
Tax Compliance Guide

Tips & Gratuities Topic 363

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The *Westminster Municipal Code* imposes a sales tax upon the purchase price paid for tangible personal property and certain services sold at retail. Such property includes, but is not limited to, food or meals sold by restaurants, bars and other food service establishments. The purchase price is defined broadly as “the price to the consumer” and includes “the amount of money received or due in cash or credits”. This broad definition encompasses the aggregate amount of consideration surrendered by the consumer in consummation of a sale. Retailers may not avoid the collection and payment of tax by categorizing charges as non-taxable service.

Food service establishments that charge mandatory gratuity charges must include such charges in the taxable purchase price even though the full amount of the gratuity may be paid to the server. Retailers who include a suggested gratuity on the bill which is not mandatory and may be reduced by the purchaser need not collect tax on this charge. The retailer’s policy of allowing the purchaser to reduce the gratuity must be clearly stated on the menu or the receipt. Similarly, retailers should not collect or remit tax on voluntary tips and gratuities added to the total by the purchaser.

Mandatory service charges added by catering services or banquet halls to the price of food must be similarly taxed.

Examples

1. Restaurant charges a mandatory gratuity of 18% for parties of 8 or more. The bill for a party of 10 included \$200 for meals, a \$50 bar tab, and a \$45 mandatory gratuity. Restaurant must collect sales tax on the entire bill (\$295).

Related Topics

Restaurants & Bars

Citations

- § 4-1-5. Retailer Responsible for Collection & Payment of Tax
- § 4-2-2. Definitions
- § 4-2-5. Transactions & Items Subject to Tax

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