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## Tax Compliance Guide

### Sales Tax Topic 358

(03/2016)

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Every person who is engaged in business in Westminster must obtain a sales/use tax license. The *Westminster Municipal Code* imposes a sales tax upon the purchase price paid for tangible personal property and certain taxable services purchased at retail in the City. Retailers are responsible to collect this tax on behalf of the City and remit it periodically on City sales/use tax returns. Even those retailers without a commercial establishment in the City may be engaged in business in the City and responsible for the collection and payment of tax.

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### Tax Added to the Price

Retailers must add the tax due to the taxable purchase price showing it as a separate and distinct item. Retailers may not advertise, state, or otherwise hold out, directly or indirectly, to the public or to any consumer that tax will be assumed or absorbed by the retailer or is otherwise included in the price, will not be added to the price, or will be refunded. For sales tax, there are two exceptions. The sales tax may be included in the price of malt, vinous, or spirituous liquor sold by the drink. Sales tax may also be included in the price of items vended from coin-operated devices or the price of using coin-operated devices.

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### Exempt Sales

Every retailer must remit sales tax equal to or greater than (see excess tax below) the total taxable sales for the reporting period multiplied by the specified rate even if they did not collect as much. The burden of proving that any transaction or item is exempt from City sales tax is on the retailer, who will be held liable for tax due as a result of the City's disallowance of an exempted transaction or item. Improper exemption may also result in penalties and interest in addition to payment of the resulting tax deficiency. Should a dispute arise between a retailer and purchaser as to whether a transaction or item is subject to tax, the retailer is required to collect the tax and the purchaser may apply for a refund from the City directly within 60 days of the date of the purchase.

The Code is written broadly with the intent of imposing tax upon the vast majority of transactions. Taxation is the rule and exemption the rare exception. Exemptions from sales tax are specifically identified in the Code and may not be increased by implication or similarity. In other words, transactions and items are subject to tax unless explicitly exempted.

As a home-rule City, Westminster administers its own tax program independent of the State of Colorado and other Colorado home-rule municipalities. It is important to note that Westminster taxes some items & transactions differently than the State and other home-rule jurisdictions. The following is a

list of some of the items that are taxed by the City which may not be taxed by other jurisdictions:

- ❖ Pay television;
- ❖ Natural gas and electricity for use in manufacturing, for use in food preparation, and for residential use;
- ❖ Pre-press printing supplies for one-time use;
- ❖ Medical supplies for one-time use;
- ❖ Equipment used in manufacturing;
- ❖ Freight, delivery, and transportation charges;
- ❖ Food for home consumption;
- ❖ Interstate and international telecommunications;
- ❖ Rentals of storage space within the City; and
- ❖ Utilization of "coin operated" devices.
- ❖ Digital Goods
- ❖ Pre-written software regardless of the means by which it is accessed or the medium of conveyance

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### Trust Status of Taxes Collected & Excess Tax

Sales tax collected by any retailer on behalf of the City remains property of the City at all times. Retailers hold these taxes in trust for the sole use and benefit of the City until paid. All City sales tax collected by a retailer must be remitted to the City. Remittance to the Colorado Department of Revenue or any other taxing authority does not relieve a retailer of their liability to the City. Retailers are encouraged to deposit City sales tax in a separate account to segregate it from other business funds. Should a retailer collect tax in excess of the computed tax due, such tax must be reported as excess tax (line 6) and paid to the City.

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### Deductions & Credits

If a retailer includes the following items in the reported gross sales (line 1), they may be deducted on line 3 of the periodic City sales/use tax return:

- ❖ **Refunds/Returned Goods** – The taxable purchase price refunded for tangible personal property or taxable services may be deducted if (1) the original taxable purchase price was included in the gross sales of the current return or any previous return filed to the extent the statute of limitations has not expired; and (2) the original taxable purchase price and the City sales tax thereon have been refunded in cash or credit to the purchaser.
- ❖ **Bad Debts** – If a taxable sale on account (other than a secured sale) is subsequently found to be worthless, and is actually and properly charged off by the retailer as a bad

debt for Federal income tax purposes, the uncollectible amount of the taxable purchase price may be deducted provided that the original taxable purchase price was included in the sales of the current return or any previous return filed to the extent the statute of limitations has not expired. If the debt is subsequently collected, the taxable purchase price must be reported on line 2 of the periodic City sales/use tax return.

- ❖ **Interest & Finance Charges** – If separately stated from the price, interest & finance charges are not subject to sales/use tax. If these charges have been properly exempted, and included in gross sales, they may be deducted.
- ❖ **Other deductions** – The remaining items on line 3 of the periodic City sales/use tax return are used to deduct sales of common items or services exempted from or not subject to Westminster sales tax. Allowable deductions not included on lines 3A through 3I may be listed on lines 3J, 3K, and 3L along with a description of the deduction. Taxpayers should exercise care in determining that such “other deductions” are allowable in order to avoid tax deficiencies, penalties and interest charges.

If the total deductions and credits exceed gross sales, a *Claim for Refund* form must be submitted with the return. This form is available in the *Tax and License Toolbox* section of the City website or may be obtained by contacting the Sales Tax Division.

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## Deliveries

Westminster sales tax only applies to transactions where delivery of the property or services occurs in the City. Westminster retailers need not collect Westminster sales tax on items delivered outside the City. Retailers located outside of Westminster making deliveries into the City must collect Westminster sales tax. In determining whether or not a specific address is inside or outside the City, retailers are encouraged to use the electronic location databases certified by the Colorado Department of Revenue pursuant to *Colorado Revised Statutes* § 39-26-105.3. Retailers are cautioned that mailing addresses and zip codes do not coincide with City boundaries and are not a reliable source for determining taxability.

Further, because the post offices servicing much of the City are located in neighboring cities, a purchaser’s mailing address may be misleading. For example, of the ten zip codes in which Westminster resides, only two actually use Westminster mailing addresses. Customers with Arvada, Broomfield, or Denver mailing addresses may actually be located in Westminster. Note that the retailer is responsible for collecting the appropriate tax.

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## Collection Fee

For all returns due on or after February 1, 2011, retailers will no longer be paid a collection and remittance fee or “vendor fee”. Retailers should adjust their systems to ensure the gross tax due on all taxable sales, plus any excess tax collected, is remitted to the City without offsetting the collection fee (formerly 2.50% up to \$100).

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## Related Topics

Bad Debts  
 Business Registration & Licensing  
 Credit, Installment, & Secured Sales  
 Deliveries Outside the City  
 Disputed Tax & Burden of Proof  
 Electronic Location Databases  
 Filing Frequencies & Due Dates  
 Governments & Charitable Organizations  
 Home Rule Cities  
 Internet Sales/Purchases  
 Occasional Sales

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## Citations

*Westminster Municipal Code*  
 § 4-1-2. Exemption; Burden of Proof  
 § 4-1-3. Deductions & Credits  
 § 4-1-5. Retailer Responsible for Collection & Payment of Tax  
 § 4-1-6. Trust Status of Tax in Possession of Retailer  
 § 4-2-2. Words & Phrases Defined  
 § 4-2-3. Rate; Imposition and Collection; Distribution  
 § 4-2-5. Transactions & Items Subject to Tax  
 § 4-2-6. Exemptions from Sales Tax  
 § 4-2-8. Secured Sales Transactions

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:

City of Westminster  
 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