
Tax Compliance Guide

Disputed Tax & Burden of Proof Topic 337

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The *Westminster Municipal Code* states that every retailer engaged in business in the City is responsible for the collection and payment of applicable taxes. Despite the purchaser's obligation to pay use tax, the Code also obligates the retailer to prove that they are exempt from collecting applicable taxes on any particular transaction or item. The taxes due are computed by applying the applicable tax rate to all taxable sales even if the retailer failed to collect the taxes due. Therefore, retailers should scrutinize transactions that purchasers claim are exempt to ensure compliance with the Code. Note that no retailer is permitted to retain any taxes collected in excess of the aforementioned liability.

Should a dispute arise between a retailer and a purchaser as to whether a transaction or item is subject to tax, and in order to avoid potential loss resulting from improper exemption, the retailer is required by Code to collect the tax in dispute from the purchaser. The purchaser may then submit a *Claim for Refund* form to the City within 60 days of the purchase. This form is available in the *Tax and License Toolbox* section of the City website or by contacting the Sales Tax Division. If the Sales Tax Division determines the transaction was in fact exempt from tax, a refund will be issued directly to the purchaser.

Examples

1. Retailer A, a licensed Westminster retailer, sells tools, hardware, and construction materials. A purchaser presents Retailer A with a valid Westminster resale license for the purchase of various tools. Retailer A, however, is not sure whether or not the tools are actually resold in the normal course of the purchaser's business. Retailer A should collect Westminster sales tax on the purchase price of the tools. The purchaser can then submit the invoice to the Sales Tax Division within 60 days of the purchase along with a *Claim for Refund* form and evidence that the items purchased are actually resold in the normal course of business.
2. A non-profit organization (Non-Profit X) from Wyoming registers at Hotel B and presents credentials from the State of Wyoming indicating they are tax exempt. Non-Profit X claims they should not be subject to City accommodations tax, but Hotel B is not sure whether the organization qualifies for exemption under Westminster's Code, as they do not possess a *Certificate of Tax Exemption* from the City of Westminster. Hotel B should collect accommodations tax. Non-Profit X can then submit the folio to the Sales Tax Division within 60 days of the purchase along with a *Claim for Refund* form.

Related Topics

Governments & Charitable Organizations
Wholesale Sales

Citations

Westminster Municipal Code
§ 4-1-2. Exemption; Burden of Proof
§ 4-1-5. Retailer Responsible for Collection and Payment of Tax
§ 4-1-16. Tax Overpayments by Purchasers
§ 4-1-17. Claim for Refund

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