
Tax Compliance Guide

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Samples, Demonstrations, & Displays Topic 369

(06/2009)

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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. Tangible personal property used by a retailer, wholesaler, or salesperson to sample, demonstrate, or display goods available for sale is subject to Westminster sales tax unless the goods will be resold in an unaltered state and basically unused by purchaser. 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. This may occur if sample units are purchased as part of a quantity of units for resale.

The intent of the purchaser to subsequently resell sample units does not necessarily qualify the units for exemption even if the units are carried as "inventory" on the purchaser's books. Rather, the purchaser must show clearly that the primary purpose of the purchase is resale in an unaltered condition and basically unused by the purchaser. In general, taxation is the rule and exemption the rare exception. If the sample units are subsequently resold, sales tax must be collected on the sales price at that time.

The basis of the use tax is the purchase price paid for the sample, display or demonstrator units. No reduction in the tax is permitted on account of the length of time the sample units are used, the amount of consumption, or tax collected on future sales of the units. If the sample units are fabricated by the user, the basis of the tax is the cost of raw materials.

Examples

1. Company A is a Westminster electronics retailer. To induce customers to purchase goods, Company A uses some of its inventory as demonstrator units on its sales floor. These demonstrator units are connected to a power source and are operated during store hours. Company A does not adjust its inventory values on its books, as these units will ultimately be resold.

Because Company A is using these units, they must pay use tax on the price they paid when they purchased the inventory at wholesale. Company A must also collect sales tax on the price charged when the demonstrator units are subsequently resold.

2. Company B is a furniture retailer with a showroom in Westminster. Company B uses furniture, rugs, and decorative accessories and fabric swatches in its showroom. Customers who like the furniture select the desired fabric pattern and place an order. Some orders are filled immediately with stock in Company B's attached warehouse and others are fabricated and delivered to the customer at a later date. Some of the floor samples are eventually touched up and sold at full retail price. The rest are discarded. The decorative accessories are either re-used or discarded.

Company B must pay a use tax on all of the floor samples and decorative accessories. Company B must also collect sales tax on the price charged for the floor samples that are subsequently resold.

3. Company C is a grocer. On the weekends, Company C offers its customers samples of food taken from inventory and prepared. Company C must pay use tax on its cost of the inventory, including any napkins, toothpicks, disposable cups, etc, which it uses to distribute the samples.
4. Company D is a shoe retailer. Customers at Company D's store try on shoes for fit and appearance. Customers may briefly walk in the shoes within the store, but they must use socks and cannot remove them from the store to prevent wear. If the customer is satisfied with the sampled pair of shoes, they purchase that pair. Because the shoes are sold in an unaltered condition and basically unused, Company D does not owe a use tax. Company D must collect a sales tax on the price charged for the shoes.
5. Company E is a second hand store. It acquires used goods for sale from its retail storefront in

Westminster. Company E places its inventory on its sales floor for sale in an “as is-where is” condition. Although Company E is displaying its goods, the goods are sold in an unaltered condition subsequent to Company E’s acquisition. The fact that the goods are used when Company E acquires them does not subject Company E to a tax on such acquisition. When Company E subsequently sells the goods at retail, it must collect a sales tax on the price charged even though tax may have been collected on a previous transactions involving the goods when they were purchased new.

Related Topics

Coupons, Discounts, & Promotional Items
Properly Exempted Purchases Converted to Taxable Use

Citations

Westminster Municipal Code

§ 4-1-2. Exemption; Burden of Proof

§ 4-1-3. Deductions & Credits

§ 4-2-3. Rate; Imposition & Collection; Distribution

§ 4-2-5. Transactions & Items Subject to Tax

§ 4-2-6. Exemptions from Sales Tax

§ 4-2-7. Exemptions from Use Tax

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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