
Tax Compliance Guide

Restaurants & Bars Topic 356

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Restaurants, bars, and other food & beverage establishments engaged in business in Westminster are responsible for the collection and payment of sales tax and for the payment of sales/use tax. Certain establishments may also be responsible for the collection and payment of admissions tax. Restaurants & bars are required to report and pay taxes on a monthly basis.

Sales by Restaurants & Bars (Sales Tax)

The *Westminster Municipal Code* imposes a sales tax upon the purchase price paid for tangible personal property and certain services sold at retail. The sales tax must be shown as a separate and distinct charge. Sales tax may only be included in the price of liquor sold by the drink, the price of items vended through "coin operated" vending devices, and the price for the utilization of "coin operated" devices. Common examples of taxable sales in restaurants and bars include, but are not limited to:

- ❖ Food, beverages, and liquor, including charges for mandatory tips & gratuities.
- ❖ Restaurant Merchandise - Such as promotional clothing, glasses, and other sundry items.
- ❖ Vending machine sales - Sales of tangible personal property such as snacks, soft-drinks, and sundries, from vending machines are taxable. The tax may be included in the price of the goods and is not required if the price of the item sold is less than \$0.15.
- ❖ "Coin Operated" Devices -The utilization of coin operated devices, such as pool tables and amusement devices, is considered a short-term rental of the device. Such rental is subject to tax, which may be included in the price of rental. This tax applies regardless of the method of collection and payment for the rental charge including credit/debit cards, pre-paid cards or vouchers, or collection by an attendant.

Governments and charitable organizations are exempt from paying sales tax provided that the sales are paid directly to the seller by the funds of the organization and the organization is not being reimbursed.

Purchases by Restaurants & Bars (Sales/Use Tax)

Restaurants and bars, like other retailers, must pay Westminster sales tax on the purchase price paid for tangible personal property and taxable services used in the business which is not for resale. If a sufficient, legally-imposed sales or use tax has not been previously paid to the City or another municipality, a use tax must be reported and paid directly to the City. Special attention should be given to the amount of tax collected, as vendors may be collecting State sales taxes but not City sales tax. Moreover, credit is not allowed for taxes collected and remitted to another city if the property is delivered to, or the services are provided in Westminster. Use tax is reported in detail on Schedule B and in summary on line 8 of the periodic City sales/use tax return.

Common examples of property and services subject to sales/use tax for restaurants and bars include, but are not limited to:

- ❖ Complimentary Meals - The cost of complimentary meals provided to customers or employees is subject to City use tax. Because food and beverage inventory is generally purchased tax free for resale, this tax must be self-imposed as a use tax.
- ❖ Furniture & Equipment - Fixed assets such as restaurant and office furniture, fixtures, point of sale and other computer hardware and software, and kitchen equipment, whether purchased, leased, or rented from sources inside or outside the City, is subject to City sales/use tax.
- ❖ Gas, electricity, and steam - There is no exemption for gas, electricity, or steam used in the kitchen for food production.
- ❖ Pay Television Services
- ❖ Repair Materials - The purchase price paid for parts and materials used in repair work, such as plumbing, landscaping, or other time & materials jobs is subject to City sales/use tax. Installation labor is not subject to tax provided it is separately stated on the invoice.

- ❖ Other Tangible Personal Property & Taxable Services – Other supplies, including, but not limited to, office, cleaning, and maintenance supplies, subscriptions, uniforms, promotional items, forms, publications, linens, small wares, tools, kitchen utensils, plants and decorations, and other similar items are subject to City sales/use tax.

Food and beverage inventory may be purchased for resale provided that it meets the qualifications of a wholesale sale. Disposable napkins, straws, eating utensils and food containers may also be purchased for resale provided that:

1. the items are used in the consumption of food purchased (use by the business in the kitchen would not apply);
2. the cost of the property is included in the price of an item which is sold separately, rather than included in the price of a service; and
3. the property is not returnable or intended for reuse.

Admissions Tax

An admissions tax is imposed on the purchase price paid for the right or privilege of admission to a performance of a motion picture open to the public, or an establishment open to the public that is licensed to sell, dispense, or serve fermented malt, or any public display of live animals and/or plants, including insects or fish. Additionally, admissions tax is imposed upon any charge for the right or privilege to the use of bowling alleys and pin setters for bowling balls in a bowling alley open to the public, including charges for bowling by the line. This tax applies to restaurants and bars collecting a “cover charge” for admission. The tax may be included in the price of admission.

Examples

1. Bar A imposes a \$3 cover charge for admission on Friday nights. This charge is subject to Westminster admissions tax, which may be included in the \$3 total.
2. Bar A also sells mixed drinks for \$2.50 per drink at the bar. This charge is subject to Westminster sales tax, which may be included in the \$2.50 total.
3. At Bar A, customers can rent pool tables for a fee of \$2 per hour. This fee is collected by the bartender when the customer returns the pool balls. This charge is subject to Westminster sales tax, which may be included in the \$2 total.
4. Restaurant B purchases food inventory, to-go boxes, restaurant dishes, and kitchen utensils from a vendor outside the City who does not collect Westminster sales tax. Restaurant B must report and pay a use tax on the restaurant dishes and kitchen

utensils on their next periodic City sales/use tax Return.

5. Restaurant B offers employees a 10% discount on all food purchased by employees. Westminster sales tax would be due on the discounted price.
6. Restaurant B gives its managers a free meal during their shift. Restaurant B must report and pay a use tax on its cost of the free meal.

Related Topics

“Coin Operated” Devices
Coupons, Discounts, & Promotional Items
Employee Sales
Exempt Purchases Converted to Taxable Use
Food
Gas, Electricity, & Steam
Governments & Charitable Organizations
Linen Rental & Service
Lodging Industry
Tips & Gratuities
Wholesale Sales

Citations

Westminster Municipal Code
§ 4-1-5. Retailer Responsible for Collection & Payment of Tax
§ 4-2-3. Rate; Imposition and Collection; Distribution
§ 4-2-5. Transactions & Items Subject to Tax
§ 4-2-6. Exemptions from Sales Tax
§ 4-3-3. Excise Tax based on Admissions.

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