



COLORADO
Department of Revenue

Taxation Division

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AGENDA

Notice and Reporting Requirements Work Group

April 25, 2017
9:00 A.M.

Colorado Department of Revenue
1881 Pierce Street
Conference Room 110, Entrance B
Lakewood, Colorado 80214

Colorado Department of Revenue Division of Taxation is facilitating a stakeholder work group to meet and discuss possible revisions to Department Regulation 39-21-112.3.5. The related statute imposes notice and reporting requirements on out-of-state retailers that do not collect Colorado sales tax and are making sales into Colorado.

Background

[HB 10-1193](#) established notice and reporting requirements on out-of-state retailers that are making sales into Colorado but do not collect Colorado sales tax. In response to the legislation, the Department promulgated Department Regulation 39-21-112.3.5, which became effective on July 30, 2010.

For the past seven years, litigation has prevented the implementation of this law. A state court injunction preventing enforcement of this law was dissolved on February 28, 2017. The Department has agreed to waive any penalties for failure to follow the law's notice and reporting requirements for transactions occurring prior to July 1, 2017.

The Department will be reviewing this rule to determine if there are issues that need to be addressed before the Department begins enforcement of the law's notice and reporting requirements for transactions occurring on or after July 1, 2017.

Agenda

In addition to other matters the Department may open for discussion, the following items are scheduled for consideration:

- Welcome and Introductions
- Issues to be Addressed
 - Should the rule address internet "marketplace" sellers and, if so, how should these sellers be treated under the reporting statute and rule?
 - Should app sellers or app stores be subject to this rule?

- Should the information the state collects be excluded from the information sharing agreements the state has with local jurisdictions?
- The rule excludes retailers that make sales into Colorado solely by means of downloading digital goods or software because the Department did not want to overreach on the requirements of this statute without due process nexus. Should this section be written to be make clear this was the intent rather than blankly exempting all retailers that make sales solely by means of downloading digital goods or software?
- Should there be an opt-in electronic notification option for consumers to opt to receive, and retailers send, the annual notice via email or other electronic means rather than first class mail?
 - How would the retailer show that the customer opted-in to receive such notice electronically?
 - How would the retailer ensure or acknowledge that the customer received such notice?
- The rule states that the Department will publish the required format and data elements of the report that shall be filed with the Department and how to file such report with the Department. What should be the technical specifications for the reports? In what format should the report be sent to the Department? How should retailers transmit them to the Department?
- Are there additional topics or issues that need to be addressed in the rule?

- Adjourn

The Work Group

1. *Chair*: Phillip Horwitz (Department of Revenue)
2. Scott Bauer (Office of Attorney General)
3. Claudia Brett Goldin (Office of Attorney General)
4. Samwel Khakame (Department of Revenue)
5. Melissa Smith (Amazon)
6. Stephanie Muirhead (Overstock.com)
7. Tyler Rudd (Wine Institute)
8. Jacque Sappington (Leggett & Platt)
9. Bill Bacher (Xcel Energy)
10. Lou Rotella (City of Greeley)
11. Danielle Tuscher (Town of Parker)
12. Nikki Dobay (Council on State Taxation)
13. Metisse Lutz (Grant Thornton)
14. Chelsea Marmor (Eversheds Sutherland)
15. Amy Breuer (PricewaterhouseCoopers)
16. Rebecca Bearden (KPMG)
17. Rachel Quintana (Ersnt & Young)
18. Alan Smith (Sales Tax Colorado)
19. Judy Vorndran (TaxOps SALT)
20. Lexie Torres (Hein & Associates)