

DEPARTMENT OF REVENUE

Taxation Division

SALES AND USE TAX

1 CCR 201-4

Rule 39-26-105–1. Remittance of Sales Tax.

Basis and Purpose. The statutory bases for this rule are sections 39-21-112(1), 39-21-119, 39-26-105, 39-26-107, 39-26-109, 39-26-112, 39-26-118, 39-26-122, and 39-26-704(2), C.R.S. The purpose of this rule is to clarify sales tax remittance requirements and conditions under which a retailer is eligible to deduct a retailer's service fee from the sales tax remitted.

(1) **Retailer Requirements.**

- (a) A retailer is liable and responsible for sales tax on the retailer's taxable sales made during the retailer's tax period. ~~prescribed for the retailer pursuant to 1 CCR 201-4, Rule 39-26-109, The sales tax must be~~ calculated using the tax rate in effect at the time of the sale and applied to all taxable sales, including all taxable sales made for less than the minimum amount subject to tax pursuant to §-section 39-26-106, C.R.S. A retailer is also liable and responsible, pursuant to §-section 39-26-112, C.R.S., for the payment of any tax collected in excess of the tax rate in effect at the time of the sale and must remit such excess amount to the Department.
- (b) A retailer shall file with the Department a return reporting its sales, including any sales exempt from taxation under article 26 of title 39, C.R.S., made during the preceding tax period. If a retailer makes no retail sales during its preceding tax period, the retailer shall file a return reporting zero sales. Returns and any required supplemental forms must be completed in full.
- (c) A retailer must file returns and remit any sales tax due to the Department in accordance with the retailer's assigned filing schedules ~~s-prescribed by 1 CCR 201-4, Regulation 39-26-109.~~

- (2) **Due Date of Returns.** Sales tax returns and payments of tax reported thereon are due on or before the twentieth day of the month following the close of the tax period. If the twentieth day of the month following the close of the tax period is a Saturday, Sunday, or legal holiday, the due date shall be the next business day.

- (3) **Retailer's Service Fee.** Except as provided in this paragraph (3), a retailer may, in the remittance of collected sales tax, deduct and retain a retailer's service fee in the amount prescribed by § sections 39-26-105(1)(c) and (d), C.R.S.

- (a) If the retailer is delinquent in remitting any portion of the tax due, other than in unusual circumstances shown to the satisfaction of the executive director, the retailer shall not retain a retailer's service fee for any portion of the tax for which the retailer is delinquent.
- (b) If a retailer has retained a retailer's service fee pursuant to paragraph (3) of this regulation and, subsequent to the applicable due date, owes additional tax for the filing period as the result of an amended return or an adjustment made by the Department, the

retailer shall not be permitted to retain a retailer's service fee with respect to the additional tax, but the retailer may retain the retailer's service fee associated with the original return, so long as the retailer filed the original return in good faith.