

## Tax Compliance Guide

### Construction – Building Permit Handout Topic 319

(03/2020)

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*NOTE: THIS INFORMATION IS PROVIDED BY THE SALES TAX DIVISION. PLEASE DIRECT ANY QUESTIONS REGARDING USE TAX TO THAT OFFICE AT (303) 658-2065.*

#### **IMPORTANT NOTICE!**

**Contractors must present a copy of a building permit when purchasing construction materials so that local sales tax will not be charged.**

#### **What is the use tax charge on the permit?**

Use tax is pre-paid on the permit in lieu of paying local sales tax on construction materials at the time of purchase. A copy of the building permit must be provided to the vendor when purchasing construction materials. You will then be exempt from local sales tax on the purchase. Materials may be purchased only for the project to which the permit applies. State and other non-municipal taxes may still apply.

The use tax charged on the permit is an estimate of the City use tax due on materials used in the project for which the permit is issued. The exemption from sales tax applies only to construction materials, (tangible personal property which becomes an integral and inseparable part of real property). Construction materials do not include items such as carpet, furniture, appliances, removable fixtures, signs, solar energy systems, window coverings, equipment, tools, supplies, or other similar items.

#### **Can I obtain a refund of the use tax pre-payment if I am a government or charitable organization?**

No, every person who obtains a permit must pay use tax on materials used regardless of their tax exempt status. Refer to *Tax Compliance Guide* topic 335 for additional information.

#### **What if I have already purchased the materials prior to obtaining the permit?**

If you do not provide a copy of the building permit to a vendor and are charged Westminister sales tax on

construction materials, you may apply to the City for a refund of the Westminister tax paid twice. A *Claim for Refund* form can be obtained in the *Westminister Tax Forms* section located in the Business tab on the City website or by contacting the Sales Tax Division. Copies of all receipts showing that City sales tax was paid to a Westminister vendor who was licensed and authorized to collect City sales tax must be submitted with the signed claim within 60 days of the date of purchase.

Beyond 60 days, you will need to seek a refund from the retailer, who may then file a *Claim for Refund* form for taxes refunded to you for up to three years from the date of the purchase. Note that, while the *Westminister Municipal Code* permits refunds by retailers for up to three years, retailers may establish their own policies which may be shorter. The Sales Tax Division cannot obligate a retailer to issue a refund of taxes paid in error, and refunds of such tax will not be issued by the City directly to purchasers more than 60 days from the date of the purchase.

If you purchased materials in a city other than Westminister and paid that city's sales tax, Westminister will not issue a refund. You must apply to that city directly. Sales taxes paid in error to Westminister or another municipality cannot be credited against use tax due on materials.

#### **What if the actual cost of materials is more or less than the estimated amount?**

The estimated materials cost is computed by multiplying the valuation listed on the permit by 50%. The Westminister use tax rate is applied to this estimated materials cost to arrive at the use tax pre-payment.

- ❖ If the actual materials cost is less than the estimated materials cost, you may apply for a refund of the use tax overpaid within three years of the date of final inspection or the Certificate of Occupancy, whichever occurs later.
- ❖ If the actual materials cost is greater than the estimated materials, you must file a *Construction Project Cost Report* and remit any additional tax due

within 30 days of the date of final inspection or the Certificate of Occupancy, whichever occurs later. A *Construction Project Cost Report* form can be obtained in the Westminster Tax Forms section of the City website.

Note: The City may audit a construction project for up to three years after a *Construction Project Cost Report* is filed to determine if a tax overpayment or deficiency exists. If a *Project Cost Report* is not filed, the tax due may be assessed at any time. Also note that any use tax deficiency automatically becomes a lien upon the real property improved by the addition of the construction materials. Contractors are therefore strongly encouraged to reconcile the cost of construction materials at the conclusion of projects using the *Project Cost Report* form.

### **I hired sub-contractors to build certain parts of the project. How do I treat the materials they use?**

The *Westminster Municipal Code* specifies that the person responsible for obtaining a building permit is liable for all use taxes due. In computing the actual materials cost, you must include the actual cost of materials used by any sub-contractors. You should furnish copies of the permit to any sub-contractors so that they too may avoid local sales tax on materials. You may not take credit for any sales or use taxes paid by sub-contractors to Westminster or another municipality. Sub-contractors must seek a refund of such taxes themselves as discussed above. Each sub-contractor will be responsible for declaring and paying tax on any construction equipment used.

### **What if the property owner supplies the materials?**

Similarly, the cost of materials supplied by the property owner must be included in the computation of the actual materials cost without credit for any sales or use taxes paid by the owner.

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## **Related Topics**

Construction – Use Tax Reconciliation  
 Construction – Equipment  
 Construction – Projects for Tax Exempt Organizations  
 Construction – Sign Permits  
 Construction – Solar Systems

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## **Citations**

*Westminster Municipal Code*  
 § 4-1-7. Returns Required; Time for Filing and Paying Total Tax Liability  
 § 4-1-11. Audit of Records  
 § 4-1-16. Tax Overpayments by Purchasers  
 § 4-1-17. Claim for Refund  
 § 4-1-28. Lien for Tax Due  
 § 4-1-36. Statute of Limitations  
 § 4-2-2. Definitions

### § 4-2-9. Provisions Relative to Construction Materials

THIS GUIDANCE IS A SUMMARY IN LAYMEN'S TERMS OF THE RELEVANT WESTMINSTER TAX LAW FOR THIS TOPIC, INDUSTRY, OR BUSINESS SEGMENT. IT IS PROVIDED FOR THE CONVENIENCE OF TAXPAYERS AND IS NOT BINDING UPON THE CITY. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE WESTMINSTER MUNICIPAL CODE AND APPLICABLE RULES AND REGULATIONS. THIS GUIDE DOES NOT CONSTITUTE A CITY TAX POLICY.

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## **Contact Us**

For additional assistance, please contact us:

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 Sales Tax Division  
 4800 West 92<sup>nd</sup> Avenue  
 Westminster, CO 80031

**Phone:** (303) 658-2065

**Fax:** (303) 706-3923

**E-mail address:** [salestax@westminsterco.gov](mailto:salestax@westminsterco.gov)

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