

DEPARTMENT OF REVENUE

Taxation Division

PROCEDURE AND ADMINISTRATION

1 CCR 201-1

Rule 39-21-105.5–2. Electronic Notices or Other Communications.

Basis and Purpose. The statutory bases for this rule are sections 39-21-102, 39-21-105.5, 39-21-112(1), and 39-21-113(4), C.R.S. The purpose of this rule is to establish procedures that allow a taxpayer to voluntarily elect to receive any notice or other communication by electronic means.

- (1) **General Rule.** If a taxpayer voluntarily elects to receive any notice or other communication by electronic means, then, with respect to any subsequent notice or other communication, the Division shall send an unencrypted email to each email address provided or authorized by the taxpayer, advising the taxpayer or representative to log in to the online portal or an alternative system as provided in paragraph (7) of this rule in order to view a new notice or other communication. This procedure will ensure to the greatest degree reasonably possible that the party viewing the electronic notice or other communication is the taxpayer for whom the notice or other communication is intended, or the taxpayer's representative.
- (a) An email sent pursuant to paragraph (1) of this rule satisfies any statutory mailing requirements and is deemed received by the taxpayer under any circumstance, including, but not limited to, the following:
- (i) An email sent to a taxpayer or a representative is returned to the Division as undeliverable.
- (ii) The taxpayer or a representative does not:
- (A) Open and view the email; or
- (B) Access and view the new notice or other communication on the online portal or an alternative system as provided in paragraph (7) of this rule.
- (iii) The Division subsequently sends a copy of the corresponding notice or other communication by first-class mail as provided in paragraph (6)(a) of this rule.
- (iv) The Division has determined to cancel the taxpayer's election as provided in paragraph (6)(b) of this rule but has not yet completed the cancellation.
- (b) The Division may, at its sole discretion, decide to send any notice or other communication by first-class mail to a taxpayer that has elected to receive electronic notices or other communications.
- (2) **Definitions.** As used in this rule, unless the context otherwise requires:
- (a) "Confidential tax information" means any information obtained from any investigation conducted by the Division or its agents or disclosed in any document, report, or return

filed in connection with any of the taxes or fees within the scope specified in section 39-21-102, C.R.S.

- (b) "Division" means the Taxation Division in the Department of Revenue.
- (c) "Notice" means any notice required to be given to any taxpayer by the Division pursuant to section 39-21-105.5, C.R.S.
- (d) "Online portal" means Colorado.gov/RevenueOnline, or any successor system.
- (e) "Other communication" means written correspondence from the Division to a taxpayer or representative containing confidential tax information, except that "other communication" does not include:
 - (i) A notice as defined in paragraph (2)(c) of this rule;
 - (ii) An email confirming that an activity was attempted or completed in the taxpayer's account on the online portal or an alternative system as provided in paragraph (7) of this rule;
 - (iii) An email that a taxpayer or representative elects in writing to exchange with the Division outside of the online portal or an alternative system as provided in paragraph (7) of this rule, including an electronic copy of a notice or other communication sent as an email attachment; or
 - (iv) A general communication from the Division such as an announcement, guidance publication, form and instruction, due date reminder, rulemaking notice, social media post, or chatbot response.
- (f) "Representative" means a person duly authorized to receive the taxpayer's confidential tax information.
- (g) "Taxpayer" means a person obligated to account to the Division for a tax or fee within the scope specified in section 39-21-102, C.R.S.

(3) **Taxpayer Election.**

- (a) In order to voluntarily elect to receive any notice or other communication electronically through the online portal, the taxpayer shall, on the online portal:
 - (i) Register for an account; and
 - (ii) Enter the election in the account for all tax types, a specific tax type, or a specific tax matter as allowed by the Division.
- (b) The taxpayer's voluntary election also applies to any representative with access to the account on the online portal.

(4) **Division Obligations.** For a taxpayer that has made an election pursuant to paragraph (3) of this rule, in order to ensure to the greatest degree reasonably possible the party viewing the electronic notice or other communication on the online portal is the taxpayer for whom the notice or other communication is intended, or the taxpayer's representative, the Division shall:

- (a) Verify the identity of the person registering for an account on the online portal;

- (b) Send an unencrypted email to any email address provided or authorized in the taxpayer's account on the online portal, advising the taxpayer or representative to log in to the online portal to view a new notice or other communication; and
 - (c) Make a notice or other communication available for viewing by the taxpayer or representative only after they have logged in to the online portal.
- (5) **Taxpayer Obligations.** A taxpayer that has made an election pursuant to paragraph (3) of this rule shall:
 - (a) Ensure that the taxpayer email address provided in the online portal is configured to receive email from the Division in its inbox and does not return Division email as undeliverable;
 - (b) Promptly log in to the online portal and view any notice or other communication sent electronically pursuant to this rule, or ensure that a representative does;
 - (c) Promptly update the taxpayer's account on the online portal:
 - (i) Regarding any change to the taxpayer's email address;
 - (ii) Regarding any change to a representative's access; or
 - (iii) If the taxpayer wants to cancel the election; and
 - (d) Continue to notify the Division of any change to the taxpayer's mailing address.
- (6) **Undeliverable and Unread Electronic Notices or Other Communications.**
 - (a) If an email sent pursuant to this rule is returned to the Division as undeliverable, or the taxpayer or a representative does not promptly access and view an electronic notice or other communication on the online portal, the Division shall send a copy of the notice or other communication by first-class mail to the taxpayer's last known mailing address;
 - (b) If the Division sends a copy of a notice or other communication by first-class mail pursuant to paragraph (6)(a) of this rule more than once, the Division may cancel the taxpayer's election; and
 - (c) If the Division cancels the taxpayer's election, the Division:
 - (i) Shall inform the taxpayer of the cancellation by email and by first-class mail to the taxpayer's last known mailing address;
 - (ii) Shall send future notices and other communications by first-class mail to the taxpayer's last known mailing address; and
 - (iii) May reject any future election by the taxpayer to receive notices or other communications from the Division electronically.
- (7) **Alternative Systems.** Notwithstanding paragraphs (3) through (6) of this rule, a taxpayer may agree to receive notices or other communications through an alternative system in lieu of the online portal. Such alternative system must be approved by the Division and, to the Division's satisfaction, ensure to the greatest degree reasonably possible the party viewing the electronic notice or other communication is the taxpayer for whom the notice or other communication is intended, or the taxpayer's representative.