

Contractors Rules & Lump Sum Contracts Overview

This tax information sheet is provided to give basic, general information regarding the City of Colorado Springs sales and use tax. The City of Colorado Springs is a home rule city. This means the City is authorized to levy and collect its own sales and use tax. Contact us if you would like to sign up for our construction sales/use tax class, 719-385-5903 or email salestax@coloradosprings.gov.

What is the sales tax rate?

12/31/2020 and Prior		As of 1/1/2021	
Department of Revenue (state collected)	2.9%	Department of Revenue (state collected)	2.9%
El Paso County (state collected)	1.23%	El Paso County (state collected)	1.23%
PPRTA (state collected)	1.0%	PPRTA (state collected)	1.0%
City of Colorado Springs (city collected)	<u>3.12%</u>	City of Colorado Springs (city collected)	<u>3.07%</u>
Total Sales Tax Rate:	8.25%	Total Sales Tax Rate:	8.20%

What is use tax?

Use tax is due on the purchase, lease or rental of tangible personal property (excluding inventory for resale) and on certain services. The tax is due when no City of Colorado Springs sales tax was paid at the time of purchase. Use Tax applies to the same type(s) of transactions as the sales tax, and at the same tax rate of 3.12% or 3.07% based on the table above. The difference between the two: sales tax is paid to the seller of the item(s) who then remits the tax to the city; use tax is paid directly to the city by the purchaser. If you do not pay sales tax on the purchase of a taxable item, use tax may be due & payable directly to the city.

How is a construction contractor defined?

The term construction contractor applies to general contractors and subcontractors and includes all building contractors, highway and road contractors, electrical, plumbing, and heating contractors, excavators, and others engaged in the construction, reconstruction, repair, improvement, or wrecking of any physical structure that is part of real estate.

What is a Lump Sum Contract?

A lump sum contract is for a set price or amount to make improvements to real property inclusive of materials, labor, overhead, etc. Labor and materials are not broken out.

Define Real Property?

Real property is defined as "land and all the things that are attached to it. Anything that is not real property is personal property. Personal property is anything that is not nailed down, dug into or built onto the land. A house is real property but the dining room table is not."

Define the term Improvement to Real Property?

Improvement to real property is defined as tangible personal property (TPP) that when combined with other TPP loses its identity and becomes part of a permanent structure. Generally, improvement to real property must meet the following criteria; become an integral and inseparable part of the real property. Inseparable means to lose its identity and cannot be removed without substantial damage to the property. The intent is to become a part of the real property and is necessary to the usefulness of the real property. If the scope of work fits into the definition as an improvement to real property then the type of contract with the property owner determines who has the sales or use tax liability.

What are Contractors Rules?

When a contractor is engaged in a lump sum, improvement to real property contract and they provide both materials and installation in fulfillment of the contract, "contractor's rules" may apply. This allows a contractor who has a lump sum contract for improvement to real property to pay sales or use tax on the cost of materials for the project using lump sum or progress billings, not on the amount of materials shown as billed to the general contractor or owner. The contractor is considered the end user of materials in a lump sum improvement to real property contract. If billing a Time and Materials invoice, contractor's rules may not apply.

- **Contractor's rules only apply to lump sum improvement to real property contracts as defined by the City of Colorado Springs.**
- **Contractors' rules do not apply for repairs, maintenance or remove/replacement jobs. Contact us immediately.**

What if my supplier bills time and material or a lump sum invoice on a retail sale?

Sales tax should be charged and separately stated for materials on a time and materials invoice. Sales tax should be charged on the full invoice amount if billed on a lump sum retail invoice; materials and labor are not separately stated.

IMPORTANT: A contractor may not avoid the payment of the Colorado Springs sales or use tax on materials purchased by using the name of a tax-exempt entity for which work is performed. A certificate of exemption issued by the Department of Revenue, or any other taxing authority, does not authorize exemption from the City of Colorado Springs sales or use taxes on construction materials.

Types of items subjected to City of Colorado Springs tax, not inclusive to only these items listed below:

A. Building Materials:

- All building materials purchased, used, or consumed inside the City of Colorado Springs by a construction contractor are subject to City sales or use tax unless the materials are purchased for resale by a seller holding a valid City of Colorado Springs sales tax license in which case sales tax will be charged when resold.
- The contractor is considered the end user of materials under a lump sum, improvement to real property construction contract.

B. Labor:

- Installation labor is not taxable when separately stated. *(not refundable to exempt entity)*
- Fabrication labor is taxable on a time & materials retail invoice. *(fabrication labor in lump sum, not taxable, raw materials subject to tax)*

C. Delivery or Pickup of Materials: *(part of purchase price, refundable to exempt entity)*

- Materials delivered to a construction contractor at a job site or other location in Colorado Springs are subject to sales tax
- Materials picked up inside the City of Colorado Springs are subject to City sales tax regardless of whether the materials are used inside or outside the City of Colorado Springs
- Materials delivered to a location outside the City of Colorado Springs, for use outside the City are exempt from City sales tax.
- Freight billed separately by a third party is not taxable this is a service.
- Trip Charge, fuel surcharge, transportation, freight, delivery charge, pickup charge, restocking fee, environmental charge, etc. Are all taxable when stated on an invoice which includes taxable tangible personal property.

D. Lease or Rental Equipment: *(in general, taxable to City, not refundable to exempt entity)*

- A lease or rental of tangible personal property is subject to tax. If your lease/rental agreement does not show City sales tax charged, City use tax is due.
- Trip Charge, fuel surcharge, transportation, freight, delivery charge, pickup charge, dyed diesel for off road use, insurance, damage waiver, restocking fee, environmental charge, etc. are all taxable when stated on an invoice which includes the rental or lease of tangible personal property.
- SMM, Special Mobile Machinery Equipment (Z tags) is not taxable.

E. Supplies and Tools: *(in general, taxable to City, not refundable to exempt entity)*

- Sales and/or Use Tax are due on all supplies and tools.

How would I begin to locate all this information, examples could include but are not limited to?

- Invoices, rental agreements, register receipts, AIA progress billing, and job cost detail or like detail report and/or contracts.

Is use tax due if I brought tangible personal property in from another city or state and I paid sales tax on the item(s)?

- **City to City, 3.12%:** If the sales tax rate legally due and paid to another Colorado municipal city is **less** than 3.12%, use tax would be due on the difference between the two rates. Example: The tax rate legally due and paid to another Colorado city was 2%; you would owe an additional 1.12% City of Colorado Springs tax. If the sales tax rate legally due & paid to another Colorado municipal is **greater** than 3.12%, no additional City tax is due.
- **State, 3.12%:** If the sales tax rate legally due and paid to another state, or another state in combination with any political subdivision of that state, is equal to the total rate of **8.25%** (the combined rate of the State of Colorado, City of Colorado Springs, El Paso County, and PPRTA), no use tax is due the City of Colorado Springs. If the sales tax rate legally due and paid to another state, or another state in combination with any political subdivision is greater than the combined rate of the State of Colorado, El Paso County and the Pikes Peak Rural Transportation Authority of 5.13%, then the rate of tax paid in excess of this rate up to 3.12% is allowed as an offset against the City of Colorado Springs rate of 3.12%. Example: The tax rate paid to another state was 6.0%; you would owe 2.25% tax to the City $(6.0\% - 5.13\% = .87\%$ Then $3.12\% - .87\% = 2.25\%$).
- **City to City, 3.07%:** If the sales tax rate legally due and paid to another Colorado municipal city is **less** than 3.07%, use tax would be due on the difference between the two rates. Example: The tax rate legally due and paid to another Colorado city was 2%; you would owe an additional 1.07% City of Colorado Springs tax. If the sales tax rate legally due & paid to another Colorado municipal is **greater** than 3.07%, no additional City tax is due.
- **State, 3.07%:** If the sales tax rate legally due and paid to another state, or another state in combination with any political subdivision of that state, is equal to the total rate of **8.20%** (the combined rate of the State of Colorado, City of Colorado Springs, El Paso County, and PPRTA), no use tax is due the City of Colorado Springs. If the sales tax rate legally due and paid to another state, or another state in combination with any political subdivision is greater than the combined rate of the State of Colorado, El Paso County and the Pikes Peak Rural Transportation Authority of 5.13%, then the rate of tax paid in excess of this rate up to 3.07% is allowed as an offset against the City of Colorado Springs rate of 3.07%. Example: The tax rate paid to another state was 6.0%; you would owe 2.20% tax to the City $(6.0\% - 5.13\% = .87\%$ Then $3.07\% - .87\% = 2.20\%$).