

COLORADO DEPARTMENT OF REVENUE TAX GROUP PROCEDURE AND ADMINISTRATION REGULATIONS, 1 CCR 201-1

Basis: The statutory bases for these regulations are C.R.S. 39-21-112 (1).

Purpose: The purpose of this regulation is to issue regulations regarding the effect of law changes on mailing requirements, hearings and other clarifications to existing regulations.

Regulation 39-21-102. Limitation period for recovery of erroneous or excessive refund

Under the provisions of section 13-80-101, C.R.S., the Department of Revenue has three years from the date an erroneous or excessive refund of any tax covered by the scope of section 39-21-102, C.R.S., to file suit for the recovery of such erroneous or excessive refund

Regulation 39-21-103. Hearings

(1) Examination and Notice of Deficiency. - Tax returns will be examined by the agents of the Executive Director of the Department of Revenue and the correct amount of tax determined. Various sections of this article provide a complete procedure for the review of the tax returns and the final determination of the correct amount of the tax due from each taxpayer. This procedure normally comprises the following steps:

- (a) Examination of the tax return by the department of revenue.
- (b) Mailing by first class mail as set forth in §39-21-105.5, C.R.S., of a Notice of Deficiency if the Executive Director finds from the examination that a deficiency exists.

(2) Protest. - If a taxpayer wishes to protest a Notice of Deficiency or any part thereof, it will be necessary for the taxpayer to request a hearing before the executive director. Such a protest must be filed within thirty (30) days from date of the mailing of Notice of Deficiency. This thirty day period is fixed by statute and cannot be extended by the executive director. If the taxpayer fails to ask for a hearing within the thirty-day period, a Notice of Final Determination and Demand for Payment will automatically be mailed by certified mail at the expiration of said thirty-day period.

(3) Request for Hearing.

- (a) The request for hearing must contain at least the following information:
 - (i) Taxpayer's name, address and account number,
 - (ii) The taxable period(s) involved.
 - (iii) The type and amount of tax in dispute.
 - (iv) An itemized schedule of the findings with which the taxpayer does not agree.
 - (v) A summary statement of the grounds upon which taxpayer relies for the purpose of showing that the tax is not due.
 - (vi) The request for hearing must be filed for each deficiency in duplicate and signed by the taxpayer.
- (b) At the sole option of the executive director or his delegate additional time may be granted for completing items (iv) and (v), but only upon a satisfactory showing by the taxpayer that

such time is necessary to prevent undue hardship.

(3.5) Frivolous Requests. - The Executive Director may reject a frivolous request for hearing related to income tax pursuant to §39-21-104.5, C.R.S.

(4) Formal Hearing. - Unless rejected under (3.5), the request for hearing will be calendared for formal hearing. At that hearing the taxpayer must present his entire case in support of his position. The Department of Revenue will be represented for hearing by an attorney from the Colorado Department of Law, Office of the Attorney General. The hearing officer may require the parties to file hearing data certificates or other materials.

(4.5) Waiver of Formal Hearing. If the taxpayer and the executive director agree that the disposition of the taxpayer's requested changes requires the resolution of a question of law arising under the United States or Colorado constitutions, the executive director shall memorialize the agreement and send the taxpayer a notice of the agreement by first-class mail as set forth in section 39-21-105.5. If a notice is sent pursuant to this subsection (4.5), a taxpayer may elect to waive a hearing pursuant to this section and appeal the notice of deficiency directly to the district court pursuant to section 39-21-105 within thirty days after the mailing of the notice.

(6) Hearing Officer. The hearing shall be held before the Executive Director of the Department of Revenue or such person within the Department as the Director may designate, as provided in C.R.S. 39-21-103(6).

(7) Brief in Lieu of Hearing - The taxpayer may request that the executive director consider a brief in lieu of a hearing. After such request the executive director will proceed to reconsider the deficiency in the same manner as if the written material submitted had been presented at a formal hearing.

(8) Director's Determination. - After considering the evidence and arguments presented at the hearing, the executive director will make a determination within a reasonable time and send the taxpayer by first class mail as set forth in C.R.S. 39-21-105.5, a Notice of Final Determination and Notice and Demand for Payment, if appropriate. This constitutes an assessment. Within thirty days after the mailing of the Notice of Final Determination, the taxpayer shall either pay the tax or appeal to the district court as provided in C.R.S. 39-21-105.

If no appeal is made within thirty days, the determination of the executive director is final and is no longer subject to judicial review. Collection may then be enforced at any time within collection periods provided by statute from the date of such assessment. The thirty day period for filing an appeal is fixed by statute and cannot be extended by the executive director.

Except in case of jeopardy as provided in C.R.S. 39-21-111, the above procedure applies to all returns. The procedure prescribed in C.R.S. 39-21-111, in the case of jeopardy assessment, eliminates the protest and hearing before the executive director, but leaves the taxpayer his right to appeal from the final determination and assessment.

Regulation 39-21-104. Rejection of Claims.

Upon rejection of a claim for refund or amended income tax return claiming a refund, the Department shall send the claimant a notice of denial of refund containing an explanation of the reasons for denial by first class mail as set forth in C.R.S. 39-21-105.5.

The procedure for hearings in case of claims for refunds consists of the following steps:

Within thirty days after the mailing of the "Notice of Denial of Refund," the taxpayer may request a hearing or file a brief and request for reconsideration in the same manner as is provided after the sending of a

“Notice of Deficiency.” The taxpayer does not have the right after a hearing or reconsideration of a deficiency to pay the tax, file a claim for refund and have another hearing or reconsideration on the same deficiency.

Hearings will be held at a place and a date fixed by the executive director. The taxpayer may present his evidence and legal arguments in support of his position at that time.

After considering the evidence and arguments made at the hearing, or after consideration of a brief submitted in lieu of a hearing, the executive director will send a “Notice of Final Determination of Claim for Refund” to the taxpayer by first class mail as set forth in C.R.S. 39-21-105.5, stating the grounds for allowance or rejection of the claim.

A taxpayer may sue for a refund of taxes in the district court within the time provided by law whether or not the taxpayer requests a hearing or presents a written brief.

For the period of time in which suit for refund may be commenced see C.R.S. 39-21-108 and regulations thereunder.

Regulation 39-21-105. Appeals.

(3) Notice of Appeal. — The notice of appeal of the final determination shall state the name and address of the taxpayer, the name of the court to which appeal is taken, recite the order or decision appealed from, and what portion, if any, of the tax is in dispute. The notice of appeal shall state the pertinent facts upon which the taxpayer relies as constituting the basis of said appeal. The pleading must conform to the Colorado rules of civil procedures.

Regulation 39-21-105.5 Notices — first-class mail.

(1) Any notice required to be given to any taxpayer or the agent or personal representative of the estate of any taxpayer shall be sufficient if mailed, postpaid by first-class mail to the last-known address of the taxpayer or the agent or personal representative of the estate of the taxpayer. The first-class mailing of any notice under the provisions of this article and Article 22 to Article 29 of this title creates a presumption that such notice was received by the taxpayer or agent or personal representative of the estate of the taxpayer if the department maintains a record of the notice and maintains a certification that the notice was deposited in the United States mail by an employee of the department. Evidence of the record of the notice mailed to the last-known address of the taxpayer or agent or personal representative of the estate of the taxpayer as shown by the records of the department and a certification of mailing by first-class mail by a department employee is prima facie proof that the notice was received by the taxpayer or agent or personal representative of the estate of the taxpayer.

Regulation 39-21-107. Limitations on Assessments.

(1) Taxes Other than Income Taxes. — The statute of limitations on assessments of passenger-mile, gasoline, special fuel, cigarette, sales, use, or severance tax, except as hereafter noted, shall be three years from the date the return was filed, except when there is a written agreement between the taxpayer and the executive director to waive the statute of limitations or except when a written proposed adjustment (e.g. a notice of deficiency or assessment) has been issued prior to the expiration of the three year period.

(2) Income Tax. — Except as provided in paragraphs (a) through (e) following, the statute of limitations for making assessments of Colorado income tax shall be the time provided for assessing a deficiency in federal income tax plus one year. The federal statute of limitations for making an income tax assessment is generally 3 years from the date the return is filed. Returns filed early are considered to have been filed on the due date. The following paragraphs (a) through (e) are

exceptions to this general rule:

- (a) When there is a written agreement between the taxpayer and the executive director to waive the statute of limitations.
- (b) When the taxpayer fails to notify the executive director in writing within 30 days of any final determination as defined in Regulation 39-22-601(6)
- (c) When the taxpayer fails to file an amended Colorado income tax return to notify the executive director of the filing of an amended federal income tax return reflecting any change in income reportable to the state of Colorado
- (d) In the event a waiver of the statute of limitations is agreed upon between a taxpayer and the U.S. Internal Revenue Service for income tax the Colorado statute of limitations will automatically be extended for the same period plus one year. See C.R.S. 39-22-601(6).
- (e) When a written proposed adjustment (e.g. a notice of deficiency or assessment) of the tax liability has been issued by the Department, the limitation is extended one year after the final determination of assessment is made.

(3) Return Filed Prior to Due Date. — Where the return is filed prior to the due date thereof, the statute of limitations shall run beginning from the due date.

(4) False, Fraudulent or No Return Filed. — When the taxpayer fails to file a return or files a false or fraudulent return with intent to evade the tax, the tax may be assessed and collected at any time.

(5) Waiver. — Whenever the taxpayer believes the time may be too short in which to prepare full information, records and evidence, or prepare a protest and complete a hearing thereon for the correct determination of an assessment of tax, he may apply for a waiver of the period of limitation within which the assessment must be made. The taxpayer requests a waiver by signing the proper application blank provided by the department of revenue.

The executive director of the department of revenue may also initiate the procedure for obtaining a waiver. When the executive director of the department of revenue and the taxpayer sign the waiver the period for completing the assessment is thereby extended in accord with the terms thereof.

Regulation 39-21-108. Refunds.

(1) Limitations. -

(a) (i) Income Tax.

- (I) The taxpayer must file any claim for refund or credit of Colorado income tax not later than one year after the expiration of the time provided for filing a claim for refund of federal income tax.
- (II) The federal statute of limitations for filing a claim for income tax refund is three years from the date the tax return was filed or two years from the date of the last payment of tax, whichever is later. Returns filed early are considered to have been filed on the due date.
- (III) If the federal claim is filed within the three year period in subparagraph (II), the amount that may be refunded may not exceed the amount paid within three years — plus the amount of any extension of time for filing the return -immediately preceding the filing of the claim. If the claim is not filed within such three year

period, the refund may not exceed the tax paid within two years preceding the filing of the claim.

(IV) If there is a federal waiver of the statute of limitations for assessments, the period for filing claim for credit or refund shall not expire prior to six months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extensions thereof. The amount that may be refunded shall not exceed the tax paid after the execution of the agreement and before the filing of the claim plus the portion of the tax paid within the period which would be applicable under subparagraph (III) if a claim had been filed on the date the agreement was executed. This subparagraph (IV) does not apply to claims filed prior to the execution of the agreement, or more than six months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof.

(V) In addition, section 39-22-601(6)(f), C.R.S., provides that the statute of limitations relating to filing Colorado claims for refund or credit for any year shall not expire prior to the expiration of the time within which a deficiency for such year could be assessed.

(VI) Section 39-22-604(10), C.R.S., provides in part that no refund of withholding tax shall be made to any employee who fails to file a return as required by section 39-22-604 within four years from the date the return was required to be filed and against which the tax withheld might have been credited.

(VII) An overpayment on an income tax year closed under the statute may not be applied to a balance of tax due for another tax year open under the statute for assessment or, if the assessment was timely made, open under the statute for collection as such application would be in effect allowing a refund to be made for such closed year.

(VIII) If a refund claim is rejected in whole or in part, suit may be commenced in district court for the amount of the claim rejected upon receipt of the notice of final determination, or suit may be commenced after the expiration of six months from the date of the filing of the claim if no action has been taken thereon by the Executive Director. In no case, unless such time has been extended by mutual agreement in writing between the taxpayer and the Executive Director, may suit be commenced after the expiration of two years from the date of the final determination rejecting the refund claim in whole or in part.

(ii) **Passenger-Mile and Severance Tax.** — A claim for refund must be filed not later than three years after the date of payment.

(iii) **Other Taxes.** — Except as provided in (i) and (ii), claims for refund of other taxes covered by Article 21 shall be made within the time limits expressly provided for the specific taxes involved.

(2) Issuance of Refund. — The facts relied upon in support of the claim must be clearly set forth.

Warrants in payment of claims allowed by the executive director will be drawn in the names of persons entitled to the money. A claim for refund should be filed on the form provided by the executive director of the department of revenue. Under this section the executive director of the department of revenue is authorized to make a refund when the overpayment is discovered by the executive director without any action on the part of the taxpayer. In any case where the taxpayer files an application for refund, it must be accompanied by a statement of facts upon which the application is based, and if the refund is claimed because of an error in the return, the application may be accompanied by an amended return, or an amended return may be submitted

in lieu of a claim for refund. Interest on such refunds shall be at the rate imposed under section 39-21-110.5, C.R.S. 1973.

All pertinent and relevant information requested by the return, the facts indicated by the several schedules thereof and such specific information as is essential to the final determination of the correct amount of the tax due from the taxpayer must be set forth in detail on the papers filed for consideration of a claim for a refund.

(3) Overpayment May Be Offset. — An overpayment of a tax shall first be credited to any unpaid balance of tax and interest which, according to the records of the executive director, are owed by such taxpayer. Any remaining balance of overpayment of tax shall be refunded.

(4) Property tax, heat, or rent grants not subject to intercept. Grants made to taxpayers under the provisions of Title 39, Article 31, C.R.S., are not subject to the intercept provisions of subsection 39-21-108(3) as such grants are not refunds of overpayments of tax covered by article 22 and Article 26 to Article 29 of title 39, article 60 of title 42, C.R.S., or article 3 of title 42, C.R.S.

Regulation 39-21-109. Interest on Amount Due.

(1) Rate. — In all cases where there is a delay in payment for any cause beyond the due date on which the tax should have been paid then interest at the rate imposed under section 39-21-110.5, C.R.S., must be paid on the amount due from such due date to the date of payment. Where there is a deficiency assessment, interest is computed on the amount of the deficiency from the date the tax was due.

(2) Rules for application of interest discount. Section 39-21-109, C.R.S., provides that interest on underpayments shall be computed at the prime rate plus 3 percent as described in section 39-21-110.5, C.R.S. If, however, payment or an agreement to pay is made within 30 days of the Department's notice to pay, the Director will waive the three percentage points in excess of the prime rate unless the Director determines there has been willful neglect or failure to pay the tax.

(a) For purposes of applying this provision, the full interest assessment authorized under 39-21-110.5, C.R.S., will be imposed and only two circumstances will authorize the 3% interest reduction:

- (i) payment within 30 days of notice, or
- (ii) an agreement to pay made within 30 days of notice.

(b) If a taxpayer makes a payment with a short check, he will not receive the 3% interest reduction because payment with a short check is considered a willful failure to pay the tax.

(c) A 3% reduction in penalty interest will be calculated when regular interest is reduced by 3% due to payment or agreement to pay within the authorized 30 day period.

(d) Non-filers with major tax accounts are to receive a 3% reduction in interest provided payment or agreement to pay is made within 30 days of the issuance of the second notice (the estimated of amount due).

(e) Income tax non-filers are to receive a 3% reduction in interest provided payment or agreement to pay is made within 30 days of notice of tax due.

Regulation 39-21-110. Interest on Overpayments.

(1) Rate. - Interest shall be allowed and paid upon the allowance of a credit or refund of any tax and upon any penalty or interest erroneously or illegally paid at the rate imposed under section 39-21-110.5, C.R.S. 1973.

(a) For the purpose of this section the date of overpayment shall mean the date upon which such tax, penalty and interest was paid or the due date of the return, whichever is later, except that the date of overpayment of wage withholding shall be the 15th day of the seventh month following the close of the taxable year.

(b) Interest on an overpayment will be computed from the date of overpayment of such tax, penalty, or interest to the date the order for refund or credit is issued.

(3) Refund Paid Within Ninety Days. - No interest will be paid in any case where the refund of the overpayment is issued by the Department within ninety days of the due date of the return, if the return was timely filed. But see Section 39-22-622, C.R.S. 1973 for filing of personal income tax returns.

(4) Net Operating Loss. Interest shall be computed from the close of the taxable year in which the operating loss occurred where the overpayment of income taxes arises from a net operating loss carry-back.

Regulation 39-21-110.5- Rate of interest.

(1) Net Colorado Tax Liability Defined

(a) The net Colorado tax liability for income tax is defined as the total Colorado tax, alternative minimum tax and recapture of prior year credits less all income tax credits other than the state sales tax refund, withholding credits, and estimated tax credits.

(b) The net Colorado tax liability for severance tax is defined as the total tax less the ad valorem credit, the impact assistance credit, and the underground/lignitic coal credits.

(c) The net Colorado tax liability for sales tax is defined as the tax due after deducting the service fee and includes the tax due on items removed from inventory. The net tax liability and accompanying interest will be computed separately for sales tax collected from customers and for sales tax paid to vendors for each taxing jurisdiction.

(d) The net Colorado tax liability for consumer use tax is defined as the total tax less the credit for sales tax paid in another state. The net tax liability and accompanying rate of interest will be computed separately for each taxing jurisdiction included on a taxpayer's account.

(e) The net Colorado tax liability for wage withholding tax is defined as the tax withheld.

(f) The net Colorado tax liability for estate tax is defined as the total tax payable to Colorado from the estate tax and the generation skipping transfer tax.

(g) The net Colorado tax liability for retailers use tax is defined as the tax due after deducting the service fee. The net tax liability and accompanying rate of interest will be computed separately for each taxing jurisdiction included on a taxpayer's account.

(h) The net Colorado tax liability for gasoline and special fuel tax is defined as the total tax due less the tax paid at retail during the tax period. For international fuel tax agreement (IFTA) payments, any tax refund subject to interest shall only include a refund of Colorado fuel taxes.

- (i) The net Colorado tax liability for gasoline or special fuel tax paid by a distributor is defined as the tax imposed on the gasoline acquired during the month less the 2% credit for losses and the .5% credit for expenses and bad debts.
 - (j) The net Colorado tax liability for passenger mile tax is defined as the total passenger mile tax due.
 - (k) The net Colorado tax liability for cigarette tax is gross amount of tax due less the discount allowed.
 - (l) The net Colorado tax liability for tobacco products tax is the total tax computed on the invoice price less exempt sales, the credit for exported, returned and destroyed products and the service fee allowed.
- (2) The calculation of the net Colorado tax liability will include all tax and credit adjustments including those reported on original and amended returns, refund claims, and audit adjustments. This calculation will include adjustments reported on a refund claim, which is the subject of the interest computation.
 - (3) Multiple amended returns and claims for refund may be combined in determining the correct interest rate to be paid.
 - (4) The period for which the net tax liability is computed generally means the reporting period for which the tax return is filed. If a refund claim cannot be accurately matched to the original return reporting period, the Department shall make a determination of the refund distribution when determining the appropriate interest rate to be paid.

Regulation 39-21-111. Jeopardy Assessment and Demands.

- (1) Termination of Taxable Period.** The provisions of 39-21-111, C.R.S. 1973 shall include, but shall not be limited to, cases where a taxpayer intends to leave the state, where properties are being moved from the state or sold and the proceeds transported beyond the borders of Colorado, or where funds are being dissipated. In any case where the executive director finds it necessary to immediately collect the tax, he may declare the taxable period closed, immediately demand payment of the tax and levy upon any property or money of the taxpayer.
- (2) Demand for Payment.** If the tax has not been paid in full or no return has been filed, or whenever the examination of a return discloses a deficiency, and the executive director of the department of revenue believes that the collection of the tax or deficiency will be jeopardized by delay, a jeopardy assessment will be made and a distraint warrant issued immediately. The assessment is due and payable at the time specified in the notice of assessment.
- (3) Stay of Collection.** If bond or other security, acceptable to the executive director, is given in an amount sufficient to secure payment of the amount(s) due on a jeopardy assessment, collection of same may be stayed by the executive director.

Regulation 39-21-113. Reports and Returns.

- (1) Maintenance of Records.** Every person, firm, or corporation liable to the state of Colorado for a tax shall keep such books, accounts, and records as are necessary for the determination of a tax liability for such period as provided by law. The books, accounts, and records shall be kept at a location accessible to the executive director or his authorized agent, and shall be available for inspection by the executive director or his authorized agent at any time.
- (4) Returns Confidential.** Every tax return and all information therein contained together with

correspondence, papers, affidavits, assessments, protest, and hearing thereon are secret and confidential and no information relating thereto can be disclosed except by the direction of the executive director in accordance with C.R.S. 39-21-113 and as provided by subsections (7), (8), (10), (13), and (14) of such section or in the limited manner provided under subsections (9), (11) or (12) of such section.

Regulation 39-21-116. Closing Agreements.

(1) Application. Where, under the provisions of this section, it is necessary to make a final determination of tax liability for purposes of facilitating the closing of an estate, or upon dissolution of a corporation or partnership, or termination of a trust or receivership, such determination may be made for the taxpayer upon application therefor on the form Agreement as to Final Determination of Tax Liability. Such agreements shall be deemed final only in the absence of fraud or misrepresentation.

(2) Persons Liable for Unpaid Taxes. If such request for final determination is not made, then the personal representative of the decedent or the surviving directors of the corporation or any member of a partnership shall become personally liable for any unpaid tax to the extent of the property distributed.

(3) Transferee Liability. Irrespective of the termination of the liability of the personal representative, trustee, receiver, or other fiduciary, or the surviving directors, or members of a partnership, the distributees of the decedent's estate, or of the trust's, receivership's or corporation's or partnership's assets will remain liable for the tax due from the decedent, decedent's estate, trust, receivership, corporation, or partnership to the same extent and during the same period as the decedent, decedent's estate, trust, receivership, corporation, or partnership would have been liable had the assets of the estate, trust, receivership, corporation or partnership not been distributed. If deficiency assessment is made under this section the matter will proceed as on any other deficiency assessment by payment in due course or through protest and hearing to the courts.

(4) Action Required Within Eighteen Months.

(a) After a filing of a final return for a decedent, a decedent's estate, a trust, a receivership, a corporation or a partnership or after the filing of any return for a decedent's estate, a trust, or receivership a request may be made by the personal representative of the decedent, the decedent's estate, or the trustee, receiver or other person acting in a fiduciary capacity, or any director of the corporation or any member of a partnership that the executive director within 18 months either execute the agreement as to a final determination of tax liability tendered with the request or make a final determination of the tax. The request, in order to be effective, must be transmitted separately from any other document, must set forth the classes of tax and the taxable periods for which the final determination of tax liability is requested, and must clearly indicate that it is a request for a final determination of tax liability under the provisions of this section.

(c) If, within such 18 month period, the executive director shall neither execute the tendered agreement nor make a final determination of the tax due in the manner provided in 39-21-103, C.R.S. 1973, the personal representative, trustee, receiver or other fiduciary, or surviving directors of the corporation or member of a partnership shall be relieved of personal liability for the tax period described in the tendered agreement.

Regulation 39-21-120. Tax Return — Signature and Filing Alternatives.

(1) Tax Return — Filing Does Not Excuse Late or Non-Payment. Nothing in this regulation shall excuse a taxpayer from paying the tax owed by the due date for payment.

(2) Document Method.

- (a) To make a return, in the case of a tax return prepared in the traditional document method, means preparing and completing by typing or writing the paper tax return document prescribed by the Executive Director, or a reproduced copy thereof, and executing a signature ascribing to the accuracy of said return, under penalty of perjury if required. The signature shall be that of the owner, general partner, agent authorized by power of attorney, a person legally acting in a fiduciary capacity or corporate official authorized to sign tax returns by the corporate board of directors.
- (b) To file a return, in the case of a tax return filed in the traditional document method, means entering in the U.S. Mail, first class postage prepaid, addressed to the main office of the Colorado Department of Revenue, the tax return document made under (a), or otherwise delivering or causing to be delivered the tax return document to the main office of the Colorado Department of Revenue.

(3) Electronic Data Interchange Method. Under section 39-21-120(1), C.R.S., the Executive Director may adopt rules and regulations to define and implement acceptable alternates for tax return filing. The Electronic Data Interchange method shall be adopted by this regulation, and taxpayers may elect to file under this method upon the Executive Director's acceptance of an Electronic Filing Application and Agreement.

- (a) Definitions — construction of terms. As used in this Regulation (39-)21-120, unless the context otherwise requires:

- (I) "Direct Communications" means a transmission via public telephone networks of a transaction set from a taxpayer computer directly with a computer maintained by the State of Colorado, with no Value Added Network involved.
- (II) "Electronic Data Interchange" or "EDI" means exchanging or transmitting standardized digital representations of written communications via electronic means including public telephone networks.
- (III) "Electronic Filing Application and Agreement" means the application for an electronic filing agreement, and the agreement document specified by the Executive Director to establish the existence of an Electronic Filing method accepted by the taxpayer and the Executive Director.
- (IV) "Signing, subscribing, or verifying" means the addition of the personal identification of the individual(s) authorized to sign tax returns for the taxpayer to the tax return electronic transmission, or other guarantees of authenticity the Executive Director may prescribe and specify in the Electronic Filing Application and Agreement.

- (b) Returns filed by Electronic Data Interchange.

- (I) Electronic Data Interchange Implementation. The Director will specify, and the electing businesses shall complete, an Electronic Filing Application and Agreement specified by the Director, to be signed and submitted by the owner, general partner, agent authorized by power of attorney, a person legally acting in a fiduciary capacity or corporate official authorized to sign such application. Such Electronic Filing Application and Agreement may be accepted or rejected based on any history of delinquencies, failure to file or failure to file timely and other matters at the discretion of the Executive Director. Upon completion of any test period to establish transmission accuracy, and upon notification of acceptance by the Executive Director, Electronic Data Interchange (EDI) filing will constitute the

official tax return for the taxpayer entity involved, supplanting traditional document methods. The Electronic Filing Application and Agreement shall specify the personal identification method used under Regulation (39-)21-120(3)(a)(IV) for signing the tax return.

- (II) The EDI transmission will be deemed received by the Executive Director at the date recorded by the log of the Department's Value Added Network to handle the transaction set. In the case of Direct Communication with the Department, the EDI tax return will be deemed received by the Executive Director upon acceptance.
- (III) Taxpayer Record Keeping. The taxpayer shall maintain records, either electronically or on paper, equivalent to, and for the period specified under the specific statutes of the tax filed under the Electronic Data Interchange Method.
- (IV) Payment for taxes due. Payments for tax returns reported on an EDI basis may be made by mailing or delivering payments accompanied by documents specified by the Executive Director, or by Electronic Funds Transfer (EFT). Payments by mail are subject to the provisions of section 39-21-119, C.R.S. Payments by Electronic Funds Transfer are deemed received by the Department on the date properly entered in the ACH network.
- (V) Suspension or Cancellation. The taxpayer may elect to temporarily suspend electronic filing under the Electronic Filing Agreement by notifying the Executive Director in writing and using the Document Method to file all tax returns which are due or become due during the suspension period. The taxpayer may resume electronic filing under the Electronic Filing Application and Agreement seventy-two hours after mailing notice of resumption to the Executive Director, or immediately upon direct telephone contact with the Executive Director's designee. Either the taxpayer or the Department may cancel this method and return to Document methods immediately upon written notification delivered to the other party. Such cancellation by the taxpayer will not extend the time for filing any return, due before, on or after the cancellation notice date or effective date.

Regulation 39-21-201. Amnesty — REGULATION REPEALED.