



Withholding 5

Colorado Wage Withholding Tax Requirements

GENERAL INFORMATION

Employers are required to have a Colorado withholding account and remit Colorado withholding taxes if:

1. The compensation is subject to federal withholding for income tax purposes; and
2. Employees are Colorado residents (working inside or outside Colorado), **or** employees are nonresidents of Colorado performing services in Colorado. [§39-22-604, C.R.S.]

OPENING AN ACCOUNT

Apply for a wage withholding account online through Colorado Business Express at www.Colorado.gov/cbe and receive a Colorado Account Number (CAN) license number immediately. This application also sets up a sales tax license, if applicable. 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. There is no fee for a withholding account.

CLOSING AN ACCOUNT

If a business no longer has employees, the wage withholding account must be closed within 30 days. Visit www.Colorado.gov/RevenueOnline to sign up for account access. Then you may close a wage withholding account quickly and easily. The account can also be closed using the Address Change or Business Closure Form (DR 1102).

FILING FREQUENCY AND DUE DATES

Withholding tax must be deducted and paid in whole dollar amounts. To determine filing frequency, estimate the amount of withholding tax that the business will expect to pay for all employees in one year. Based on that estimation the filing frequency for a new account will be as follows:

- **Quarterly**—Employers who report less than \$7,000 withholding tax per year. Quarters end on March 31, June 30, September 30 and December 31. Taxes are due to the Colorado Department of Revenue on the last day of the month following the quarter end date.
- **Monthly**—Employers who report between \$7,000 and \$50,000 withholding tax per year. Taxes are due to the Colorado Department of Revenue on or before the fifteenth day of the following month.
- **Frequent/Weekly**—Employers who report more than \$50,000 withholding tax per year. **Taxes for weekly filers must be transmitted by Electronic Funds Transfer (EFT)** to the Department of Revenue on or before the third business day following the end of the week in which a payroll was made. The week always ends on Friday. An employer must file a return/payment for any week during which they have a payroll and withhold Colorado income tax. A return/payment is not required for any week during which no tax is withheld. However, if no tax is withheld for an entire month the employer **is required to file a \$0 (zero) return** for the period ending on the last Friday of the month using EFT or Revenue Online.

Exception: If December 31 does not fall on a Friday and taxes were withheld between the last Friday filing and December 31, then weekly filers must make a final return/payment that includes all unpaid taxes through December 31. Therefore, December 31 will be the filing period ending date for this transmission, even if it is not a Friday. The payment is due three business days after December 31.

You can sign up for EFT through Revenue Online or by using the DR 5785. By signing up in Revenue Online, you can use your EFT Number and PIN Code the next business day.

- **Seasonal**—Employers who report less than \$50,000 withholding per year, do not operate their business during the entire calendar year, and do not pay wages while the business is not operating may request a seasonal filing frequency. A monthly return must be filed for each month during the designated operating season and is due on or before the fifteenth day of the month following the operating month.

A withholding tax return must be filed for every filing period or at least once a month for weekly filers. If no taxes have been withheld during the filing period a return reporting zero tax withheld must be filed. When the due date falls on a weekend or holiday, taxes are considered timely if they are paid on the first business day following the due date.

The department will conduct an annual review to evaluate an employer's filing frequency. The filing frequency is measured by the amount of withholding tax paid during the "lookback period". The lookback period is defined by the preceding 12-month filing period (July 1 through June 30). For example, the filing status for calendar year 2012 will be set by examining the withholding tax remittances made from July 1, 2010 to June 30, 2011. Should the filing frequency increase due to this examination, the department will notify the employer before January of the next calendar year. However, if an employer is eligible to file less frequently, the department will not change the filing frequency. The employer must contact the department to request the frequency change. The employer must continue to file at the current frequency until the department provides notification of the frequency change if approved. The filing frequency can be verified through Revenue Online, (www.Colorado.gov/RevenueOnline).

Withholding Tax Nonfiler Notices

If an employer does not file a required return, an estimated tax due assessment may be issued. This arbitrary tax assessment is based on the filing history. If there is no filing history, then an arbitrary tax amount will be assessed. You are required to file an actual return and pay the appropriate amount of tax due. Even if you pay the estimated tax assessment, you are not relieved of the requirement to file the actual return.

HOW TO FILE AND PAY

There are two methods available for electronically remitting Colorado withholding taxes: through Revenue Online or by Electronic Funds Transfer (EFT).

Revenue Online—Withholding payments and returns can be submitted through 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. Withholding tax filers that do not have wage withholding to report for a specific filing period may login and file a "zero" tax due through Revenue Online. There is a fee for online tax payments by eCheck or credit card submitted through Revenue Online. Either of these methods is a good alternative to make immediate payments while registering for EFT is a good option for future recurring payments.

- **Electronic Funds Transfer (EFT)**—Employers who pay more than \$50,000 withholding tax per year are required to file by EFT. Employers who do not meet this requirement are encouraged to file by EFT as it virtually eliminates the potential of processing errors. EFT is facilitated by making a telephone call and entering a series of touch-tone commands or by visiting www.Colorado.gov/Revenue/EFT, the EFT Web site. [§39-22-604.4, C.R.S.]

You can sign up for EFT through your Revenue Online account or by using the Authorization for Electronic Funds Transfer (EFT) For Tax Payments (DR 5785). The EFT withholding payment satisfies the filing requirement and a paper withholding return should not be filed in addition to the EFT payment. Filing a paper return in addition to your electronic payment may result in an erroneous bill being issued. If zero tax is withheld for a tax period, a zero EFT payment can be transmitted to satisfy your filing requirement.

Note: All EFT applicants must indicate whether the account shall be designated as credit or debit. The debit designation is available to all EFT filers free of charge, while the credit designation is rarely allowed by banking institutions and may require a bank fee for each transaction. Please check with your banking institution prior to applying for a credit designation to determine availability and cost. Additionally, you may be eligible to use your EFT account to pay sales, income and other tax payments. Your application should indicate all taxes for which you will use your EFT account.

- **Paper return and check or money order**—If an employer pays less than \$50,000 and cannot file by EFT or through Revenue Online, the Income Withholding Tax Return (DR 1094) should be completed and mailed along with a check or money order to the department. Please write the business name, Colorado Account Number (CAN), filing period and tax type on the check or money order you send. This process does increase the chance of an error or problem and the use of electronic payment options are strongly recommended.

Note: The department has discontinued withholding coupon booklets. Withholding accounts are required to file by EFT or through Revenue Online, if the account was set up electronically. If unable to file electronically, the DR 1094 may be downloaded from the Taxation Web site and submitted with a check or money order.

ANNUAL INFORMATION RETURNS

Annual Wage and Withholding Statements (W-2s) must be filed with the Colorado Department of Revenue. It is preferred that these are submitted electronically through Revenue Online. Employers with more than 250 employees are required to file electronically.

Details on how to file through Revenue Online can be found at www.revenue.state.co.us/FileCoW2 (Note: the deadline to file W-2s will be one month later if filed electronically through Revenue Online.)

If you are submitting the W-2 forms electronically, a DR 1093 is not required unless there is a balance due and payment. If a payment is required, be sure to write the business name, Colorado Account Number (CAN) and form number (DR 1093 Withholding) on the check or money order. If you requesting a refund, it is preferable that you send in a paper DR 1093 directly to the department

If you cannot submit the W-2 forms electronically you must prepare the Annual Transmittal of State W-2 Forms (DR 1093) and submit copies of the paper W-2 forms to the department. Verify that the DR 1093 is completed correctly. The DR 1093 will indicate if there is a balance due or a refund requested. If a payment is required, be sure to write the business name, Colorado Account Number (CAN) and form number (DR 1093 Withholding) on the check or money order. Submit the paper DR 1093 and payment directly to the Department of Revenue.

Please note the following schedule for W-2 forms:

- By last day of January: Furnish form to each employee,
- By last day of February: File paper W-2 forms and DR 1093 (any catch-up payment due), or
- By last day of March: File W-2 forms through Revenue Online.

Further details about filing annual information returns is available in publication FYI Withholding 6, Methods of Filing Colorado Annual W-2 Tax Data.

CORRECTING RETURNS AND WITHHOLDING REFUND REQUIREMENTS

Claim Refunds on the DR 1094

Overpayments of withholding for the current year only should first be deducted from the subsequent month(s) DR 1094 returns, zeroing out these returns until the overpayment is satisfied.

If you cannot file using the DR 1094, you may claim an overpayment using the DR 1093 following one of the methods below:

Wage (W-2) Withholding Refunds

The department issues refunds of wage withholding once a year. These refunds are issued by completing and remitting an Annual Transmittal of W-2s (DR 1093) at the end of February, indicating the total amount of wages withheld and reported in the prior year by businesses on their employees' W-2s. If you use the electronic method for filing your W-2s (Revenue Online, www.Colorado.gov/RevenueOnline) you need only submit a DR 1093 if an amount appears on 3A (additional balance due) or 3B (a refund). Mail this form to the Colorado Department of Revenue, Denver, CO 80261-0009.

Claiming a refund or funds remitted on a DR 1106

The department issues refunds of 1099 withholding once a year, for all withholding returns filed. These refunds are issued by completing and remitting an Annual Transmittal of 1099s (DR 1106) at the end of February, indicating the total amount withheld and reported in the prior year on 1099s. If you file your 1099s electronically, for filing years 2012 and forward, you do not need to file a DR 1106 unless you are requesting a refund or you are remitting additional balance due. The DR 1106 should be mailed to the Colorado Department of Revenue, Denver, CO 80261-0009.

Note: For filing years 2011 and prior, if you file your 1099s electronically, a DR 1093 is not required unless you are requesting a refund or you are paying a balance due.

Finally, if you are applying for a refund of wage or 1099 withholding taxes remitted prior to your business filing of annual reconciliation, please indicate the reason for the request on a Claim for Refund (DR 0137). Refunds issued prior to the annual reconciliation will be denied unless an unusual circumstance is documented. For example, you paid your federal withholding to the state of Colorado in error.

To apply for a refund for a previous year, the following is required when submitting a DR 0137:

- An original or amended DR 1093 indicating the year in review
- Copies of W-2Cs or 1099Cs with complete information, indicating the change in withholding amount
- Documentation showing how the refund request amount was calculated

Employees

If erroneous information was reported to an employee as excess tax withheld on a pay stub, or if the amount was withheld from an employee in error, then a supplemental schedule or letter must be attached to the DR 1094 stating:

- what the error is,
- the period in which the error occurred,
- the amount of each error,
- the date the error was discovered, and
- attach an employee affidavit consenting to the refund or credit for the employer and affirmation that the employee will not claim a refund or credit of such for personal income tax purposes.

CORRECTING W-2S

Informational errors

If a W-2 is issued with an informational error such as an incorrect Social Security number or account number, the Department of Revenue will accept a W-2C to correct the error. Submit the corrected W-2C forms with a cover letter to:

Colorado Department of Revenue
Discovery Section Room 634
PO Box 17087
Denver, CO 80217-0087

Withholding errors

If a W-2 is issued with an error in the amount of Colorado tax withheld, a corrected W-2C can be submitted on or before the due date (February 28) of the original W-2 submittal Annual Transmittal of State W-2s Forms (DR 1093). If a W-2C can no longer be filed and the W-2 indicates that an excess amount was withheld and paid to the state of Colorado, the employer must pay the difference and include penalty and interest with a supplemental DR 1094 for the period the excess amount was withheld. If a W-2C can no longer be filed and the W-2 indicates that less was withheld for Colorado than was actually withheld and paid to the state, the employer must claim a credit or refund for the difference and refund the balance to the employee.

W-4 FORMS

Colorado does not have a state equivalent of the federal form W-4. Employees should complete the federal W-4 for both federal and Colorado wage withholding tax purposes. An employer must file with the Department of Revenue any W-4 for any employee who is expected to earn more than \$200 per week and who lists more than 10 withholding allowances or an exempt status. Additionally, these W-4 forms shall include a cover letter listing the employer name, address, FEIN, and the number of Withholding Allowance Certificates included. The Colorado Department of Revenue will contact you should it be determined that the requested exemptions must be modified. Withholding Allowance Certificates should be mailed to:

Colorado Department of Revenue
Discovery Section Room 634
PO Box 17087
Denver, CO 80217-0087

1099 PAYORS

Beginning January 1, 2012, taxpayers who withhold from amounts paid and reported on a form 1099 must set up a separate account to pay the 1099 withholding. See FYI Withholding 7, "Colorado 1099/W-2G Income Withholding Tax Requirements."

MOTION PICTURE PRODUCTION

Employees who are not residents of Colorado and perform services in connection with any phase of motion picture production or television production or television commercials for less than 120 days during any calendar year are exempt from Colorado income tax withholding.

WITHHOLDING FILING FORMS AND RESOURCES

Revenue Online, www.Colorado.gov/RevenueOnline
Colorado Business Registration (Withholding Tax Application), <https://www.colorado.gov/cbe>
Withholding Tables – DR 1098
EFT Information Packet – DR 5782
Withholding (Return) – File by EFT, Revenue Online or DR 1094
Annual Reconciliation – File by Revenue Online or DR 1093

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.