



Physical Address:
1881 Pierce Street
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P.O. Box 17087
Denver, CO 80217-0087

September 29, 2021

The Honorable Leroy M. Garcia, Jr.
President of the Senate
Colorado General Assembly

The Honorable Alec Garnett
Speaker of the House
Colorado General Assembly

The Honorable Stephen Fenberg
Senate Majority Leader
Colorado General Assembly

The Honorable Daneya Esgar
House Majority Leader
Colorado General Assembly

The Honorable Chris Holbert
Senate Minority Leader
Colorado General Assembly

The Honorable Hugh McKean
House Minority Leader
Colorado General Assembly

Dear Senators and Representatives:

The Colorado Department of Revenue (CDOR) is required to report annually on the refund mechanisms for Nonexempt District Revenues subject to Article X, Section 20 (TABOR) of the State's Constitution.

On September 1, 2021, the State Controller certified that the Fiscal Year 2021 (FY 2021) unaudited state revenues subject to TABOR were \$16,097,895,810. These revenues exceed the Excess State Revenue Cap (ESRC) by \$453,572,197. Additionally, the State is required to refund any remaining TABOR surplus not refunded in prior fiscal years that have not yet been claimed by taxpayers. Remaining excess revenues of \$17,808,838 from Fiscal Years 2015, 2018, and 2019 have not yet been claimed. Therefore, the total amount to be refunded for FY 2021 is \$471,381,035. Because the TABOR revenues are above the ESRC, refunds are required for FY 2021.

All three TABOR refund mechanisms under current law will be used:

1. property tax exemption reimbursement (§39-3-209, C.R.S.);
2. temporary income tax rate reduction (§39-22-627, C.R.S.); and
3. sales tax refund (§§39-22-2001 through -2003, C.R.S.).

Using the property tax exemption reimbursement estimate from the September 2021 Forecast from the Legislative Council Staff (LCS), the first mechanism will reduce the surplus revenues by \$163.8 million.

Using the income tax rate reduction estimate from the September 2021 Forecast from LCS, the second mechanism will reduce the surplus revenues by \$120.2 million by implementing a 4.5% tax rate for the 2021 income tax year for all income tax filers.

After accounting for the first two refund mechanisms, the remaining \$187.4 million surplus revenue will be refunded through the sales tax refund.



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CDOR calculates the TABOR refund amounts of surplus revenues as follows:

TABOR Refund Obligation	\$471,381,035
Property Tax Exemption Reimbursement	(\$163.8 million)
Income Tax Rate Reduction	(\$120.2 million)
Sales Tax Refund	(\$187.4 million)

CDOR estimates that each qualified taxpayer would receive an average sales tax refund of \$54, which can be claimed by filing their 2021 individual income tax return or filing a property tax, rent, and heat rebate application. Because the sales tax refund amount exceeds \$15 per qualified taxpayer, a flat refund amount will not be used, and instead, the refund amount per taxpayer will vary based on their modified adjusted gross income (AGI). Six modified AGI tiers are used. The AGI levels in each tier are set using the most recent available modified AGI data and the share of taxpayers that were within each tier in tax year 1999. Then, the refund amounts per taxpayer are set using the total amount available for the 2021 sales tax refund mechanism and the share of the total sales tax refund each tier received in tax year 1999.

2021 TABOR Sales Tax Refunds				
Tier	Modified Adjusted Gross Income	Single Filer Refund	Joint Filer Refund	Total Estimated Sales Tax Refund
Tier 1	\$44,000 or less	\$37	\$74	\$44.5 million
Tier 2	\$44,001 to \$88,000	\$49	\$98	\$45.8 million
Tier 3	\$88,001 to \$139,000	\$56	\$112	\$34.1 million
Tier 4	\$139,001 to \$193,000	\$68	\$136	\$21.5 million
Tier 5	\$193,001 to \$246,000	\$74	\$148	\$11.0 million
Tier 6	\$246,001 or more	\$117	\$234	\$29.3 million
Total				\$186.3 million

The estimated total for the sales tax refund is \$186.3 million, which is slightly lower than the total amount available for the sales tax refund, \$187.4 million. This variance occurs because the sales tax refund amounts are rounded.

For reference, below are the 1999 TABOR sales tax refund shares of taxpayers and refund amounts per tier that were used to determine the 2021 modified AGI tiers and refund amounts. Whereas the percentages used are fixed at the 1999 values, the modified AGI tier values change each applicable year.



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1999 TABOR Sales Tax Refund Percentages		
Tier	Share (%) of taxpayers	Share (%) of the amount refunded
Tier 1	34.98%	24.04%
Tier 2	26.95%	24.69%
Tier 3	17.43%	18.38%
Tier 4	9.09%	11.39%
Tier 5	4.35%	5.86%
Tier 6	7.21%	15.64%
Total	100.00%	100.00%

Sincerely,

Mark Ferrandino
Executive Director
Colorado Department of Revenue