

West's Colorado Revised Statutes Annotated
Title 39. Taxation
Specific Taxes
General and Administrative
Article 21. Procedure and Administration (Refs & Annos)
Part 1. General Provisions (Refs & Annos)

C.R.S.A. § 39-21-112

§ 39-21-112. Duties and powers of executive director

Effective: February 24, 2010

[Currentness](#)

(1) It is the duty of the executive director to administer the provisions of this article, and he or she has the power to adopt, amend, or rescind such rules not inconsistent with the provisions of this article, articles 22 to 29 of this title, and article 3 of title 42, C.R.S., and, subject to other provisions of law relating to the promulgation of rules, to appoint, pursuant to [section 13 of article XII of the state constitution](#), such persons, to make such expenditures, to require such reports, to make such investigations, and to take such other action as he or she deems necessary or suitable to that end. The executive director shall determine his or her own organization and methods of procedure in accordance with the provisions of this article. For the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the tax due from any taxpayer, the executive director has the power to examine or cause to be examined by any employee, agent, or representative designated by him or her for that purpose any books, papers, records, or memoranda bearing upon the matters required to be included in the return. In the exercise of rule-making authority as to article 29 of this title, as granted by the general assembly pursuant to this subsection (1), the executive director, in interpreting [section 39-29-107.5\(1\)\(c\)](#), shall not have authority to reduce the amount of any approved contributions not previously credited by applying the amount of any additional percentage previously allowed pursuant to said section. In the exercise of rule-making authority as to article 29 of this title, as granted by the general assembly pursuant to this subsection (1), the executive director may not readopt any rule, or portion thereof, disapproved on or after July 1, 1982, by the general assembly pursuant to [section 24-4-103\(8\)\(d\), C.R.S.](#), without the approval of the general assembly.

(2) If any taxpayer refuses voluntarily to furnish any of the foregoing information when requested by the executive director of the department of revenue or his employee, agent, or representative, the executive director, by subpoena issued under his hand, may require the attendance of the taxpayer and the production by him of any of the foregoing information in his possession and may administer an oath to him and take his testimony. If the taxpayer fails or refuses to respond to said subpoena and give testimony, the executive director may apply to any judge of the district court of the state of Colorado for an attachment against such taxpayer as for contempt, and said judge may cause arrest of such person, and upon hearing, said judge has, for the purpose of enforcing obedience to the requirements of said subpoena, power to make such order as, in his discretion, he deems consistent with the law for punishment of contempts.

(3) If the executive director of the department of revenue is unable to secure from the taxpayer information relating to the correctness of the taxpayer's return or the amount of the income of the taxpayer, the executive director may apply to any judge of the district court of the state of Colorado for the issuance of subpoenas to such other persons as the executive director believes may have knowledge in the premises, and, upon making a showing satisfactory to the court that the taxpayer cannot be found, or evades service of subpoena, or fails or refuses to produce his records or give testimony, or is unable to furnish such records or testimony, the judge has power, after service of summons upon the persons named in the petition of the executive director, after written notice mailed to the taxpayer to his last-known address as set forth

in the records of the department of revenue, and after hearing, to cause the issuance of subpoenas under the seal of the court to the persons sought to be so summoned requiring any of them to appear before said executive director and give testimony relating to said taxpayer's return or income. In case any of said persons so served with subpoena fail to respond thereto, the judge may proceed against such persons as in cases of contempt.

(3.5)(a) If any retailer that does not collect Colorado sales tax refuses voluntarily to furnish any of the information specified in subsection (1) of this section when requested by the executive director of the department of revenue or his or her employee, agent, or representative, the executive director, by subpoena issued under the executive director's hand, may require the attendance of the retailer and the production by him or her of any of the foregoing information in the retailer's possession and may administer an oath to him or her and take his or her testimony. If the retailer fails or refuses to respond to said subpoena and give testimony, the executive director may apply to any judge of the district court of the state of Colorado to enforce such subpoena by any appropriate order, including, if appropriate, an attachment against the retailer as for contempt, and upon hearing, said judge has, for the purpose of enforcing obedience to the requirements of said subpoena, power to make such order as, in his or her discretion, he or she deems consistent with the law for punishment of contempts.

(b) For purposes of this subsection (3.5), "retailer" shall have the same meaning as set forth in [section 39-26-102 \(8\)](#).

(c)(I) Each retailer that does not collect Colorado sales tax shall notify Colorado purchasers that sales or use tax is due on certain purchases made from the retailer and that the state of Colorado requires the purchaser to file a sales or use tax return.

(II) Failure to provide the notice required in subparagraph (I) of this paragraph (c) shall subject the retailer to a penalty of five dollars for each such failure, unless the retailer shows reasonable cause for such failure.

(d)(I)(A) Each retailer that does not collect Colorado sales tax shall send notification to all Colorado purchasers by January 31 of each year showing such information as the Colorado department of revenue shall require by rule and the total amount paid by the purchaser for Colorado purchases made from the retailer in the previous calendar year. Such notification shall include, if available, the dates of purchases, the amounts of each purchase, and the category of the purchase, including, if known by the retailer, whether the purchase is exempt or not exempt from taxation. The notification shall state that the state of Colorado requires a sales or use tax return to be filed and sales or use tax paid on certain Colorado purchases made by the purchaser from the retailer.

(B) The notification specified in sub-subparagraph (A) of this subparagraph (I) shall be sent separately to all Colorado purchasers by first-class mail and shall not be included with any other shipments. The notification shall include the words "Important Tax Document Enclosed" on the exterior of the mailing. The notification shall include the name of the retailer.

(II)(A) Each retailer that does not collect Colorado sales tax shall file an annual statement for each purchaser to the department of revenue on such forms as are provided or approved by the department showing the total amount paid for Colorado purchases of such purchasers during the preceding calendar year or any portion thereof, and such annual statement shall be filed on or before March 1 of each year.

(B) The executive director of the department of revenue may require any retailer that does not collect Colorado sales tax that makes total Colorado sales of more than one hundred thousand dollars in a year to file the annual statement described in sub-subparagraph (A) of this subparagraph (II) by magnetic media or another machine-readable form for that year.

(III)(A) Failure to send the notification required in subparagraph (I) of this paragraph (d) shall subject the retailer to a penalty of ten dollars for each such failure, unless the retailer shows reasonable cause for such failure.

(B) Failure to file the annual statement required in sub-subparagraph (A) of subparagraph (II) of this paragraph (d) shall subject the retailer to a penalty of ten dollars for each purchaser that should have been included in such annual statement, unless the retailer shows reasonable cause for such failure.

(4) Regulations adopted, amended, or rescinded by the executive director of the department of revenue shall be effective in the manner and at the time prescribed by the executive director, subject to the provisions of article 4 of title 24, C.R.S.

(5) Subject to the provisions of this article and the state personnel system regulations, the executive director of the department of revenue is authorized to appoint and prescribe the duties and powers of such officers, accountants, experts, and other persons as may be necessary in the performance of his duty. He may delegate to any such person so appointed such power as he deems reasonable and proper for the effective administration of this article and shall bond, in a sufficient amount, any person handling money under this article.

(6) Members of the department of revenue shall each give bond to the state of Colorado in the sum of five thousand dollars conditioned upon the faithful performance of their duties under the provisions of this article.

(7)(a) Any officer or employee of the department shall be dismissed from office or discharged from employment if, while performing functions related to any revenue law of the state of Colorado, he:

(I) Extorts or willfully oppresses any person through use of his actual or apparent authority;

(II) Knowingly demands other or greater sums than are authorized by law or receives any fee, compensation, or reward, except as prescribed by law, for the performance of any duty;

(III) With intent to defeat the application of any provision of this title, makes opportunity for any person to defraud the state of Colorado by intentionally failing to perform any of the duties of his office or employment;

(IV) Conspires or colludes with any other person to defraud the state of Colorado;

(V) Knowingly makes opportunity for any person to defraud the state of Colorado;

(VI) Commits or omits to do any act with the intent to enable any other person to defraud the state of Colorado;

(VII) Makes or signs any fraudulent entry in any book or makes or signs any fraudulent certificate, return, or statement;

(VIII) Fails to report in writing to the executive director of the department of revenue or his designee any knowledge or information he has concerning a violation of any revenue law by any person or a fraud committed by any person against the state of Colorado under any revenue law; or

(IX) Demands, accepts, or attempts to collect, directly or indirectly, as payment, gift, or otherwise any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as otherwise expressly authorized by law.

(b) Any officer or employee who violates any of the provisions of paragraph (a) of this subsection (7) is guilty of a class 6 felony and shall be punished as provided in [section 18-1.3-401, C.R.S.](#) The court may in its discretion award out of any fine imposed an amount, not in excess of one-half thereof, for the use of the informer, if any, in any such case who shall be ascertained by the judgment of the court. The court also shall render judgment against the said officer or employee for the amount of damages sustained in favor of the party injured.

(8) The executive director is authorized to waive, for good cause shown, any penalty or interest assessed on any tax administered under the provisions of this article, and interest imposed in excess of the rate imposed under [section 39-21-110.5](#) shall be deemed a penalty.

(9) The executive director shall have such other powers, duties, and functions as are prescribed for heads of principal departments in the “Administrative Organization Act of 1968”, article 1 of title 24, C.R.S.

Credits

Amended by Laws 1977, S.B.100, § 6; Laws 1977, S.B.140, § 1; Laws 1981, H.B.1169, § 1; Laws 1982, S.B.139, § 2; Laws 1989, H.B.1227, § 1; Laws 1989, S.B.246, § 143; Laws 1994, H.B.94-1272, § 17, eff. April 6, 1994; Laws 2001, Ch. 226, § 12, eff. June 1, 2001; Laws 2002, Ch. 318, § 347, eff. Oct. 1, 2002; Laws 2009, Ch. 159, § 15, eff. Aug. 5, 2009; Laws 2010, Ch. 9, § 2, eff. Feb. 24, 2010.

C. R. S. A. § 39-21-112, CO ST § 39-21-112

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