

*Colorado Legislative Council Staff Fiscal Note*  
  
**STATE**  
**REVISED FISCAL IMPACT**  
(replaces fiscal note dated January 26, 2009)

**Drafting Number:** LLS 09-0298

**Date:** March 9, 2009

**Prime Sponsor(s):** Rep. Riesberg  
 Sen. Heath

**Bill Status:** House Appropriations

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**TITLE:** CONCERNING SALES AND USE TAX REFUNDS FOR CERTAIN COLORADO-BASED TECHNOLOGY COMPANIES.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
<b>State Revenue</b> General Fund - Sales and Use Taxes		(\$1,982,000)
<b>State Expenditures</b>		
<b>FTE Position Change</b>		
<b>Effective Date:</b> August 4, 2009, assuming the General Assembly adjourns as scheduled and unless a referendum petition is filed.		
<b>Appropriation Summary for FY 2009-2010:</b> None required.		
<b>Local Government Impact:</b> None.		

*This note is revised to incorporate amendments adopted in the House Finance Committee.*

**Summary of Legislation**

HB09-1-35 would allow certain clean technology and medical device firms to receive refunds on sales and use taxes paid on the purchase of equipment used in research and development. The firms must be headquartered in Colorado and have no more than 50 employees. Each taxpayer may not receive more than a \$50,000 refund during any calendar year. Sales tax refunds are effective for sales taxes paid on or after January 1, 2009.

Beginning in 2009, if a December Legislative Council Staff revenue forecast indicates insufficient revenue to allow General Fund (GF) appropriations to increase by the maximum allowable rate of 6 percent during that fiscal year, the refund will not be available for purchases made in the calendar year during which the December forecast is released. However, taxpayers may carry refunds forward and claim them during the first year in which revenue is sufficient to allow GF appropriations to increase by 6 percent.

## **Background**

Clean technology firms include those engaged in the research and development of renewable energy and/or products that mitigate the impact of humans on the environment. Medical device firms include those engaged in the research and development of a therapeutic or diagnostic tool used to improve human or animal health.

Equipment upon which a refund could be collected includes capital equipment, instruments, apparatus, and supplies used in laboratories, including, but not limited to, microscopes, machines, glassware, chemical reagents, computers, computer software, and technical books and manuals.

## **State Revenue**

Sales and use taxes will not be affected in FY 2009-10, but will be reduced by \$1,982,000 in FY 2010-11. Based on the December 2008 LCS forecast, there will not be enough money to allow GF appropriations to increase 6 percent in FY 2009-10, but there will be enough in FY 2010-11. The revenue impact for FY 2010-11 represents refunds on equipment purchased in CY 2009 and CY 2010. It is important to note that the General Assembly's budget decisions for this year and FY 2009-10 could change this outlook such that there would be insufficient revenue to allow GF appropriations to increase by 6 percent in FY 2010-11. If that were to occur, refunds would not be available until sometime after FY 2010-11.

Table 1 shows refunds for sales and use taxes paid on purchases made in CY 2009 and CY 2010. During any fiscal year in which a refund is available, refunds will be made in the April following the calendar year in which purchases were made. The assumptions used to arrive at this impact are described below.

<b>Industry</b>	<b>Purchases Made in CY 2009</b>	<b>Purchases Made in CY 2010</b>
Medical Device and Instrument Firms	(\$84,000)	(\$91,000)
Clean Technology Firms	(\$891,000)	(\$916,000)
<b>Total</b>	<b>(\$975,000)</b>	<b>(\$1,007,000)</b>

**Medical device and instrument firms** will generate refunds totaling \$84,000 in CY 2009 and \$91,000 in CY 2010. According to the Colorado Bioscience Association, 11 firms are expected to qualify and apply for the refund each year. Firms will receive an estimated average refund of \$7,650 for purchases made in CY 2009 and \$8,300 for those made in CY 2010. The average refund is based on data from the Colorado Bioscience Foundation and the National Science Foundation.

**Clean technology firms** will receive refunds totaling \$891,000 for purchases made in CY 2009 and \$916,000 for those made in CY 2010. According to the Colorado Clean Technology Industry Association, 50 firms are expected to qualify and apply for the refund each year. Based on data from Cleantech Group LLC., 12 out of the 50 are estimated to receive venture capital each year. Those that receive venture capital are expected to receive the maximum refund of \$50,000. Those that do not receive venture capital will receive an estimated average refund of \$7,650 for CY 2009 and \$8,300 for CY 2010.

### **State Expenditures**

Although the Department of Revenue identified processing costs equal to \$659 each year beginning in FY 2009-10, it is assumed that the department will absorb these costs.

### **Departments Contacted**

Revenue