which are held on a regular basis are not considered special events. For information on selling at flea markets, see FYI Sales 55, Flea Markets and Swap Meets.

Sales tax licenses provide a sales tax exemption to vendors on items purchased for resale. These licenses also obligate the licensee to collect all applicable state and local sales taxes and remit the money to the Colorado Department of Revenue. Apply for a state sales tax license online at [www.Colorado.gov/cbe](http://www.Colorado.gov/cbe) and receive your Colorado Account Number (CAN) license number immediately. If you cannot apply online, you may complete and mail in the Sales Tax/Withholding Account Application (CR 0100). You will receive your license and account number by mail. Allow four to six weeks for processing.

### STANDARD SALES TAX LICENSE

#### General Information

A person or business having a permanent location where retail sales are conducted on a regular basis must obtain a standard sales tax license. [§39-26-103, C.R.S.]

The fee for a two-year license is \$16, plus a one-time-only \$50 deposit. The deposit is automatically refunded to the business after \$50 in state sales tax has been remitted to the department. However, if a retail business fails to remit sales tax to the department, the deposit will not be refunded. Under Colorado law the deposit is only refundable to the extent the business remits sales tax. For example, if a retail business collects and remits \$30 in state sales tax, the department will then refund only \$30. If a business fails to remit any sales tax, no portion of the \$50 deposit will be refunded regardless of the length of time the business is open.

Standard sales tax accounts must be renewed every two years at a fee of \$16. If you have more than one permanent sales location, **each location** must have a license.

If a retailer with a fixed permanent location elects to participate in a special sales event at a location other than the regular place of business, the retailer **must** also obtain a special event sales tax license.

#### Filing Frequency

How often you are required to file a sales tax return (monthly, quarterly or annually) depends on your sales volume. If you anticipate taxable sales of \$10,000 or more per month you must register to file your Sales Tax Return (DR 0100) monthly; if you anticipate sales less than \$10,000 per month, you may file quarterly. If, after a year of operation, your business collects \$15 or less per month in sales tax, you may request to file your return annually. [Sales and Use Tax Regulation 39-26-109] If the amount of tax you collect changes, notify the department to request a change of filing frequency before beginning to file at the new frequency.

Monthly returns are due by the 20th of the month following the reporting month. For example, the June return is due July 20. Quarterly returns are due the 20th of the month following the reporting quarter. The January-March quarter is due April 20; April-June, due July 20; July-September, due October 20; October-December, due January 20. Annual returns are due January 20. If a due date falls on a Saturday, Sunday or holiday, the return is due on the next business day.

If you use an accounting period other than a calendar month, such as a 13-month filer, you can request permission to file on other than a calendar basis. Write to the Business Tax Accounting Section supplying your filing period beginning, ending, and due dates. After you receive written authorization, the payment and return will be due 20 days after the end of the accounting period, regardless of the date printed on your sales tax return.

## FILING TAX RETURNS

**Revenue Online.** All sales tax account holders may file and pay their taxes through Revenue Online, [www.Colorado.gov/RevenueOnline](http://www.Colorado.gov/RevenueOnline) by signing up for account access. You need your Colorado Account Number (CAN), which is your license number. You will file your returns through your Revenue Online account. You create your own Login ID and Password. Once you start using Revenue Online, you will be able to see all the returns you have filed and your payment history in Revenue Online.

**Paper Filing.** Single location businesses will receive a sales tax returns they need. These forms are mailed automatically to single location businesses. Businesses with multiple locations and/or those that register to file seasonally (because their sales are seasonal only) will receive returns from the department at the times indicated on their sales tax license application.

**Zero Filing.** Even when no sales are made and no tax was collected during a filing period, you must still file a sales tax return. This is called a "zero" return. The reason a return must be filed is to avoid nonfiler notices. A zero return may be filed through Revenue Online. Multiple location businesses that file by XML, Excel spreadsheet or bulk filing must report zero for the locations that have zero sales and sales tax. If the business does not file through Revenue Online, a paper return must be filed for each location and the locations that have a zero return must also file a paper return reporting zero.

**Electronic Payment Requirement.** You are required to remit by Electronic Funds Transfer (EFT) all state and local sales taxes required to be remitted to the Department of Revenue if your liability for state sales tax for the previous calendar year as more than \$75,000. You may also elect to remit your sales tax by EFT even if you collect less than \$75,000 per year. EFT is a convenient method of paying your taxes and there are no e-check or credit card fees.

## OTHER TYPES OF SALES

### Small Home Businesses

Home-based craftspersons, artists, or others who operate small home businesses from which occasional sales of tangible personal property are made and who make total sales of no more than \$1,000 per year are not required to obtain a sales tax license. **However**, the small home business **is** required to collect and remit sales tax. [§39-26-103 (9) (d), C.R.S.]

Unlicensed small home businesses must file the Sales Tax Return for Occasional Sales (DR 0100A) and remit collected sales tax by April 15 of the following year. If the small home business operator intends to make retail sales at a sales event, the appropriate special event license must be obtained. If the small home business operator is engaged in a trade or business outside the home where similar items are sold, a standard sales tax license is required. For more information, see FYI Sales 8, Small Home Businesses.

### Wholesalers

Wholesalers must obtain a standard sales tax license and pay the \$16 license fee, but are not required to pay the \$50 deposit. [§39-26-103 (8), C.R.S.] A wholesaler is a person or business doing a regularly organized wholesale or jobbing business, is known to the trade as such, and sells only to retail merchants, jobbers, dealers, or other wholesalers for the purpose of resale. Businesses registered as wholesalers will receive one return in December with which to remit any taxes collected during the year on limited retail sales.

### Independent Distributors of Housewares, Cosmetics and Other Products

These companies may elect and agree to remit the sales tax to the Department of Revenue. In this case, individual distributors are not required to have sales tax licenses. However, you are still required to collect sales tax on items you sell. Check with your company to determine whether or not arrangements have been made to remit the sales tax to the Department of Revenue. If the company has not elected to collect and remit sales taxes, each individual distributor **must** obtain a sales tax license.

### Charitable Groups

Charitable organizations which hold IRS section 501(c)(3) qualification letters and have a Colorado exemption certificate may be exempt from collecting sales tax during fund raising events.

If the charitable organization conducts sales for a total of 12 days or less during a calendar year **and** the **net proceeds** from all these events do not exceed \$25,000 in that calendar year, the sales are not subject to sales tax. [**Net proceeds** is total gross events receipt(s) **less** expenses attributable to the event(s).] However, if sales are conducted more than 12 days in a calendar year, **all** sales are subject to state, Regional Transportation District (RTD), Scientific and Cultural Facilities District (CD), Rural Transportation Authority (RTA) taxes and state administered local taxes. For example, if the charitable organization chooses to conduct sales on a thirteenth day

during the calendar year, the entire amount of **gross** sales from all 13 days is subject to sales tax. If, however, a charitable organization makes more than \$25,000 in net proceeds during a calendar year, it may make the sales that generate the first \$25,000 in net proceeds without registering with the department or collecting sales tax. As soon as the organization reaches \$25,000 in net proceeds, it must obtain a sales tax license from the department and begin collecting sales tax.

### **Local Government Taxes**

Charitable organizations should contact their local governments to find out if a similar exemption for local taxes is allowed. For local rates in cities and counties where the state collects the tax, organizations find detailed information about local sales rates in cities and counties where the state collects the tax, see Revenue Online or publication Colorado Sales/Use Tax Rates (DR 1002), available on the Taxation Web site.

If the local jurisdiction is a state-collected tax jurisdiction that does not allow the exemption, the charitable organization should obtain a Colorado standard sales tax license so that the organization can report and pay local tax to the department. If there's a question about whether the organization's net proceeds will exceed \$25,000 in a calendar year, tax should be collected on all sales and the organization should obtain a Colorado sales tax license. The license fee for charitable groups is \$8 every two years. The \$50 sales tax license deposit is not required.

### **Other Tax-Exempt Agencies**

Government organizations and schools operating a retail business, such as a thrift store or snack bar, **must** obtain a standard sales tax license and collect and remit sales taxes. Government agencies may obtain the license free of charge. The \$50 sales tax deposit is not required.

Government agencies (such as libraries) and schools which hold a fund raising event where items will be sold at retail **must** obtain a sales tax license and must collect all applicable state and local sales taxes. If the agency holds only one fund raising sale, it should obtain a single event license; however, if a sale is held on a **regular basis**, e.g., once each week or month, a standard sales tax license is required.

### **Seasonal Sales**

If your business is seasonal and you make retail sales during only part of each year, you must obtain a standard sales tax license. [Reg. 39-26-109] Examples of seasonal businesses are ski rental shops, fireworks and Christmas tree stands, and other businesses which are in operation during only certain months of the year. When you apply for your license, whether through Colorado Business Express, [www.Colorado.gov/cbe](http://www.Colorado.gov/cbe) or with the CR 0100, indicate which months of the year your retail business will be active. The department will send you returns only for those months during which you do business. The return is due on the 20th of the month following the reporting month. If your seasonal business is conducted in several locations, you must have a separate license for each location.

### **Mobile Vendors**

Retailers who carry their inventory with them and make sales from that inventory directly to customers are classified as mobile vendors (for example: lunch trucks or tool trucks) and all local taxes must be collected. Mobile vendors must obtain a sales tax license to be displayed in the vehicle with the word "Mobile" as the location address. For more information on collecting sales tax as a mobile vendor, please see FYI Sales 62.

## **SPECIAL EVENT SALES TAX LICENSES**

### **Single Event Sales Tax License**

A single event sales tax license is required when an individual, organization or vendor plans to conduct or participate in a retail sales event at a location at which there are three or more vendors, other than the regular business operation. The single event license is valid **only** for sales made during the single event. The fee is \$8, but this license is free to vendors who already have a standard sales tax license. A license is required regardless of the anticipated amount of sales. [§39-26-103 (9) (b), C.R.S.]

### **Multiple Events Sales Tax License**

Persons engaged in selling at retail at more than one special event at which there are three or more vendors in any two-year period have the option of obtaining a multiple events license rather than obtaining a single event license for each event. Multiple events licensees may participate in any number of events at various locations (other than their regular business location.) during the covered two-year period. The fee is \$16 for a two-year period, but is prorated in increments of six months if the license is purchased after June 30 of any year. There is no fee for this license to vendors who already have a standard sales tax license.

## General Information on Special Events

It is the vendor's choice whether to purchase a Single Event Sales Tax License or a Multiple Events Sales Tax License, based on the number of events an individual plans to participate in and the license cost considerations. As a general rule, unless you know you will not participate in more than one event in a two-year period, it will be more cost-effective to purchase a multiple events license. Through Revenue Online, [www.Colorado.gov/RevenueOnline](http://www.Colorado.gov/RevenueOnline), you may report and pay taxes for an event where you have recently made sales AND you may obtain a single event or multiple events license. If you already have a sales tax or special event license, you may report and pay taxes through Revenue Online. If you cannot register for an event license or file and pay taxes online, you may fill out a Vendor Special Event License Application for Single or Multiple Events (DR 0589) and then file your event sales tax on the Special Event Retail Sales Tax Return (DR 0098).

The organizer of a sales event which includes three or more vendors may obtain a multiple events license. If the organizer obtains the license for the event, then the vendors need not obtain licenses individually. In that case, however, the organizer is required to remit all taxes collected by the vendors who do not have a license for the event and also for vendors who have a license but who elect to have the organizer remit the tax. The organizer is required to provide the department with a list of the names and addresses of the vendors. The organizer must also provide the license numbers of all vendors who have obtained their own licenses for the event and are remitting the tax to the state themselves. Send these lists to the Special Events Coordinator P.O. Box 13200, Denver, CO 80201-4600.

If the event organizer **does not** obtain the license, the vendors at the event must obtain their own licenses and collect and remit the tax. [§39-26-103 (9) (b.5), C.R.S.]

In all cases, a **standard** sales tax license is required if you participate in an event that occurs more than three times at the same location during any calendar year.

## Filing Frequency

Vendors or organizers must remit the sales tax they collect at an event by the 20th of the month following the date the event **began**. For example, if the event runs from June 30 to July 2, the return and tax are due July 20. If the event began July 1, the return and tax are due August 20. Single event and multiple event licenses must either file and pay their sales tax through Revenue Online, [www.Colorado.gov/RevenueOnline](http://www.Colorado.gov/RevenueOnline) or if they cannot file electronically, file a Special Event Retail Sales Tax Return (DR 0098) along with their tax payment.

You must file a tax return for **each event** and collect and remit all Colorado sales tax, state-collected local sales taxes which apply at the location of the event, and if applicable, special district taxes (see "Sales Tax Rates" section).

## SALES TAX RATES

The Colorado sales tax rate is 2.9%. [§39-26-106, C.R.S.] In addition to its own sales tax, the state collects sales taxes for many Colorado cities and counties and several special districts. For more information regarding your local sales tax collection responsibilities, see FYI Sales 62, Guidelines for Determining When to Collect State-Collected Local Sales Taxes. Some home-rule cities enact their own sales tax ordinances and collect their own taxes. Contact home-rule cities directly for their rules regarding sales taxes. Colorado collects sales taxes for the Regional Transportation District/Scientific and Cultural Facilities District (RTD/CD). This combined special district encompasses most of the seven-county Denver-Boulder metropolitan area. Colorado also collects the Rural Transportation Authority (RTA) tax. The DR 1002 lists the Special District and RTA boundaries.

## PENALTIES

The Department of Revenue may close any sales tax account that shows no retail activity for 12 consecutive months. Such inactivity may be regarded by the department as evidence that the licensee is not in the business of selling at retail. Anyone who sells at retail in Colorado without obtaining a sales tax license commits a class 3 misdemeanor and may also be subject to a civil penalty of \$50 per day to a maximum penalty of \$1,000. [§39-26-103 (4), C.R.S.]

## SALES TAX CLASSES

The Taxpayer Service Division offers free sales tax classes online or in-person. Colorado businesses with sales tax accounts and people starting new retail businesses are encouraged to take advantage of this service. Visit the [www.TaxSeminars.state.co.us](http://www.TaxSeminars.state.co.us) for updated listings of sales tax classes.

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You should receive a remittance envelope from the operator at the beginning of each day of sales. Complete the requested information on the envelope.

As you make your sales, collect the required amount of sales tax. The operator will tell you the applicable tax rate. At the end of the sales day, return the envelope to the operator with the amount of tax that you collected.

### **LICENSED VENDORS**

If you are selling tangible personal property that you purchased for resale, you are required to obtain a sales tax license from the Colorado Department of Revenue. If you already have a sales tax license for your primary business location, you must still obtain a separate sales tax license if you plan to make separate sales at a flea market or similar event. You must have a sales tax license for each location where you are selling at retail.

The type of license you need depends on whether you plan on selling items at a market once, or all year. If you plan on selling at a market for only a day, you should obtain a single event license by filing a Vendor Special Event License Application for Single or Multi-Events (DR 0589). [§39-26-103(9)(b.5)(III), C.R.S.] If you plan on selling on a regular basis, you will need a standard sales tax license.

Failure to obtain a license is a class 3 misdemeanor and may result in the imposition of penalties. If you plan on selling only seasonally, you may request to file your sales tax return on a seasonal basis.

Apply for a state sales tax license online at [www.Colorado.gov/coloradobusinessexpress](http://www.Colorado.gov/coloradobusinessexpress) and receive your Colorado Account Number (CAN) license number immediately. If you cannot apply online, you may complete and mail in the Colorado Sales Tax/Withholding Account Application (CR 0100). You will receive your license and account number by mail. Allow four to six weeks for processing. Also available is the **Sales and Use Tax Reference Guide (DR 0099)**, which will instruct you when and how to file your sales tax return. Even though you are a licensed vendor, the flea market or swap meet operator will give you a remittance envelope at the beginning of each sales day. Complete the required information on the envelope and provide the operator with your sales tax license number. The operator will tell you the applicable tax rate for that location. You must collect the tax on any sale you make.

At the end of the sales day, return the envelope to the operator, but **do not** remit the sales tax you collected to the operator. Remit the tax directly to the Department of Revenue.

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