
Tax Compliance Guide

Use Tax Topic 313

(01/2020)

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The *Westminster Municipal Code* imposes a use tax upon the privilege of using, storing, distributing, or otherwise consuming tangible personal property and certain taxable services in the City. If Westminster sales tax is not paid to a vendor licensed and authorized to collect the same at the time of purchase, then a use tax must be remitted directly to the City. Credit may be taken against Westminster use tax for legally imposed sales or use taxes paid to other municipalities. Such credit may not exceed the Westminster use tax due.

Use tax is complimentary to sales tax, but is paid directly to the City rather than to a vendor collecting on behalf of the City. All Westminster taxpayers must pay sales or use tax on purchases of tangible personal property or taxable services that are not purchased for resale. Service businesses will likely have a use tax liability even if they do not sell anything. Use tax is reported on Schedule B/Line 8 of the periodic City sales/use tax return.

Use Tax is Transactional

When tangible personal property is first used, consumed, stored, or distributed in the City by the present owner, a use tax may be due. While credit is allowed for legally-imposed sales/use tax previously paid, this credit only applies to taxes paid by the current owner. A previous owner's payment of sales/use tax does not apply. For businesses that were based outside the City who relocate to Westminster, an exemption exists for tangible personal property, other than construction materials and construction equipment, which was used outside the City for its intended purposes for at least 6 months prior to being relocated in the City. This exemption does not apply to taxpayers with multiple locations who transfer equipment from a location outside the City to an existing location within the City.

Identifying Use Tax Liabilities

If a purchase of tangible personal property or taxable services does not include a charge for municipal sales tax, then a use tax is due. Many vendors, being licensed with the Colorado Department of Revenue and other taxing authorities in the State, will collect some tax on a

taxable purchase. Also, Colorado is a "point of delivery" sourcing state. This means that the point where delivery of the property or services occurs is the point of taxability. Some retailers erroneously collect the wrong tax, either because they are unsure of which jurisdiction an address resides in, or because they are incorrectly collecting tax based upon the point of sale. For this reason, special attention should be given to the *rate* of tax collected because the payment of some sales tax may not eliminate or even reduce the Westminster use tax liability. Each purchase should be carefully examined to ensure that a sufficient, legally-imposed sales or use tax has been paid.

Use tax is levied upon not only the privilege of use or consumption, but of storage or distribution in the City as well. If a taxpayer exercises dominion or control over property for any length of time in the City, a taxable event has occurred. This distinction is important for taxpayers located in multiple jurisdictions that receive their purchases in Westminster and subsequently distribute them to other locations.

Retail businesses may have a use tax liability resulting from the removal of inventory which was originally purchased for resale. This can result from the removal of supplies or equipment for internal use, giveaway or complimentary items or meals, or the use of construction materials in a lump-sum job.

Initial Use Tax Return

Because a significant amount of use tax generally results from the startup, purchase, or relocation of a business in the City, an *Initial Use Tax Return* is required whenever a business is purchased or established in the City. New or relocated businesses must file this return by the 20th day of the month following opening. Purchased businesses must file this return by the 20th day of the month following the date of purchase. Subsequent use tax liabilities are reported on Schedule B/line 8 of the periodic City sales/use tax return. The *Initial Use Tax Return* is not filed in lieu of the first periodic City sales/use tax return, which must also be filed.

Examples (rates correct as of January 1, 2020)

1. Business A purchases computers from an Internet distributor based out of the state. The distributor does not collect any sales tax. Business A must remit a use tax on the full purchase price paid on their next periodic City sales/use tax return (Schedule B/Line 8).
2. Business B, with an office in Westminster, Adams County, purchased office supplies over-the-counter at a store in Denver. Because the business picked up the supplies in Denver, the retailer properly collects Denver tax of 8.31%. Business B must report and pay a use tax of .29% – which is the difference between the combined Westminster, Adams County rate (8.60%) and Denver’s rate – on the purchase price paid for the supplies.

Related Topics

Automotive Vehicles
 Construction (various)
 Properly Exempted Purchases Converted to Taxable Use
 Previously Paid Sales/Use Tax
 Prior Use of Property
 Professional Services
 Sale/Purchase of a Business

Citations

Westminster Municipal Code
 § 4-1-3. Deductions & Credits
 § 4-1-7. Returns Required; Time for Filing and Paying Total Tax Liability
 § 4-2-2. Definitions
 § 4-2-3. Rate; Imposition and Collection; Distribution
 § 4-2-5. Transactions & Items Subject to Tax
 § 4-2-7. Exemptions from Use Tax
 § 4-2-12. Inception of Business; Initial Use Tax
 § 4-2-13. Use Tax; Method of Payment

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Contact Us

For additional assistance, please contact us:

City of Westminster
Sales Tax Division
 4800 West 92nd Avenue
 Westminster, CO 80031

Phone: (303) 658-2065

Fax: (303) 706-3923

E-mail address: salestax@westminsterco.gov

Website: <http://www.westminsterco.gov>
 From the Business menu, choose Westminster Taxes