

Indirect/Sales/Use:

Colorado: New Law Simplifies Local Tax Administration and Imposes New Penalties on Some Refund Claims

S.B. 32, signed by gov. 4/21/22; H.B. 1118, signed by gov. 4/21/22. In an attempt to “enable the streamlining of the imposition, collection, and administration of sales and use taxes imposed by local taxing jurisdictions” in Colorado on retail sales made by retailers that have a state standard retail license *and* either do not have physical presence in a local taxing jurisdiction or have only incidental physical presence in a local taxing jurisdiction, new Colorado law (S.B. 32) seeks to simplify underlying application requirements for and eliminate certain fees for local general business licenses. Specifically, S.B. 32 requires the Colorado Department of Revenue (Department) to collect sufficient information from such retailers when the retailer applies for or renews a state standard retail business license through an electronic sales and use tax simplification system (“SUTS”), or by other means or at any other time to the extent necessary. Such collected information must be made available to local taxing jurisdictions to “ensure that concerns of local taxing jurisdictions, including but not limited to concerns relating to administrative efficiency, retailer compliance, and collection of sales and use tax revenue are addressed.”

URL: <https://leg.colorado.gov/bills/sb22-032>

URL: <https://leg.colorado.gov/bills/hb22-1118>

To help effectuate these new requirements, the Department must consult with local taxing jurisdictions when determining what information to collect and how to make the information collected available to local taxing jurisdictions, as well as making and testing modifications. No later than July 1, 2023, and “sooner if feasible,” a retailer that has a state standard retail license and either does not have physical presence within a local taxing jurisdiction or has only incidental physical presence must be able to make retail sales within the Colorado local taxing jurisdiction without having to obtain a general business license from the local taxing jurisdiction. Moreover, under S.B. 32, on and after July 1, 2022, a Colorado local taxing jurisdiction generally is prohibited from charging a fee for a local general business license to a retailer that has a state standard retail license, makes retail sales within the local taxing jurisdiction, and either does not have physical presence within the local taxing jurisdiction or has only incidental physical presence within the local taxing jurisdiction.

Under another recently enacted bill (H.B. 1118), if a purchaser files a Colorado sales and use tax refund claim for certain tax years that is incomplete, duplicative of another claim, or lacks a reasonable basis in law or fact, the Colorado Department of Revenue may assess and collect, in addition to other penalties provided by Colorado law, a new civil penalty. If applicable, this new civil penalty would be equal to 5% of the total refund claimed if the claim is materially incomplete, and 10% of the total refund claimed if the claim is duplicative or lacking a reasonable basis in law or in fact. Please contact us with any questions.

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