



Colorado Legislative Council Staff Fiscal Note
**STATE and LOCAL
 FISCAL IMPACT**

Drafting Number: LLS 11-0636
Prime Sponsor(s): Rep. Stephens
 Sen. Johnston

Date: March 22, 2011
Bill Status: House Finance
Fiscal Analyst: Fiona Sigalla (303-866-3556)

TITLE: CONCERNING THE FILING OF CLAIMS FOR REFUNDS OF SALES OR USE TAX.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue General Fund	(\$19 million)*	(\$6 million)
State Expenditures General Fund	\$19,701	\$21,449
FTE Position Change	0.5 FTE	0.5 FTE
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2011-2012: See State Appropriation section		
Local Government Impact: See Local Government Impact section		

* Revenue loss assumes that the Department of Revenue is successful in its recent interpretation of the law with regard to deadlines for refund claims.

Summary of Legislation

This bill extends the period of time during which a taxpayer may claim a sales tax refund when disputed at the point of purchase. Under current law, all claims for refund must be made by the taxpayer within 60 days of the date of purchase. This bill would increase the period to 3 years of the date of purchase, which conforms with all other claims for sales tax refunds.

The bill also relocates certain provisions related to penalties for willfully failing to collect or truthfully account for or pay over taxes administered by the Department of Revenue.

Background

Within the past year, the Department of Revenue has changed its interpretation of the law with regard to deadlines for sales tax refund claims at the point of purchase. Prior to 2010, the department allowed all sales tax refunds to be claimed up to 3 years after the purchase. The department now allows only 60 days. The motivation for this change was a review by the state attorney general's office.

There has been a legal challenge regarding the department's change in interpretation of the law regarding deadlines for sales tax refund claims at the point of purchase. A ruling has not yet been issued on this case. If the taxpayer's challenge succeeds, the 3-year interpretation of law would apply and pending refunds would be paid. If the taxpayer's challenge fails, the 60-day interpretation of law would be in effect, and the department would not pay these pending refunds.

This bill would clarify the law that all sales tax refund claims are subject to the 3-year statute of limitations. This would restore the department's practice prior to last year.

State Revenue

State revenue to the General Fund will decrease **\$19 million in FY 2011-12** and **\$6 million in FY 2012-13**.

There are at least \$15.6 million of pending refund claims that would be paid if sales tax refund claims at the point of purchase are permitted for up to 3 years. In addition, interest would be paid on some of the refund claims. The amount of interest on refund claims is currently estimated to be at least \$3.4 million. On an annual basis, an additional \$6 million in refund claims and interest would be payable to taxpayers who file the claim between 60 days and 3 years. The annual rate of interest paid is the prime rate plus three points, rounded to the nearest full percent.

If the taxpayer challenge to the Department of Revenue's interpretation of the sales tax refund law succeeds, this bill will have no General Fund revenue impact.

State Expenditures

State expenditures will increase \$19,701 and 0.5 FTE in FY 2011-12 and \$21,449 and 0.5 FTE in FY 2012-13. Table 1 summarizes expenditure changes under HB11-1265.

Department of Revenue. This bill will increase department expenses to process refund claims. Personal services will increase \$19,226 and 0.5 FTE in FY 2011-12 and \$20,974 and 0.5 FTE in FY 2012-13. Refund claims take significantly longer to process when they contain more than 60 days worth of data because they contain detail for multiple purchases and multiple vendors. This detail must be manually entered into the accounting system and verified by a tax examiner. Operating expenses will increase \$475 each year for telephone and supplies.

Cost Components	FY 2011-12	FY 2012-13
Personal Services	\$19,226	\$20,974
FTE	0.5	0.5
Operating Expenses	\$475	\$475
TOTAL	\$19,701	\$21,449

Local Government Impact

Local governments will have an undetermined revenue loss associated with increased payment of sales tax refunds, assuming the taxpayer challenge to the Department of Revenue's interpretation of the sales tax refund program is unsuccessful.

State Appropriations

For FY 2011-12, the Department of Revenue requires an appropriation of \$19,701 and 0.5 FTE from the General Fund.

Departments Contacted

Law	Revenue	RTD
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