

# Will Colorado be ready for its own emergency ruling?



By Judy Vorndran  
October 1, 2018

*New Wayfair rules for nexus and sourcing in Colorado require registered vendors to collect statutory city and county taxes beginning December 1.*

Beginning December 1, how retailers in Colorado collect sales tax will change substantially. The Colorado Department of Revenue adopted emergency rules on September 11, putting retailers on notice of substantial changes to sales and use tax collections ([39-26-102\(9\)](#)).

## Why this is a problem

Previously, businesses didn't have to collect taxes unless they had location-based reporting requirements in Colorado. In light of the Supreme Court decision in *South Dakota v. Wayfair, Inc.*, states can now require retailers to collect sales and use tax based on destination.

That's what Colorado is doing here. The emergency ruling creates a new layer of sales and use tax compliance issues for retailers. These changes will require additional set up and tracking, collection and remittance procedures, and reporting for potentially every business selling in the state.

More importantly, the state isn't set up to accept the additional reporting. This means filing won't be as easy as filling out a form on a website confirming destination taxes collected and remitted.

The state has yet to open access to the codes needed to file. When a business does begin collecting destination taxes on December 1, without further guidance, how will the business know to put the tax in the right bucket?

## What the notice says

The notice specifies that when taxable goods are delivered to a Colorado address outside the retailer's tax jurisdiction, sales tax must be collected and remitted to the Department based on the point of delivery for the taxable good, including any applicable state-administered local and special district taxes.

This change means that sales tax must be collected based on the purchaser's address rather than the taxes that are in common between the purchaser's address and the seller's location. Sales where the purchaser



receives the product at the retailer's place of business will continue to be taxed at the rate in effect for the retailer's business location.

### **Evaluate the impact to your business**

The Department letter provides some next steps, including directing retailers to **consult their tax advisor** and to **ensure a point of sale system or sales tax software** that accounts for these collection changes.

For some retailers doing business in the state of Colorado, getting prepared could be as easy as checking with their sales tax software provider to make sure their system is up and running in time for compliance.

But if that option isn't available to your business, consult your tax advisor. You may have a lot of work to do.

### **Forms to watch for changes**

- [Colorado Retail Sales Tax Return](#) (DR 100)
- [Colorado Sales/Use Tax Rates](#) (DR 1002)
- [Colorado Location/Jurisdiction Codes for Sales Tax Filing](#) (DR 800)

The emergency regulations can be found on the Secretary of State's [eDocket](#) system. The regulations will be published in the October 25, 2018 [Register](#).

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