

RETAILER ENGAGED IN BUSINESS WITHIN COLORADO SPRINGS

2.7.102: INTENT OF THE CITY COUNCIL:

- (a) Unless a transaction is expressly exempted by this City Tax Code, it is the intent of the City Council that, to the extent permitted by law, every person who: 1) purchases, leases, rents, or otherwise acquires or acquires rights to tangible personal property or taxable services; 2) stores, uses, distributes, or consumes tangible personal property; or 3) uses, distributes, or consumes taxable services is exercising a taxable privilege and shall be taxed on the exercise of that taxable privilege.
- (b) Unless a transaction is expressly exempted by this City Tax Code, it is the intent of the City Council that, to the extent permitted by law, every person who is engaged in business in the City shall collect the tax imposed by this City Tax Code on the purchaser of tangible personal property or taxable services.

2.7.103 (C): GENERAL TERMS AND DISTINCTIONS, DISTINCTION BETWEEN SALES AND USE TAX:

1. The primary distinction between the sales tax and use tax is that the sales tax is collected by persons engaged in business in this City from the purchaser, and that person pays the tax to the City; while,
2. In the absence of that tax charge, the use tax is levied directly upon the person who purchases the commodities or services, either within or outside the City, and uses them in this City, which person must remit the tax, together with returns showing the purchase and the use of articles which are subject to the tax, directly to the City.

In accord with this City Tax Code, any person engaged in business in the City and making sales of property or specific services subject to the sales tax, even though not maintaining an office in this City, must collect and remit the sales tax on these sales in like manner as Colorado Springs persons collect and remit the sales tax.

2.7.104: WORDS AND PHRASES DEFINED, ENGAGED IN BUSINESS IN THE CITY: Performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the City. Engaged in business in the City includes, but is not limited to, any one of the following activities by a person:

- A. Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse or other place of business within the taxing jurisdiction;
- B. Sends one or more employees, agents or commissioned salespeople into the taxing jurisdiction to solicit business or to install, assemble, repair, service or assist in the use of its products, or for demonstration or other reasons;
- C. Maintains one or more employees, agents or commissioned salespeople on duty at a location within the taxing jurisdiction;
- D. Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction
- E. Retailer or vendor in the state of Colorado that makes more than one delivery into the taxing jurisdiction within a twelve month period;
- F. Makes retail sales sufficient to meet the definitional requirements of economic nexus as set forth in this Section [2.7.104](#).

2.7.104: WORDS AND PHRASES DEFINED, ECONOMIC NEXUS: The connection between the City and a person not having a physical nexus in the State of Colorado, which connection is established when the person or marketplace facilitator makes retail sales into the City, and:

- A. In the previous calendar year, the person, which includes a marketplace facilitator, has made retail sales into the state exceeding the amount specified in C.R.S. § 39-26-102(3)(c), as amended; or
- B. In the current calendar year, 90 days has passed following the month in which the person, which includes a marketplace facilitator, has made retail sales into the state exceeding the amount specified in C.R.S. § 39-26-102(3)(c), as amended.

2.7.104: WORDS AND PHRASES DEFINED, RETAILER OR VENDOR: Any person selling, leasing, renting or granting a license to use tangible personal property or services at retail. Retailer shall include, but is not limited to, any:

- A. Auctioneer;
- B. Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;
- C. Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes.
- D. Retailer-contractor, when acting in the capacity of a seller of building supplies, construction materials, and other tangible personal property;
- E. Marketplace facilitator, marketplace seller, or multichannel seller.

2.7.105 (A): TRUST STATUS OF TAX, CITY PROPERTY IN TRUST: All sums of money paid by the consumer to the retailer as taxes imposed by this City Tax Code shall be and remain public money and the property of the City in the hands of the retailer. The retailer shall hold the money in trust for the sole use and benefit of the City until paid to the Director. It shall be unlawful for any retailer to fail or refuse to pay these sums to the Director.

2.7.202: UNLAWFUL TO FAIL TO COLLECT OR TO PAY TAX: It is unlawful for any purchaser to fail to pay and for any seller to fail to collect the tax required to be paid or required to be collected by this City Tax Code. (Ord. 94-206; Ord. 95-182; Ord. 96-208; Ord. 97-97; Ord. 01-42; Ord. 01-168; Ord. 08-218)

2.7.301: LEVY OF TAX IN GENERAL: It shall be unlawful for any seller to fail to collect or any consumer to fail to pay a tax levied by this City Tax Code, including sales on which exemption is disputed, and there is hereby levied and there shall be collected and paid, a tax, as stated in section [2.7.203](#) of this article, by every person exercising the taxable privilege. (1968 Code §3-74; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.311: SALES MADE OUTSIDE CITY: Every retailer is required to collect the tax imposed by this City Tax Code, including, but not limited to, the following situations:

- a. Solicitation By Retailer: The consumer's order or the contract sale is delivered, mailed or otherwise transmitted by the consumer to the retailer at a point outside of the City as a result of solicitation by the retailer through the medium of a catalog or other written advertisement or by any other means; or
- b. Closing Contract Outside City: The consumer's order or contract of sale is made or closed by acceptance or approval outside the City or before the tangible personal property enters the City; or
- c. Procurement Or Manufacture Outside City: The consumer's order or contract of sale provides that the property shall be, or it is in fact procured or manufactured at a point outside of the City and shipped directly to the consumer from that point of origin; or
- d. Transportation Costs: The property is mailed to the consumer in the City from a point outside the City or delivered to a carrier, FOB, or otherwise, and directed to the retailer in the City regardless of whether the cost of transportation is paid by the retailer or by the consumer; or
- e. Delivery Outside City: The property is delivered directly to the consumer at a point outside the City; provided that in subsections A through E of this section, the property is intended to be brought into the City for use, storage or consumption in the City. (1968 Code §3-74; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.312: TANGIBLE PERSONAL PROPERTY: The sales or use tax is imposed on the purchase price paid or charged upon the sale, purchase, lease, rental or grant of license to use, or on the use, storage, distribution or consumption of tangible personal property purchased pursuant to a retail sale, and on the subsequent lease, rental or sale of tangible personal property by any person to every consumer regardless that the person purchasing and subsequently leasing, renting or selling that personal property paid the tax imposed on the initial purchase and use of the property acquired which is subsequently leased, rented or sold. (1968 Code §3-74; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.501(A): LICENSE REQUIRED: Unless specifically exempted by this City Tax Code, any person who sells tangible personal property or taxable services subject to the tax imposed by this City Tax Code shall possess a sales tax license for each location at which business is transacted. Except for a temporary Sales Tax license, which shall be valid for the dates specified on the license, a Sales Tax license shall be valid from its effective date through December 31 of the odd numbered year.

2.7.601: EXEMPTION BURDEN OF PROOF: The burden of proving that any retailer or consumer is exempt from collecting or paying the tax upon any goods sold or purchased, paying the same to the City, or making returns, shall be on the retailer or consumer under reasonable requirements of proof prescribed by the director.

2.7.602: RETAILER'S RESPONSIBILITY:

- a. Collection Of Tax: Every retailer "Engaged In Business" and selling at "Retail" shall, irrespective of the provisions of part 2 of this article, be liable and responsible for the payment of an amount equivalent to three and twelve one-hundredths percent (3.07%) of all sales made by the retailer of commodities or services as specified in part 3 of this article.
- b. Remittance Of Tax: Every retailer "Engaged In Business" and selling at "Retail" shall file a return with the Director on or before the twentieth day of the month for the preceding month or months under report and remit an amount equivalent to three and twelve one-hundredths percent (3.07%) of the taxable sales and also any excessive tax collections over three and twelve one-hundredths percent (3.07%) as provided in section 2.7.808 of this article. The retailer shall add the tax to the amount of the sale as a separate and distinct item, and the tax shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debts.

2.7.104: WORDS AND PHRASES DEFINED, PRICE OR PURCHASE PRICE: The aggregate value measured in currency paid or delivered or promised to be paid or delivered in consummation of a sale, without any discount from the price on account of the cost of materials used, labor or service cost, and exclusive of any direct tax imposed by the Federal government or by this article, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if: a) such exchanged property is to be sold thereafter in the usual course of the retailer's business, or b) such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this State, including, but not limited to, vehicles operating upon public highways, off highway recreation vehicles, watercraft, and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

A. "Price" or "purchase price" includes:

- 1. The amount of money received or due in cash and credits.
- 2. Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
- 3. Any consideration valued in money, whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.
- 4. The total price charged on credit sales including finance charges which are not separately stated at the time of sale. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated at the time of sale is not part of the purchase price.
- 5. Installation, applying, remodeling or repairing the property, delivery and wheeling-in charges included in the purchase price and not separately stated.
- 6. Transportation and other charges to effect delivery of tangible personal property to the purchaser.
- 7. Indirect Federal manufacturers' Excise Taxes, such as taxes on automobiles, tires and floor stock.
- 8. The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.
- 9. Any reimbursement to the seller for expenses, such as cutting charges, handling charges, incoming freight, dealer prep charges, delivery charges, etc., incurred by the seller prior to passing title to the property.

2.7.801: REPORTING AND REMITTANCE PERIODS:

- (a) Every retailer shall file a tax return with the Director, on or before the twentieth day of each calendar month, for the preceding month, and shall simultaneously remit an amount equal to the amount of tax required by part 2 of this article.
- (b) If the accounting methods regularly employed by the retailer or licensed consumer in the transaction of business, or other conditions are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the Director may, upon written request of the retailer or

licensed consumer, accept returns at intervals as will, in the Director's opinion, better suit the convenience of the taxpayer and will not jeopardize the collection of the tax, provided that the Director may by rule permit a retailer or licensed consumer whose monthly City tax liability is less than three hundred dollars (\$300.00) to make returns and pay taxes at intervals not greater than every three (3) months or whose monthly City tax liability is fifteen (\$15.00) or less to make returns and pay taxes on an annual basis, or as approved by the Director. Tax returns filed on a quarterly or annual basis shall be filed with the Director on or before the twentieth day of the month following the end of the reporting period.

- (c) Every retailer who files exclusively through the Colorado Department of Revenue Sales and Use Tax System (SUTS) is permitted to follow the State of Colorado's filing frequency requirements. (1968 Code §3-85; Ord. 76-168; Ord. 83-164; Ord. 91-161; Ord. 93-176; Ord. 01-42; Ord. 20-47)

2.7.805(C): SPECIAL ACCOUNTING, SALES TAX COLLECTIONS BY NONRESIDENT RETAILERS: Every retailer engaged in business in this City even though not maintaining an office in this City, and making sales of tangible personal property or taxable services subject to the sales tax, must, in accord with this City Tax Code, collect and remit the sales tax on the sales in like manner as Colorado Springs retailers collect and remit the sales tax.

CHARITABLE, RELIGIOUS AND GOVERNMENT ENTITIES EXEMPTION

(state issued #98 exemptions may not qualify for City of Colorado Springs sales or use tax exemption, please contact our office for instruction)

2.7.104: WORDS AND PHRASES DEFINED, CHARITABLE ORGANIZATION: Any entity which: a) has been certified as a not for profit organization under section 501(c)(3) of the Internal Revenue Code, and b) is a religious or charitable organization. As used in this definition, a "charitable organization" is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons, freely and voluntarily ministers to the physical, mental or spiritual needs of persons, and which thereby lessens the burdens of government.

2.7.104: WORDS AND PHRASES DEFINED, SCHOOL: An educational institution having a curriculum comparable to a grade, grammar, junior high, high school or college, or any combination thereof, requiring daily attendance having an enrollment of at least forty (40) students, and charging a tuition fee.

2.7.404: CHARITABLE AND RELIGIOUS ORGANIZATIONS:

The purchase price paid or charged on direct sales to and direct purchase by religious, charitable and eleemosynary corporations, in the conduct of their religious, charitable and eleemosynary functions and activities only, provided that a letter of exemption from the City is possessed by the organization. These organizations, however, are required to collect sales tax when taxable sales are made by them. (1968 Code §3-75; Ord. 76-168; Ord. 01-42)

2.7.437: SCHOOLS: The purchase price paid or charged on direct sales to and direct purchases by a school other than a school held or conducted for private or corporate profit in the conduct of its educational functions and activities only are exempt, provided that a letter of exemption from the City is possessed by the school. The school is required, however, to collect sales tax when taxable sales are made by it. (1968 Code §3-75; Ord. 79-179; Ord. 01-42)

2.7.418: GOVERNMENTS, SALES TO: (includes state funded school)The selling price paid or charged on direct sales to and direct purchases by the United States government, the State of Colorado, its departments or institutions, and political subdivisions in their governmental capacity only, and all sales to or purchases by the City are exempt. No commercial, industrial or any other banking institution, organized or chartered by the United States government or by the State of Colorado shall be considered a governmental institution for the purpose of this exemption. (1968 Code §3-75; Ord. 76-168; Ord. 01-42)

- Direct sales to = billed directly to exempt organization (bill to); direct purchase by = paid from exempt organizations funds.
- Note: a cash payment is not exempt from sales tax, must prove form of payment is exempt from sales tax

CONSTRUCTION CONTRACTORS AND MATERIALS

(state issued #89 certificates do not qualify for city sales or use tax exemption)

2.7.104: WORDS AND PHRASES DEFINED, CONSTRUCTION MATERIALS: Tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project including public and private improvements. Construction materials include, but are not limited to, such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring, and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipefittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wallboard, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters and wood preserver. The above materials, when used for forms or other items which do not remain as an integral or inseparable part of a completed structure or project are not construction materials.

2.7.604: CONTRACTORS, OWNERS OR LESSEES OF REALTY: Every purchase by a contractor shall be taxable as a purchase at retail unless the purchase is for taxable resale or otherwise exempt under this City Tax Code. Every contractor who shall build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure, or make improvement to real property, including all work performed on Federal, State, County, City, exempt institution and private construction job sites in this City and shall purchase construction materials, and every owner or lessee of realty situate in the City, upon which any article or articles of tangible personal property acquired from sources within or without the City are attached or affixed and which contractor, owner or lessee has not paid the sales tax imposed by this City Tax Code thereon, to a retailer required or authorized to collect the same, shall pay a use tax by making a monthly return and paying the tax due to the City, on or before the twentieth day of the month following the purchase and on or before the twentieth day of each calendar month thereafter for the preceding calendar month.

- A contractor using their City of Colorado Springs Retail Sales Tax license can use their license to purchase for resale provided the materials relate to the nature of business and that the copy they supply for your records is not expired.
- The City of Colorado Springs does not honor state issued #89 certificates. 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 tax on construction materials. Only "direct sales to" or "direct purchase by" an exempt entity when paying from their funds is a transaction tax exempt. See below.

PREPAID BUILDING PERMITS, COLORADO MUNICIPALITIES AND COUNTIES

2.7.445: SALES TAX – NONAPPLICABILITY: For transactions consummated on and after January 1, 1986, the City's sales tax shall not apply to the sale of "construction materials", as the term is used in Colorado Revised Statutes section 29-2-109, and as defined in section 2.7.104 of this article, if the materials are picked up by the consumer and if the consumer presents to the retailer a building permit or other documentation acceptable to the city evidencing that a use tax has been paid to another Colorado **municipality**.

- To use another city prepaid use tax permit the contractor must have prepaid a city use tax; they cannot pay a county prepaid use tax and receive the benefit of not paying our city sales tax on their construction materials.
- A contractor must purchase construction materials as defined in the definitions of the City of Colorado Springs tax ordinance to be exempt of our sales tax 3.07%, all tools, supplies, consumables, equipment rental, etc. are not exempt and taxable to the contractor.
- The Pikes Peak Regional Building does not collect a prepaid City of Colorado Springs use tax on building permits. The prepaid building use tax permit issued by Pikes Peak Regional Building only offsets the El Paso County use tax at 1.23%, the remaining 6.97% will be due by the contractor. The contractor will be responsible for any city sales or use tax.