

TAX GUIDE

The City of Louisville, Sales Tax and Licensing Division is pleased to offer this comprehensive guide to the administration and taxation of products and services. This general guidance is offered as a service to taxpayers and is intended to be used as an interpretive tool in layman's terms in order to better understand the intent of the Louisville Municipal Code (LMC). We hope that you find this information helpful and easy to understand. This guide is not intended for legal purposes or to be substituted for the full text of the LMC. This guide does not constitute a City tax policy.

TABLE OF CONTENTS

A

ABSORPTION OF TAX/EXCESS TAX
AGRICULTURAL COMMODITIES
APARTMENT BUILDINGS & PROPERTY MANAGEMENT COMPANIES
ASSESSMENTS
AUCTIONS/FARM CLOSE-OUT SALES
AUDIT STATEMENT OF UNDERSTANDING
AUDITS
AUTOMOTIVE SERVICE & REPAIR
AUTOMOTIVE VEHICLE PURCHASES

B

BAD DEBTS
BARBERS, BEAUTY SHOPS AND SALONS
BUNDLED TANGIBLE PERSONAL PROPERTY & SERVICES

C

CALCULATING PREVIOUSLY PAID SALES/USE TAX
CATERERS AND CATERING
CEMETERIES, FUNERAL HOMES, MORTICIANS
CIGARETTES, CIGARS AND TOBACCO
COINS AND PRECIOUS METAL BULLION
CONFIDENTIALITY
CONSIGNMENTS
CONSTRUCTION AND CONTRACTORS
CONTRACTED FOOD SERVICE PROVIDERS, CAFETERIAS
COUPONS, GIFT CERTIFICATES AND TRADE DISCOUNTS

D

DELIVERIES OUTSIDE THE CITY

TABLE OF CONTENTS (Continued)

DIGITAL PRODUCT
DIRECT SALES COMPANIES
DISPUTE RESOLUTION, HEARINGS & APPEALS

E

ENGAGED IN BUSINESS IN THE CITY

F

FILING PERIODS AND DUE DATES
FINANCE, INSURANCE INSTITUTIONS
FOOD FOR HOME CONSUMPTION AND FOOD AND DRINK
FREIGHT, DELIVERY AND TRANSPORTATION

G

GARAGE SALES
GAS, ELECTRIC AND STEAM
GOVERNMENT, CHARITABLE & COMMUNITY ORGANIZATIONS
GRAVEL, READY-MIX CONCRETE, SAND

H

HOLD-HARMLESS, ELECTRONIC ADDRESS DATABASES
HOME-BASED BUSINESSES AND OCCUPATIONS
HOME RULE CITIES

I

ICE
INTERNET SALES AND PURCHASES

L

LAY-A-WAY SERVICE AND CANCELLATION FEES
LEASED AND RENTED PROPERTY, CREDIT SALES
LICENSES, SUBSCRIPTIONS & ROYALTIES
LIENS, FORECLOSURE & COUNTY CERTIFICATION
LINEN RENTAL AND SERVICES
LODGING INDUSTRY
LODGING TAX
LOUISVILLE LICENSING REQUIREMENTS

M

MAINTENANCE AND DECORATING SERVICES

TABLE OF CONTENTS (Continued)

**MAINTENANCE AND SERVICE AGREEMENTS
MANUFACTURING & FABRICATION
MEDICAL & DENTAL SERVICE PROVIDERS
MEDICAL EXEMPTIONS
MOBILE RETAIL FOOD VENDING
MOTOR FUELS & SPECIAL FUELS**

N

**NEWSPAPERS, MAGAZINES & PUBLICATIONS
NEXUS AND TAX COLLECTION**

P

**PACKAGING, FREIGHT AND DELIVERY
PAYMENT OF TAXES
PEDDLERS, SOLICITORS AND VENDORS
PENALTIES, INTEREST & OTHER COSTS
PHOTOGRAPHERS, PHOTOFINISHERS
PRINTERS AND PRINTING
PRIOR USE, PRE-OWNED PROPERTY, INITIAL USE
PROFESSIONAL SERVICES
PURCHASE OR SALE OF A BUSINESS**

R

**REFUNDS
RESTAURANTS AND BARS**

S

**SALES TAX
SAMPLES, DEMONSTRATIONS & DISPLAYS
SECURITY SYSTEM SERVICES
SOFTWARE
SPECIAL EVENT VENDORS
STATUTE OF LIMITATIONS
STORAGE FACILITY**

T

**TAXPAYER RESPONSIBILITIES, UNLAWFUL ACTS
TELECOMMUNICATIONS
TIPS AND GRATUITIES
TRADE-INS**



COLORADO • SINCE 1878

TABLE OF CONTENTS (Continued)

U

UPHOLSTERERS

USE TAX

V

VENDING AND COIN-OPERATED DEVICES

VENDOR FEE OR SERVICE FEE DEDUCTION

VETERINARIANS

W

WHOLESALE SALES

The Louisville Municipal Code (LMC) prohibits any retailer to advertise or state to the public or to any customer, directly or indirectly, that the sales tax imposed by the LMC will be assumed or absorbed by the retailer, or that the tax will not be added to the selling price of the property being sold.

The Louisville Municipal Code (LMC) provides that each retailer shall add the tax imposed to the sale price or charge and that such tax must be shown as a separate and distinct item and included as part of the full purchase price. This means that tax may never be combined with other fees or charges. All such amounts indicated as tax and collected, must be remitted to the proper taxing authority and may not be retained by the retailer.

If a retailer collects as sales tax, an amount greater than the tax imposed under the LMC, the retailer is required to remit to the City the full amount of tax due and also all excess amounts collected.

Only retailers selling liquor by the drink or vending machine operators are permitted to include the tax in the price of the purchase; however, such retailers may not advertise, hold out or state to the public in any manner, directly or indirectly, that the tax is not included as part of the sale price.

See Tax Guide topics “Restaurants and Bars”, “Vending and Coin-Operated Devices”, and “Special Event Vendors”, for additional information.

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The Louisville Municipal Code (LMC) defines agricultural commodities as those contained in the Colorado Revised Statutes (C.R.S. §35-28-104(1), as amended) as well as sugar beets, timber and timber products, oats, malting barley, barley, hops, rice, milo, and other feed grain.

The activities qualifying for exemption are agricultural, viticultural, fruit, vegetable, milk, honey, poultry, egg and livestock production. Livestock means cattle, horses, mules, burros, sheep, lambs, poultry, swine, ostrich, llama, alpaca and goats or other animal raised for food, fiber or hide production, and alternative livestock under §C.R.S. 35-41.5-102, but not pet animals as defined in C.R.S. §35-80-102(10).

The LMC exempts agricultural commodities from City sales tax provided they are consumed by, administered to, or otherwise used in a qualifying agricultural activity.

Agricultural compounds are subject to City sales tax.

Agricultural pesticides are subject to City sales tax.

Farm equipment is subject to City sales tax.

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The Louisville Municipal Code (LMC) imposes a sales tax upon the purchase price paid for tangible personal property and certain taxable services in the City by the ultimate user or consumer. The LMC also imposes a use tax upon using, storing, distributing or otherwise consuming in the City any article of tangible personal property or services purchased, leased or rented from sources outside the City on which a lawfully imposed sales tax has not been paid.

The amount of rent paid for the use of residential or commercial properties is not subject to Louisville sales tax or lodging tax as long as the rental contract is for a period of at least 30 consecutive days or more.

Owners and managers of residential and commercial rental properties (“Companies”) in the City of Louisville are required to have a City sales/use tax license and are responsible to pay sales tax on items purchased, leased or rented for use in their properties. In the event that a lawfully imposed, or lesser municipal tax rate is paid, or no municipal tax is paid, then use tax is due to the City of Louisville.

Some building enhancements or repairs may require a building permit in which case City use tax will be collected on the permit. The building permit will exempt the Companies from paying additional city and county sales taxes to the retailers of the building materials when purchased.

Other non-permitted building materials, repairs or purchases are subject to sales or use tax.

Examples

- A. Apartment Complex A purchases all new commercial washer and dryer units for the laundry facility from online Retailer B for delivery to the Louisville Apartment Complex. They hire a Louisville plumber to remove the old units and install the new units. The Complex is charged \$5,800 for the units plus freight of \$300. The plumber charges \$500 for labor and \$85 plus tax for miscellaneous hoses, clamps and PVC extensions.

Because Retailer B did not charge any sales tax for the new washer and dryer units, use tax is due from the Complex to the City on the \$5,800 purchase price. Louisville does not tax shipping or freight charges when separately stated. No additional tax is due the City for the installation because the plumber separately stated his labor and charged City sales tax on the parts he used.

- B. Property Management Company C owns and leases several commercial office buildings in Louisville. In the lobby of one of their buildings, the Company has placed a soda vending machine and a candy vending machine which they own. Anyone who works in the building or visits the building can purchase the soda or candy. Because Company C owns the vending machines (and collects the money from the machines), the Company is required to pay City sales tax (which is included in the sale price of the soda and candy).
- C. Property Management Company C owns another office building in which there are six fully furnished office suites. The Company bought \$20,000 of furniture for the suites from a Denver vendor and had it delivered to Louisville. The Denver vendor charged \$200 for delivery and collected only State and RTD sales tax on the \$20,000 purchase.

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The Company charges the tenants \$4,000 a month for each furnished suite.

The Company owes City use tax on the \$20,000 price of the furniture that was delivered. No City tax is due on the delivery fee because it was separately stated.

Even though part of the monthly lease price of \$4,000 includes the leasing of tangible personal property, the lease amount of \$4,000 is not subject to City sales tax. The Company is not in the business of leasing tangible personal property and therefore may not purchase the furniture without payment of sales tax, nor may they charge sales tax. Since the Company is deemed the consumer of the furniture, and the amount of any rental fee charged to the tenant is an inconsequential part of the lease payment, no City sales tax is due on the lease payment. The Company must carry the furniture on their books and be responsible to pay any personal property taxes.

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When the City of Louisville determines that a tax deficiency exists, a Notice of Final Determination, Assessment and Demand for Payment is issued to the taxpayer. This is a legal notice and demand for payment, and should be read carefully, as immediate action is required.

Authority of the Finance Director

A Notice of Final Determination, Assessment and Demand for Payment may be issued for a tax deficiency or estimated tax deficiency resulting from an audit of the taxpayers' records, an underpayment of an amount due on a City tax return, for failure to file a City tax return, or for failure to provide adequate records for an audit.

If the Finance Director determines that any taxpayer has neglected or refused to provide adequate books, accounts and records requested for audit, or that any taxpayer has failed, neglected or refused to collect the tax, to file a tax return, or to pay in full the tax required, the Finance Director may estimate the total tax liability. If estimated, the amount due will be based upon available information, with or without employing the investigative powers of the Finance Director.

So long as a Final Determination, Assessment and Demand for Payment or Jeopardy Assessment remains unpaid, the Finance Director may commence any one or more of the following enforcement procedures:

Request revocation of the taxpayer's sales and use tax license;

Request a summons be issued to the taxpayer to appear in Municipal Court;

Issue a Dstraint Warrant pursuant to LMC 3.20;

Secure the unpaid taxes, penalties and interest by filing a Tax Lien pursuant to LMC 3.20

The Finance Director is authorized to waive, for good cause shown, any penalties assessed. A written request seeking abatement of penalties must be submitted to the Finance Director prior to the payment date for consideration. The LMC does not permit interest to be waived.

Taxpayer Action and Due Dates

A Notice of Final Determination, Assessment and Demand for Payment becomes final, due and payable 30 days from the date of mailing, and such payment must be postmarked on or before the payment due date. The deadline for payment cannot be extended and a taxpayer may not protest the assessed amount or file an appeal once the due date passes.

Options available to satisfy the assessment:

The taxpayer may file the missing tax return and remit payment for the actual taxes due along with any applicable penalties and interest;

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The taxpayer may remit any underpayment amount including applicable penalties and interest;

The taxpayer may remit the amount of the assessment including penalties and interest;

Or, the taxpayer may file a written appeal to the City Finance Director.

Jeopardy Assessment

If the collection of any tax due from a taxpayer, whether or not previously assessed, will be jeopardized by delay, the Finance Director may declare the taxable period immediately terminated, determine the tax, and issue a Jeopardy Assessment and demand for payment which is due and payable immediately.

If deemed satisfactory, the Finance Director may grant a stay of the Jeopardy Assessment if the taxpayer gives security for payment of the taxes.

If the taxpayer disputes the amounts assessed in the Jeopardy Assessment, the taxpayer should pay the full amount assessed and submit a refund claim form or request a hearing.

Penalties and Interest

A Notice of Final Determination, Assessment and Demand for Payment or a Jeopardy Assessment, will include penalty and interest charges. Penalties are assessed at 10% of the tax due (with a minimum of \$15) and simple interest at the rate of 1% per month or part of a month. Special penalties may also apply under certain circumstances.

Burden of Proof

The burden of proof that any items, services, privileges, occupations, or other transactions for which abatement, modification, or exemption from assessed taxation is requested shall be on the taxpayer.

See Tax Guide publications “Penalties, Interest & Other Costs”, “Liens, Foreclosure & County Certification”, and “Dispute Resolution, Hearings & Appeals” for additional information.

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The Louisville Municipal Code (LMC) imposes its sales tax on the purchase price of tangible personal property and certain taxable services in the City by the ultimate user or consumer.

Auction means any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner of the property.

Farm close-out sale means full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations which are being abandoned.

Sales from a farm close-out sale are exempt from City sales tax.

Sales from any other auction conducted in the City are subject to sales tax on the purchase price paid for the tangible personal property. Subsequent delivery of any auctioned items does not exempt the purchaser from paying Louisville sales tax when the auction occurs in the City.

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So you have received an audit engagement letter and now have questions on what this means to you. This document is intended to: outline the audit process; discuss the documents that will be reviewed and why we ask for them; set forth a general timeline; and most of all, assure you that your information will be kept confidential.

Audit Statute of Limitations

In most cases, the City may audit up to 36 months (3 years) from the date the taxes were due or returns were filed, whichever is greater. The period becomes fixed by the City's written audit engagement letter and shall "toll" or continue the running of the statute of limitations. The City may also extend the period of limitation by entering into a written agreement (waiver) between the taxpayer and the Finance Director. The City may conduct an audit of a taxpayer that has been in business for fewer than 3 years. If the taxpayer has filed a false or fraudulent return, has failed to file a return, or has not obtained a City of Louisville sales/use tax license, the City may collect taxes for a period greater than 3 years.

Location of Audit

Audits are generally conducted by the City's tax auditors who are familiar with generally accepted accounting principles and auditing standards. Occasionally, it is necessary to use professional accounting services to conduct City audits. These entities are versed in the requirements of the Louisville Municipal Code (LMC) and the ethical and professional standards required by the City. Audits are usually conducted at the location where the taxpayer's records are maintained. This can be the taxpayer's place of business, headquarters, or an accountant's office. Records can also be examined at City Hall if space is an issue, or electronically if records are not available locally. Every effort will be made to conduct the audit at a time and location that is mutually convenient.

If a taxpayer does not wish to make records available within the City, the taxpayer must enter into a binding agreement with the City to reimburse the City for all expenses incurred to travel to the location where records are located. In addition, the City is entitled to charge an additional hourly fee for excessive time spent locating, pulling, copying, or in any way assembling taxpayer records for audit.

Required Records

The engagement letter includes a general list of records required to conduct the audit. Your own records may vary from these depending on your accounting system. The City auditor will be in touch with you before the audit begins to review the documents needed and to answer any of your questions.

Generally, the records requested may include the following:

- Chart of accounts and other accounting system legends describing department codes, locations codes, commodity codes, tax codes, or other codes necessary to understand your accounting system and data
- Reports detailing how City tax returns were calculated

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- Detailed ledgers of sales and/or purchase transactions
- Trial balances, income statements, or profit and loss reports

Records specific to Sales and Lodging Tax for sampling purposes may include:

- Sales invoices, billings, or receipts detailing the items purchased, the purchase price, the tax collected and the delivery address
- Documentation supporting exempted sales

Records specific to Use Tax for sampling purposes may include:

- Purchase invoices for supplies and services not held in inventory for resale
- Purchase invoices for capital assets
- Fixed asset listings or depreciation schedules

Third-Party Representation

At any time during the audit, you have the right to suspend a meeting or interview for a reasonable amount of time in order to retain representation. Any person representing you must have the proper written authorization, such as Power of Attorney, to act on your behalf.

Audit Results

Once the auditor has finished examining your records, they will prepare preliminary workpapers and provide you, either in person or electronically, the workpapers and a general summary of what they found. You will be given sufficient time to review the findings and to provide any additional information requested or that you deem pertinent to the audit. Once the review is complete, the auditor will compute any adjustments and issue a formal audit conclusion letter and assessment. The final documents are generally sent to the taxpayer via certified mail.

If the audit concludes that additional tax is due, a Notice of Final Determination, Assessment and Demand for Payment will be issued which will summarize the total deficiency plus penalties and interest. If you believe that good cause can be demonstrated for a waiver of a portion of the penalties, or interest, or if you disagree with the findings of the audit, a written request for appeal must be submitted to the Finance Director within 30 days of the date of the Notice.

If the audit concludes that a refund is due, a Claim for Refund form will need to be completed, signed and submitted. A refund check will generally be issued within two weeks. If you believe the amount of the refund calculated should be more,

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then documentation should be submitted to the auditor who will review the information and provide a written summary of the new overpayment amount, if any.

Coordinated Audits

If you have a sales/use tax license in at least four other Colorado home-rule municipalities, you may request that an audit by all cities be conducted at the same time. You must contact all cities involved within 14 days of the date of your audit notice or engagement letter. For additional information, please contact the Louisville Sales Tax and Licensing Division.

Audit Philosophy

The audit procedures used by the Sales Tax & Licensing Division shall at all times be unbiased, confidential, and shall reach the highest standards of audit procedures. It is our priority to provide every person with assistance, information and guidance regarding the City's licensing and taxation processes, rules and regulations in a concise and professional manner. Thank you in advance for your cooperation and assistance throughout the audit.

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The City of Louisville Sales Tax and Licensing Division conducts routine audits of taxpayers to determine compliance with the Louisville Municipal Code (LMC). The purpose of the audit is to determine whether the correct amount of tax has been reported and paid by the taxpayer. Taxpayers are required to maintain adequate books and records to allow for a determination of the taxes due and make those books and records available for inspection by the City. The City selects a diverse group of taxpayers for audit based upon a number of factors. Selection for audit is not an indication that a taxpayer has made any errors.

Audit Statute of Limitations

In most cases, the City may audit up to 36 months (3 years) from the date the taxes were due or returns were filed, whichever is greater. The period becomes fixed by the City's written audit engagement letter. The City may extend the period of limitation by entering into a written agreement (waiver) between the taxpayer and the Finance Director. The City may conduct an audit of a taxpayer that has been in business for fewer than 3 years. If the taxpayer has filed a false or fraudulent return, or has failed to file a return or license to collect tax, the City may collect taxes for a period greater than 3 years.

Location of Audit

Audits are generally conducted by the City's tax auditors who are familiar with generally accepted accounting principles and auditing standards. Occasionally, it is necessary to use professional accounting services to conduct City audits. These entities are versed in the requirements of the LMC and the ethical and professional standards required by the City. Audits are usually conducted at the location where the taxpayer's records are maintained. This can be the taxpayer's place of business, headquarters, or an accountant's office. Records can also be examined at City Hall if space is a problem, or electronically if records are not available locally. Every effort will be made to conduct the audit at a time and location that is mutually convenient.

If a taxpayer does not wish to make records available within the City or the taxpayer is located outside the City or out-of-state, then the taxpayer must enter into a binding agreement with the City to reimburse the City for all expenses incurred. The City is also entitled to charge an hourly fee for time spent organizing, gathering, or in any way assembling taxpayer records for audit. Please see "Penalties, Interest and Other Costs" publication in this Tax Guide for further information.

Required Records

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- Reports detailing how City tax returns were calculated
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- Sales invoices, billings, or receipts detailing the items purchased, the purchase price, the tax collected and the delivery address
- Documentation supporting exempted sales

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- Purchase invoices for supplies and services not held in inventory for resale
- Purchase invoices for capital assets
- Fixed asset listings or depreciation schedules

Third-Party Representation

At any time during the audit, you have the right to suspend a meeting or interview for a reasonable amount of time in order to retain representation. Any person representing you must have the proper written authorization, such as Power of Attorney, to act on your behalf.

Audit Results

Once the auditor has finished examining your records, they will prepare preliminary workpapers and provide you, either in person or electronically, the workpapers and a general summary of what they found. You will be given sufficient time to review the findings and to provide any additional information requested or that you deem pertinent to the audit. Once the review is complete, the auditor will compute any adjustments and issue a formal audit conclusion letter and assessment. The final documents are generally sent to the taxpayer via certified mail.

If the audit concludes that additional tax is due, a Notice of Final Determination, Assessment and Demand for Payment will be issued which will summarize the total deficiency plus penalties and interest. Please see the "Assessments" and "Penalties, Interest and Other Costs" publications in this Tax Guide for information on your rights and obligations. If you believe that good cause can be demonstrated for a waiver of the penalties or interest, or if you disagree with the findings of the audit, a written request for appeal must be submitted to the Finance Director within 30 days of the date of the Notice.

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Coordinated Audits

If you have a sales/use tax license in at least four other Colorado home-rule municipalities, you may request that an audit by all cities be conducted at the same time. You must contact all cities involved within 14 days of the date of your audit notice or engagement letter. For additional information, please contact the Louisville Sales Tax and Licensing Division.

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The Louisville Municipal Code (LMC) imposes a sales tax upon the purchase price paid for tangible personal property sold at retail. A licensed repair shop selling parts and accessories is required to collect and remit City sales tax on the purchase price paid by the consumer for the parts and accessories.

Labor to install, affix, or repair tangible personal property is not subject to City sales tax if it is separately stated on the customer invoice. Manufacturing or fabrication labor is not exempt from City sales tax. If a repair shop sub-contracts a portion of a repair job to another repair shop, the sub repair shop should charge sales tax on any parts used for the work to the original repair shop on the invoice. Any invoice that reflects a lump sum amount is subject to City tax on the full amount.

Core charges or other similar deposits collected by the repair shop are subject to Louisville sales tax. If the customer returns the used part, the seller should refund the appropriate tax. When the repair shop has already remitted the tax collected on the original core charge or deposit to the City, the repair shop may deduct the amount refunded as “returned goods” on their next City tax return.

A repair shop may purchase certain shop supplies tax free when such items are to be resold or charged to the customer as a flat rate or percentage as part of the repair or service work. These items may include screws, nuts, fasteners, oil, fluids, filters, coils, spark plugs and other similar items that become permanently attached to other parts or accessories during repair, or become an integral and inseparable component of an automobile. Any such items must be charged separately to the customer and City sales tax collected on such parts or supplies.

Some purchases made by a repair shop are not tax exempt for resale and the shop should pay sales tax at the time of purchase. Some examples of items used or consumed directly by a repair shop include machinery, tools, equipment, shop rags, solvents, cleaners, sandpaper, masking tape, gloves, office supplies, computers, linen services and uniforms. If Louisville sales tax is not paid on these purchases, then use tax is due to the City. Credit will be given for legally imposed sales or use tax paid for purchases in other municipalities towards the Louisville tax due.

Examples

Customer A purchases a new battery from Louisville Repair Shop B. Repair Shop B charges the customer for the battery plus a \$40 core charge. The full price paid for the new battery and the core charge are subject to Louisville sales tax. If the customer returns the old battery, Repair Shop B should give a refund to the customer of \$40 plus tax.

Repair shop B subcontracts the rebuilding of a customer’s engine to repair shop C. Repair shop C rebuilds the engine and sends Repair Shop B an invoice for \$2,200. Repair shop B must charge Louisville sales tax on the \$2,200 to the customer because no itemized invoice was provided by the subcontracted shop. If the subcontracted shop had invoiced Repair Shop B \$1,300 in labor and \$900 in parts, Repair Shop B would have charged the customer sales tax on the parts only.

Customer D takes their automobile to a repair shop for an oil change. The customer is charged for an oil filter, 4 quarts of oil, one half hour of labor and \$6 for shop supplies. Louisville sales tax should be charged for everything except the labor.

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Repair Shop E purchases tools and shop brooms from a supply house located outside Louisville for delivery into the City. The supply house charges the shop State of Colorado and Cultural District sales taxes only. Repair Shop E owes City use tax on the full purchase price of the items delivered into the City of Louisville.

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The Louisville Municipal Code (LMC) imposes a sales or use tax on the full purchase price of a sale, lease-purchase, rental or storage of automotive vehicles to a resident of the City when required under Title 42 of the Colorado Revised Statutes to be registered at an address in the City. This includes automotive vehicles used by businesses with a principal office or location in the City.

If sales tax was not paid at the time of purchase, use tax will be due. The Boulder County Clerk is authorized by the City to collect the Louisville portion of the use tax prior to, or at the time of registration, before any certificate of title will be issued. **For information on vehicle registration fees and taxes, please contact the Boulder County Clerk's office.**

An automotive vehicle is defined in the LMC as any vehicle or device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or for flight in the air. This includes but is not limited to motor vehicles, trailers, semi-trailers, or mobile homes. The term "automotive vehicle" does not include devices moved by human power or used exclusively upon stationary rails or tracks.

The taxable purchase price includes all mandatory fees when not separately stated such as finance charges (except the interest set out separately from the unpaid balance on the face of a note), insurance, extended warranties, dealer preparation, handling or delivery. The purchase price includes indirect federal manufacturers' excise taxes on automobiles, tires and floor stock.

Trade-Ins and Rebates

The taxable purchase price is reduced by the fair market value of an automotive vehicle taken in trade by the seller for which the seller has the full rights of ownership. Any money paid over and above the value of the exchanged property is subject to tax. The taxable purchase price may not be reduced by the fair market value of a leased trade-in.

Dealer incentives and rebates from the manufacturer do not reduce the taxable purchase price. These amounts are paid by the manufacturer as opposed to an actual reduction in the price by the seller. Tax should be calculated and paid on the full purchase price before any rebates or incentives.

Private Party Sales

No tax is paid at the time of a sale made between two private parties. The buyer will pay all state and local taxes and fees at the time of registration to the County Clerk's Office in which they reside.

Leased Automotive Vehicles

Leasing Companies must obtain a valid Louisville Sales/Use Tax License and collect the City tax in the monthly lease payments based on the total lease amount. If the leasing company does not have a City sales/use tax license, then the total amount of Louisville tax must be paid up front at the time of registration to the Boulder County Clerk's Office.

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The Louisville Municipal Code (LMC) provides that each retailer shall add the tax imposed to the sale price or charge and that such tax must be shown as a separate and distinct item and included as part of the full purchase price. The price charged by a retailer constitutes a debt from the consumer until paid and is recoverable at law by the retailer in the same manner as other debts.

The City of Louisville permits a retailer to deduct any taxable sales from their gross sales that are found to be worthless when the same charges are properly charged off as bad debts for Federal income tax purposes. Secured sales are not eligible for write-off.

In order to deduct the bad debt, the retailer must have exhausted all remedies available to collect the debt, have sufficient documentation to support its collection activities, have sufficient documentation to support that the sale and related tax were included on a previous return within the statute of limitations, and provide evidence that the debt was charged-off on their Federal tax return.

If a retailer subsequently collects on the bad debt that credit was taken for, then the purchase price must be reported again on the next City sales/use tax return.

Retailers should be cautious when reporting a bad debt deduction and ensure that their accounting system is not already “netting out” bad debts from gross sales. If either a refund or a bad debt is being “netted” *and* a deduction is taken on the tax return, it would mean that the bad debt is incorrectly being deducted twice.

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The Louisville Municipal Code (LMC) imposes sales tax on the purchase price paid for tangible personal property or use tax on the cost of tangible personal property used in providing a service.

All “shops” or “salons”, “cosmetologists” and “massage therapists” must be licensed in accordance with the rules set forth by the Colorado Department of Regulatory Agencies (DORA) and the Colorado Department of Revenue (CDOR), prior to applying for a Louisville sales/use tax license.

Salons can be operated in one of two ways. One method is whereby a salon owner is the employer of the salon staff and all purchases made for sale and for use in the business are the responsibility of the salon owner. Under this type of operation, the salon owner is responsible to obtain a Louisville sales/use tax license and to collect and remit sales tax on all retail sales made to customers of the salon. In addition, the salon owner is responsible to remit use tax on the purchase price of all items used in providing services and for the general operations of the salon.

The other method is whereby several licensed professionals lease a space individually or jointly and each operator is an independent “contractor”. The contractors schedule their own appointments, purchase their own products and supplies and contribute a set amount or percentage of their profit towards payment of the space rental or as a booth or chair rental fee. Under this type of operation, each contractor must obtain a City sales/use tax license and is responsible to collect and remit sales tax on all retail sales made to their customers. In addition, each contractor is responsible to remit use tax on the purchase price of all items used in providing their services.

Examples

Louisville Salon Owner, Cathy, has six licensed employees in her salon and is required to have a City sales/use tax license. Two employees are hairdressers, two are manicurists, one is a massage therapist and one provides skin care. Cathy displays products for sale to the public including hair, skin and nail products. These same products are used by the employees in providing their hair, skin and nail services. Cathy must charge sales tax on the purchase price paid for all retail sales to the public as well as any sales to her employees. If Cathy is not charged Louisville sales tax on her purchases, she must remit use tax on the cost of all products used by her employees, including shampoo, conditioner, tints, colors, foils, brushes, hairdryers, nail polish and similar items in providing their services. Cathy also purchases such items as sheets and robes for the massage therapist, capes and scissors for the hairdressers, and soaking tanks for the manicurist. Again, Cathy is responsible to remit use tax to the City for any purchases made without payment of City sales tax or another lawfully imposed municipal tax equal to or greater than the Louisville rate. All office supplies, computers, business cards etc. are subject to sales or use tax.

Two licensed cosmetologists, Beth and Donna, jointly rent a retail space and open a hair salon in Louisville. Beth orders all her supplies and tools over the phone from a Denver supply house for delivery to Louisville. Donna shops for her supplies in Broomfield and purchases everything she needs there. If the Denver supply house does not charge Beth Louisville sales tax on her supplies, then Beth will owe City use tax on all the supplies and tools used in providing her services, except for the product on which she sells at retail and charges the appropriate sales tax. Because Donna purchased all her products and supplies at retail in Broomfield, she paid an equivalent sales tax rate, so no additional use tax is due.

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Bundled Tangible Personal Property & Services

The Louisville Municipal Code (LMC) imposes its sales and use tax on the purchase price paid for tangible personal property.

When the charges for tangible personal property are combined with other charges that are not separately stated on the customer invoice, the full invoice amount is subject to City of Louisville sales tax.

When separately stated on a customer invoice, charges for labor, freight/shipping, finance charges, installation, preparation and some other services are not subject to Louisville sales or use tax. In the case of manufactured items, the cost of all materials used to fabricate the item, including any labor, profit, overhead or other services performed, **must** be included in the gross selling price to the consumer.

For the sale or transfer of telecommunication equipment to a consumer as an inducement to a consumer to enter into or to continue a contract for telecommunication services, the taxable purchase price for sales or use tax purchases means the monetary amount paid by the consumer less any sales commission or other compensation received by the retailer as a result of the consumer entering into or continue a contract for telecommunication services.

Examples

Louisville Resident A purchases a home theatre system. Company B delivers the system, sets it up in the resident's home and tests the system for proper operation. Company B invoices the resident \$5,000 for the system, delivery and set-up. Company B must collect and remit city sales tax on the full \$5,000.

Louisville Resident C purchases a pool table for their home. Company D delivers the pool table, assembles it, and tests it for condition and levelness. Company D invoices Louisville Resident C \$7,000 for the pool table, \$45 for delivery and \$150 for assembly. Company D must collect and remit city sales tax on the \$7,000 charge for the pool table. The other items are exempt when separately stated.

Louisville Business X contracts for the painting of their offices with Contractor Y. Contractor Y charges the business \$2,800. The full price of \$2,800 is taxable to Business X even though part of the \$2,800 charge is for labor and part of the charge is for paint, materials and supplies because they were not separately stated on the invoice.

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The Louisville Municipal Code (LMC) gives credit against the amount of Louisville use tax due on tangible personal property and certain taxable services, when a lawfully imposed sales or use tax was paid to another city which is equal to or greater than the Louisville sales/use tax rate.

The basic questions to determine what, if any, use tax may be owed to City are:

1. Was any amount of tax charged on the purchase of tangible personal property or taxable services?
2. Was some amount of tax charged on the purchase of tangible personal property or taxable services?
3. Was the amount of tax charged the combined Louisville tax rate (including State, RTD/CD, Boulder County and City) on the purchase of tangible personal property or taxable services?

To determine what amount of use tax may be owed, consider the following:

1. If no amount of tax was charged on the purchase of tangible personal property or taxable services subject to tax in Louisville, then use tax will be due to the City on the full purchase price.
2. Was the amount of tax charged to you lawfully imposed by the seller (see the “Nexus” publication for further explanation)? If not, you will owe Louisville use tax on the full purchase price and will need to apply to the city where the unlawful tax was collected and remitted for a refund.
3. Was some amount of tax charged but not the full combined rate for Louisville? For how to calculate how much, if any, use tax is owed, see below under Rate Calculations.

Tax is Transactional

Sales and use tax are transactional taxes, meaning that each time an item is sold, transferred or similar transaction, to a different user, consumer or owner, the item is subject to tax.

Let’s use a refrigerator as an example of multiple taxable transactions.

When a new refrigerator is purchased from a retailer for \$1,000, the retailer must charge the purchaser sales tax on the \$1,000. Two years later, the purchaser sells the refrigerator to a used appliance dealer for \$500. The purchase by the licensed used appliance dealer is a wholesale purchase for resale, and no tax is due. When the used appliance dealer sells the used refrigerator to a machine shop for \$700, he must charge and collect sales tax on the \$700. The machine shop goes out of business and all the assets of the business are put up for sale at auction. The auction company sells the refrigerator for \$250 to the highest bidder. The auction company must charge and collect sales tax on the \$250.

Keeping the above example in mind, the City will not give credit for taxes paid by the original owner/purchaser of the item or goods to a new owner. The new owner(s) must pay sales or use tax each time based on their purchase price.

Lawfully Imposed Taxes

When a purchaser physically buys an item in another jurisdiction and takes the item with them, the item is subject to tax in the jurisdiction in which it is purchased and credit will be given towards any Louisville use tax owed. This is a lawfully

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Calculating Previously Paid Sales/Use Tax

imposed tax. If however, the tax rate paid to the other jurisdiction is less than Louisville's rate, additional tax may be due. See the below Rate Calculations section in this publication.

When items are delivered, they are taxable at the point of delivery. If an out-of-city vendor ships goods to a Louisville business but charges their own city tax rate instead of Louisville's city tax rate, this is an illegally imposed sales tax, and credit will not be given towards any Louisville use tax owed.

Louisville Combined Tax Rate

Purchases made in Louisville are subject to a combined sales tax rate of 8.635% effective January 2018. To receive up to date tax rate information, please contact the Tax Department at (303) 335-4514. This rate represents other taxes not administered by the City but which are still components of the combined rate.

State of Colorado	2.9%
RTD	1.0%
Cultural District	0.1%
Boulder County	0.985%
City of Louisville	<u>3.65%</u>

Combined Tax Rate 8.635%

If you personally purchase an item in another jurisdiction, and their combined tax rate is equal to or in excess of 8.635%, or the municipal portion of the rate you paid is equal to or in excess of Louisville's 3.65%, you will be given credit for the taxes paid up to the Louisville rate, and no additional use tax will be owed to the City.

The Louisville portion of the sales/use tax is to be paid directly to the City of Louisville.

The State, RTD, CD and Boulder County portion of the sales/use tax is to be paid directly to the Colorado Department of Revenue.

Rate Calculations

To determine the tax rate charged (when the tax rate % is not indicated on the invoice), divide the amount of tax charged by the net amount of the taxable items on the invoice (the before tax amount). If the combined tax rate charged was less than the combined Louisville rate, then the difference (up to 3.5%) is owed as use tax to the City of Louisville. If the combined tax rate charged was equal to or greater than Louisville's combined rate, then no use tax is due.

Example

- A. Louisville Business A purchases cleaning supplies for delivery from a Longmont vendor. The Longmont vendor invoice is as follows:

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Floor Cleaner	\$38.00
Glass Cleaner	\$18.00
Sanitizer	<u>\$26.00</u>
Sub Total	\$82.00
Shipping	<u>\$10.00</u>
	\$92.00
Tax	<u>\$ 4.59</u>
Invoice Total	\$96.59

\$4.59 divided by \$92 equals .04985 or 4.985%

Take the rate of 4.985% and deduct the following rates in order:

Charged tax rate	4.985%
Subtract State rate	(2.9)%
Subtract RTD rate	(1.0)%
Subtract Cultural District	(0.1)%
Subtract Boulder County	(0.985)%
Subtract City of Louisville	(3.65)%
Difference	(3.65)%

4.985% means that State, RTD/CD, and Boulder County tax was collected, but not the City of Louisville tax. You would owe 3.65% use tax on \$82 or \$2.99 (please note that Louisville does not tax shipping/freight charges when they are separately stated).

- B. Using the same purchase above, you purchase the supplies for delivery from a Denver vendor:

Invoice Subtotal	\$92.00
Tax	<u>\$ 3.68</u>
Invoice Total	\$95.68

\$3.68 divided by \$92 equals .04 or 4%

Take the rate of 4% and deduct the following rates in order:

Charged tax rate	4.0%
Subtract State rate	(2.9)%
Subtract RTD rate	(1.0)%
Subtract Cultural District	(0.1)%

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Calculating Previously Paid Sales/Use Tax

Subtract Boulder County **(0.985)%**
 Subtract City of Louisville **(3.65)%**

Difference **(4.635)%**

4% means that State, RTD and CD tax was collected, but not the City of Louisville tax. You would owe 3.65% of the 4.635% difference as use tax to the City on \$82 or \$2.99 (please note that Louisville does not tax shipping/freight charges when they are separately stated). The remaining difference of 0.985% would be for Boulder County, but Boulder County does not impose use tax on any items other than building materials and motor vehicles, so no use tax would be due to Boulder County.

C. Again, using the same purchase, you purchase the supplies for delivery from a Westminster vendor:

Invoice Subtotal	\$92.00
Tax	<u>\$ 7.91</u>
Invoice Total	\$99.91

\$7.91 divided by \$92 equals .086 or 8.6%

Take the rate of 8.6% and deduct the following rates in order:

Charged tax rate	8.6%
Subtract State rate	(2.9)%
Subtract RTD rate	(1.0)%
Subtract Cultural District	(0.1)%
Subtract Boulder County	(0.985)%
Subtract City of Louisville	(3.65)%
Difference	(0.035)%

8.6% means that State, RTD and CD, **Westminster and Adams County sales tax** was collected. You would still owe 3.5% use tax on \$82 or \$2.99 **because the City of Westminster and Adams County sales tax was illegally imposed**. Deliveries into Louisville are subject to Louisville sales tax (please note that Louisville does not tax shipping/freight charges when they are separately stated). You should apply to the City of Westminster for a refund of the sales tax paid and to the Colorado Department of Revenue for a refund of the Adams County sales tax paid. The remaining difference would be for Boulder County, but Boulder County does not impose use tax on any items other than building materials and motor vehicles, so no use tax would be due to Boulder County.

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The Louisville Municipal Code (LMC) imposes sales tax on the purchase price paid for all food and beverages sold in the City, and/or delivered into the City. Tax is due based on the location of the catered event.

Caterer's may purchase food and certain catering supplies exempt from sales tax provided those items are for resale or for rent, and that sales tax will be charged and collected by the caterer from the purchaser. Exempt purchases may include food, chafing or serving dishes, eating utensils, and linens.

Items for direct use by the catering company and not for resale are subject to sales tax to the caterer at the time of purchase, or use tax if no sales tax was paid at the time of purchase. Louisville will give credit for other lawfully imposed municipal sales tax paid up to the amount of the Louisville rate on purchases made by City caterers. Examples of non-exempt purchases include pots and pans, steam tables, storage containers and uniforms.

Caterers are liable for the tax on the total selling price of items sold, rented, or charged for, which are essential to the providing of the meals and beverages and/or, which charges are not separately stated. Sales tax must be separately stated on the customer invoice and may not be absorbed into the total price. Some examples of essential charges subject to tax may be for, set-up, tear-down, staff to serve food, the rental of chairs, linens, service pieces, flowers, decorations or centerpieces.

Delivery charges separately stated on the customer invoice are not subject to Louisville sales tax.

Examples

Louisville Company A is catering a "Thank You" dinner in the City to thank its customers for their patronage. It has hired Catering Company B which is located outside the City. The caterer provides and delivers all the food, beverages, tables, chairs, table linens, glassware, silverware and centerpieces. They also provide two employees to serve food on the buffet line, one bartender and one table busser. The total charges are \$800 for the food and beverage, \$250 for the rentals and a \$200 service charge for the wait staff. The total of \$1,250 is subject to Louisville sales tax.

Louisville Caterer C purchases new cake pans, bread pans and hors d'oeuvre trays from a restaurant supply house on the internet. The goods are shipped to Louisville and the supply house charges State sales tax only. Louisville Caterer C is responsible to pay Louisville use tax on the purchase price paid for the items delivered.

Charitable organizations may provide a caterer with a tax exempt certificate and purchase the food from the caterer without payment of sales tax; however, if the charitable organization is charging attendees a set price or requires them to purchase a ticket to attend the fundraiser which includes the meal, then the caterer should charge the organization all applicable sales tax based on the location of the event.

Caterer D is hired by a Louisville resident to supply the food for a family reunion. The caterer delivers the food to the resident's home. The charges are \$350 for the food and a \$25 delivery charge. The \$350 is subject to Louisville sales tax.

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Cemeteries, Funeral Homes & Morticians

Cemeteries are required to charge City sales tax on the purchase price of vaults, liners, markers, flowers, and similar items.

Morticians are responsible to charge City sales tax on charges for caskets, urns, vaults, flowers, shipping boxes, clothing or other tangible personal property sold. This is true even if the remains are consigned to a common carrier for delivery elsewhere, because the items were first used in the City of Louisville.

If services are contracted for in one lump sum with no itemizations, Louisville sales tax is due on the entire charge.

If services are contracted for and the charges for tangible personal property are separately stated, then only those items are subject to sales tax and the charges for services such as music, police escort, clergy and body preparation are exempt from tax.

Any articles purchased by a cemetery, funeral home or mortician which will be used in the normal course of their business activities, and will not be resold, are taxable at the time of purchase. Any goods purchased for which a lawfully imposed sales tax is not charged, are subject to payment of use tax to the City of Louisville.

Burial plots are considered real property and are not subject to City of Louisville sales/use tax.

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The Louisville Municipal Code (LMC) exempts the purchase of cigarettes from its sales and use tax.

The definition of a cigarette means that as defined in Colorado Revised Statutes Section 39-28-202(4)(a):

“Cigarette” means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains: (I) Any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (II) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (III) any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (I) of this paragraph.

The sales of cigars, chewing tobacco, pipe tobacco, snuff, e-cigarettes or other similar products are subject to Louisville sales and use tax. Tax may be included as part of the selling price for any of these taxable items if they are sold through vending machines.

Examples

Louisville Resident A purchases a pack of cigarettes from a Louisville grocery store. No Louisville sales tax is due on the purchase.

Louisville Business Owner B purchases a (5) boxes of cigars from an internet smoke shop. No sales tax is charged on the purchase which is delivered to Louisville. Business B would owe use tax on the purchase price of the cigars to the City.

A person purchases a carton of cigarettes and a can of Skoal from a Louisville gas station. The retailer should charge Louisville sales tax on the can of Skoal; the cigarettes are exempt from City sales tax.

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The Louisville Municipal Code (LMC) imposes a sales tax upon the purchase price paid for tangible personal property sold at retail in the City.

“Coins” as defined in the LMC, means monetized bullion or other forms of money manufactured from gold, silver, platinum, palladium or other such metals now, in the future, or heretofore designated as a medium of exchange under the laws of this State, the United States or any foreign nation.

Coins and currency which constitute legal tender of the United States or another nation, which are in general circulation as a medium of payment, which are exchanged in the open market at an exchange rate that reflects their relative value as currency, are exempt from City sales tax as well as any small fee charged even if the purchaser does not receive the full face value of the currency exchanged.

The LMC provides no tax exemption for the sale, purchase or barter of any other monetized or non-monetized coins, stamps or precious metal bullion, jewelry or commemoratives.

Examples

Louisville Buyer A purchases one ounce of gold at market value from an online coin and precious metal dealer. The online seller does not collect any sales tax. Buyer A must remit Louisville use tax on the purchase price paid for the gold.

Louisville Resident B is traveling to Europe but before his trip, visits a bank to exchange U.S. dollars for Euros at the current market exchange rate. No Louisville sales tax is due on this exchange.

Louisville Resident C brings a jar of money to the supermarket where they have a coin counting machine. The machine automatically retains \$0.03 per dollar counted and dispenses the remaining money to the resident. No Louisville sales tax is due on this exchange.

A Louisville coin dealer buys and sells both numismatic and commemorative coins. Buyer D purchases a 1951 mint set for \$695 and two steel U.S. pennies (with a face value of \$0.01) for \$20. The full purchase price of \$715 is subject to Louisville sales tax.

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The Louisville Municipal Code (LMC) provides for the confidentiality of tax information used to determine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through audit by the City and its officers, employees and legal representatives.

The Finance Director shall not divulge or make known in any way any financial information obtained from any investigation conducted, disclosed in any document, report or return filed under the provisions of LMC Section 3.20.

Persons charged with the custody of such investigations, documents, reports or returns are not required to produce such evidence except on behalf of the Finance Director in any action or proceeding under the provisions of LMC Section 3.20 to which the Finance Director or the City is a party, or on behalf of any party to an action or proceeding when the report of facts shown is directly involved or pursuant to any judicial order to require the production and admittance of evidence that are pertinent to the action or proceeding, and no more.

The delivery to a person or their duly authorized representative of any application, report, return or any document kept, filed or maintained in connection with such person's tax liability is permitted.

Publication of statistics so classified as to prevent the identification of a particular report or return and the contents thereof is permitted.

Inspection of any documents by the City Attorney or any other legal representative of the City is permitted.

Furnishing information contained in any application, report, return or any other document may be furnished to the taxing officials of the State of Colorado or its political subdivisions, any other state or its subdivisions, or the United States government if the receiving jurisdiction agrees to grant similar privileges to the City and if such information is to be used only for tax related purposes.

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The Louisville Municipal Code (LMC) imposes its sales tax on the purchase price of tangible personal property in the City on the ultimate user or consumer.

Regardless of whether or not a retailer owns the merchandise being sold, and regardless of whether or not the customer knows that the items are not owned by the retailer, it is the retailer's responsibility to collect and remit the tax due on the retail sale.

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This publication addresses tax matters only. For information regarding permitting requirements, fees, and contractor or subcontractor licensing, please contact the Louisville Building Safety Division directly at (303) 335-4584.

Contractors

The definition of a contractor is any person who shall build, construct, reconstruct, alter, expand, modify, or improve any building, dwelling, structure, infrastructure, or other improvement to real property for another party pursuant to an agreement. This includes but is not limited to, building contractors; foundation, curb and parking lot contractors; painting, stucco, brick and other finish contractors; roofing contractors; road, grading and excavating contractors; electrical, plumbing, and heating and air conditioning contractors. In some cases, where the owner of the property is performing its own work, the owner is also a “contractor”. The definition also applies to persons involved in cabinet, casework, sheet metal, glazing and other such trades when they construct components on site for permanent incorporation into real property and any other person engaged in construction, reconstruction or significant repair of any building, bridge or structure under a contractual arrangement. A subcontractor has the same meaning as contractor but does not mean any individual who is working for salary or wages.

Any aspect of a contractor’s business which does not involve a real property contract for construction work in the City, is subject to the standard sales tax regulations promulgated in the Louisville Municipal Code (LMC), and are the consumers of all tools, equipment or other items used or consumed whether leased, rented or purchased.

A “consumer” is any person engaged in business in the City that uses, stores, distributes or otherwise consumes tangible personal property or taxable services in the City whether purchased from sources inside or outside the City.

“Use” means the exercise for any length of time by any person within the City of any right, power, or dominion over tangible personal property or services when rented, leased or purchased at retail from sources either within or without the City, from any person or vendor or used in the performance of a contract in the City whether such tangible personal property is owned or not owned by the taxpayer.

“Use” includes the withdrawal of items from inventory for consumption.

“Taxpayer” means any person obligated to collect tax, pay tax, or account for tax, or any combination thereof, under the terms of the LMC. The term “taxpayer” includes but is not limited to a retailer, a vendor and such other persons as the context may require. The person responsible for obtaining a building permit is liable for all use taxes due on construction materials and other tangible personal property and taxable services used in the City whether provided by subcontractors or the property owner. The contractor may not avoid the payment of sales or use tax by use of provisions in any agreement.

“Tax” means the sales tax due from a retailer or the use tax due from a consumer or the sum of both due from a retailer who also consumes.

Contractors with a permanent physical location in the City of Louisville are required to obtain a Louisville Sales/Use Tax License.

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Building/Construction Materials

The LMC defines construction materials or construction and building materials to mean tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a structure or project, including public and private improvements.

Construction materials include, but are not limited to, such things as asphalt, brick, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wall paper, weather stripping, wire netting and screen, water mains and meters, and wood preserver.

When any of the above materials are used to create forms or other items which do not remain as an integral or inseparable part of a completed structure or project, they are not construction materials, but rather tangible personal property.

The privilege of using or consuming construction and building materials in the City purchased for use in connection with new residential construction or new residential building projects, commercial, industrial or other non residential construction or building projects, whether purchased, leased or rented from sources inside or outside the City are subject to Louisville sales or use tax. All materials delivered into the City of Louisville are subject to sales/use tax.

Items such as furniture, appliances, window coverings and hot tubs, as well as tools and supplies, are not building materials and may not be purchased without payment of City sales tax by the use of a building permit. These items are subject to the standard sales tax rules provided in the LMC.

The storage of construction and building materials in the City of Louisville is exempt from City use tax.

Permitted Projects

The taxation of construction or building materials is dependent on various factors with taxation the general rule. Considerations include whether or not the project or job requires a City of Louisville building permit, and additionally, whether or not the contractor or sub-contractor bills on a time and materials basis or a lump sum basis. This section pertains to all projects requiring a City of Louisville building permit.

Louisville use tax is imposed and shall be collected in full prior to issuance of a building permit for all construction and building projects taxed under the LMC. The Louisville Building Department as designee for the Finance Director is responsible to collect such tax payments as part of the building permit process. From time to time, the determination of value or valuation shall be made by the Louisville building official based on the Valuation Schedule published in the American Building Standards magazine published by the International Code Council.

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The value used in computing the building permit taxes and fees shall be the total actual value of all construction work for which the permit is issued and include all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and other permanent equipment. The valuation must include all building materials, labor and profit (everything except land cost). To determine the estimated amount of use tax to be collected by the City, 50% of the estimated general contract costs and 50% of the estimated mechanical contract costs (basically 50% of the total project valuation) will be deemed the purchase price of the construction and building materials subject to use tax. Louisville also collects Boulder County use tax on their behalf on all City of Louisville building permits.

The sale of construction and building materials by a Louisville retailer or vendor to a contractor is exempt from City sales tax only if both the materials are picked up by the purchaser, and the purchaser presents the retailer or vendor with a copy of the building permit evidencing that local City and County use tax has been paid. A retailer located in the City of Louisville will charge a contractor State, RTD and Cultural District (CD) sales tax, but will not charge City or County sales tax.

Construction and building materials may be purchased from a retailer or vendor located outside the City of Louisville, but the contractor must present a copy of the City of Louisville permit to the vendor to avoid paying additional local or county taxes. Again, the vendor will charge a contractor any applicable State or special district taxes, but should not charge any local municipal or county taxes.

In all cases, where a City of Louisville permit is required, the person responsible for obtaining a permit and for payment of all costs associated with the permit is the person liable for all taxes due. The person or contractor responsible to obtain the permit is also responsible to furnish copies of the permit to any sub-contractors so that they may avoid paying additional local sales tax on the materials they purchase.

No credit or refund of Louisville sales tax charged for construction or building materials purchased in the City prior to the issuance of a building permit will be allowed.

If a person or contractor does not provide a copy of the building permit to a vendor in the City, and City of Louisville sales tax is charged on the construction materials, the contractor may apply to the City of Louisville for a refund of the municipal tax paid twice on a Refund Claim Form. Such refund request must include copies of all receipts. In some instance, the refund of Louisville sales tax may be delayed to the end of the construction project in order for the City to verify that the amount of use tax pre-paid was sufficient for the project. Should purchases be made outside the City of Louisville for which a contractor did not provide a copy of the building permit to a vendor, then the contractor must seek a refund of sales tax paid from the municipality in which the purchase was made.

In certain circumstances, a building permit is required to install small items that are not building or construction materials or for which a lump sum contractor or property owner has pre-purchased materials and paid sales tax to another jurisdiction. For these rare instances, the contractor may not be required to pre-pay the estimated use tax with the building permit, but the contractor must hold a valid Louisville Sales/Use Tax License and collect or remit City of Louisville sales or use tax not otherwise lawfully imposed.

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Manufacturing and fabrication of tangible personal property or other processing labor is subject to Louisville sales or use tax and must be included with the full cost of materials for tax calculation purposes.

Sales tax is due on the rental or leasing of inventory goods when used in the purchaser's general business operations or for personal use.

Non-Permitted Projects

Construction materials are subject to sales tax on the price paid or charged within the City which are used for the improvement or repair of any building, dwelling, other structure, or realty which does not require a building permit.

Contractors are required to license with the City and to collect and remit any sales or use tax due to the City based on their billing method.

Billing and Contracts

Contractors performing work under a real property contract are required to pay City use tax at the time the building permit is issued regardless of the manner in which they bill their client for the project. This includes new residential, commercial and industrial projects and tenant finish or remodeling projects.

All contractors except those that bill for Time and Materials work are responsible for sales and use tax on the goods and materials at the time of purchase.

Time and Materials Billing

Contractors who invoice separately for labor and materials must have a Louisville Sales/Use Tax License and collect and remit City sales tax on the marked-up billing price of all materials charged to the customer. These contractors must have a State Sales/Use Tax License in order to purchase their materials tax-exempt for resale.

Time and materials contractors are still liable for use tax on the cost of all supplies not separately billed to the customer and on any tools or equipment purchased, leased or rented for use in completing the job on which a lawfully imposed sales tax was not collected at the time of purchase.

Lump Sum Billing

All supplies and materials used by the contractor are taxable on the contractor's cost, either through sales tax paid to the vendor at the time of purchase or use tax paid by the contractor to the City. Credit may be given for lawfully imposed sales tax paid to another municipality but the contractor must obtain a Louisville Sales/Use Tax License and remit any use tax owed up to the City's tax rate.

Projects for Tax Exempt Organizations

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Sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration or repair of structures, highways, roads, streets, and other public works owned or used by a religious or charitable organization in the conduct of their regular charitable functions and activities, or by the U.S. government, the State of Colorado, its department or institutions, and the political subdivisions thereof in their governmental capacities only, are exempt from City sales and use tax.

In most cases, but not all, the City will accept a State issued contractor Exemption Certificate (DR 0172) for exemption from City sales or use tax. It is recommended that contractors and retailers or vendors contact the Louisville Tax Division to verify the project they are working on is exempt from City tax. The City does not issue its own exemption certificates.

City Projects

No use tax is due on the purchase of construction materials used in construction projects undertaken and managed directly by the City of Louisville.

Construction Equipment

Construction equipment means any equipment, including mobile machinery and mobile equipment, which is used to erect, install, alter, demolish, repair, remodel, or otherwise make improvements to any real property, building, structure or infrastructure.

City of Louisville use tax is due on construction equipment used inside the City for contracts entered into on or after January 1, 2011. Credit for such equipment will be given for legally-imposed sales or use tax paid to Louisville or another municipality.

The rules set forth to remit City use tax for construction equipment used inside the City is as follows:

1. Prior to or on the date the equipment is located inside the City, the taxpayer shall file with the City an equipment declaration on a form provided by the City. Such declaration shall state the dates which the taxpayer anticipates the equipment will be located inside and removed from the boundaries of the City, a description of each anticipated piece of equipment, the actual or anticipated price of each piece of equipment, and any other information deemed necessary by the City.
2. At least once every 90 days after the equipment is brought inside the City, the taxpayer shall file an amended equipment declaration reflecting any changes to the information contained in the previous declaration. For equipment brought inside the City for a period of less than 90 days, an amended declaration must be filed within 10 days of substantial completion of the project.
3. Equipment for which the purchase price is less than \$2,500 does not need to be declared.

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Construction equipment located inside the City for 30 consecutive days or less, and for which a declaration was properly filed, will be subject to Louisville use tax on 1/12th of the purchase price of the construction equipment at the time it was purchased regardless of age or value at the time of first use in the City.

For construction equipment located inside the City for more than 30 consecutive days, or for equipment which was not properly declared, Louisville use tax will be due on the full purchase price of such equipment regardless of age or value at the time of first use in the City.

Construction equipment means any equipment, including mobile machinery and mobile equipment, which is used to erect, install, alter, demolish, repair, remodel, or otherwise make improvements to any real property, building, structure or infrastructure.

Mobile machinery and self-propelled construction equipment means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, including motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery and which may be only incidentally operated or moved over the public highways.

This definition includes but is not limited to wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells and the digging of ditches. Mobile machinery and self-propelled construction equipment is subject to City use tax.

Combined personal property rentals with operator service is subject to City sales tax on the price paid for the right of possession or use of tangible personal property granted under lease, hire, or rental contract with an operator, regardless that at all times the rental property remains in the possession of the operator providing the rental service. When the charge for an operator of the property is separately stated on the rental invoice, only the property rental charge is subject to sales tax. When the charges are not separately stated, the entire purchase price of the rental and operator service is subject to Louisville tax.

A retailer of rental construction equipment is responsible to collect and remit sales tax on the rental of all equipment; however, if a retailer does not collect sales tax on the rental, then use tax is due from the contractor on the full rental price.

Public and Private Improvements

The Louisville Municipal Code imposes a sales and use tax on all construction materials used in making public or private improvements. Tax is due on the cost of all materials whether such materials are acquired from sources within or outside the City.

Use Tax Reconciliation/Audit

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The Louisville Municipal Code requires that use tax must be paid directly to the City on all construction materials used in making public and private improvements, and for projects requiring a City building permit. Use tax is due whether such materials are acquired from sources within or outside the City. To avoid tax overpayments, contractors and sub-contractors must present a copy of the building permit when purchasing construction materials in order to qualify for exemption from City and County tax.

It is important to note that the use tax paid when the permit is issued is strictly an estimate. The actual cost of the materials used in the project is the proper basis for determining the amount of use tax due. If the actual use tax due for a project is greater than the estimated amount of use tax paid with the permit, the difference must be remitted to the City of Louisville. A general contractor or the person responsible for obtaining the permit is liable for the use tax and may not avoid payment by virtue of any provisions in its contract with the owner.

While the City of Louisville does not require mandatory reconciliation of building projects, every contractor is encouraged to calculate the projects final material costs and voluntarily remit to the City of Louisville any additional use tax owed and avoid any penalties or interest. Conversely, should a contractor determine too much tax was prepaid at the time of permit issuance, the contractor may complete a Claim for Refund form and provide copies of all job cost reports, invoices, and any other information deemed necessary to the Louisville Tax Department.

The City may audit any project within three years of the date of the Certificate of Occupancy, Certificate of Completion, Final Inspection, or invoice date or similar.

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The Louisville Municipal Code (LMC) imposes a sales tax on the purchase price paid for tangible personal property and certain taxable services in the City by the ultimate user or consumer. The LMC also imposes a use tax upon using, storing, distributing or otherwise consuming in the City any article of tangible personal property or services purchased, leased or rented from sources outside the City on which a lawfully imposed sales tax has not been paid.

The LMC provides that purchases by government, religious and charitable organizations in the conduct of their regular charitable functions and activities, when such sales are billed to and paid for by the charitable organization, are exempt from City sales tax.

Many different types of entities enter into contractual agreements to provide food services or food and management services for their staff and/or patients. Several types of agreements are discussed below.

For-Profit Entity (Free Meals)

Any sales of food or food and management services to a for-profit entity in the City are subject to City of Louisville sales tax. If a management company is hired to prepare food for employees or patients (in the case of a hospital or similar) free of charge, then sales tax should be charged by the food contractor to the for-profit entity on the full purchase price, including any related management fees, charged in providing the food or meal services. The for-profit entity is the ultimate user and consumer of the meals and all the labor necessary to provide this service. The management company providing the food is permitted to purchase the food tax-exempt for resale.

For-Profit Entity (Charged Meals)

Any sales of food or food and management services to a for-profit entity located in the City are subject to City of Louisville sales tax. If a management company is hired to prepare food for employees, and the employees must pay for the meals, then sales tax should be charged by the management contractor to the employees on the full purchase price of the meal. Any related management fees charged separately to the for-profit entity for providing the food or meal services are non-taxable services. The management company is permitted to purchase the food provided tax-exempt for resale.

Non-Profit

A non-profit, government, religious or charitable entity that provides food or meals in the conduct of their regular charitable functions and activities, when such sales are billed to and paid for by the charitable organization, is exempt from City sales tax.

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Coupons, Gift Certificates and Trade Discounts

The Louisville Municipal Code (LMC) imposes sales tax on the purchase price paid for tangible personal property and certain taxable services sold at retail. In some cases, the use of coupons, gift certificates and trade discounts will decrease the amount of the sale subject to tax.

Coupons

There are two types of coupons by which a customer may receive a discount from the original selling price.

A Store Coupon is one that is issued by the retailer where the goods are being purchased. With this type of coupon, the retailer is not being reimbursed from any outside source. The face amount of the coupon should be deducted from the original selling price and sales tax should be collected on the reduced price to the consumer.

A Manufacturer's Coupon is one that is issued by a manufacturer of a product and may be presented to any retailer which sells the item sought. The retailer is reimbursed by the manufacturer for the face value of the coupon. In this case, sales tax should be charged on the full original selling price and then the coupon deduction taken.

Trade Discounts and Sales Events

Trade discounts, volume discounts or sales events are sometimes offered by retailers on products to entice sales, eliminate stock or to reward repeat customers. Such discounts are at the discretion of the retailer and should actually reduce the purchase price to the customer. Sales tax should be charged on the reduced price charged to the customer.

Gift Certificates

Gift certificates are not subject to sales tax on the selling price of the gift certificate. Sales tax should be charged on the full selling price of the merchandise or taxable services purchased with use of the gift certificate.

Promotional Items and Giveaways

Promotional items given away by a retailer or business as a "free gift" to potential customers are subject to the payment of use tax on the cost of the goods by the retailer or business. Such goods include T-Shirts, coffee mugs, pens, calendars, and other promotional items as well as food and beverages. Free gifts given away with the purchase of another item are also subject to use tax on the cost of the item given away.

Buy One Get One (BOGO) and Punch Card or Loyalty Cards

Sometimes retailers will offer specials or loyalty cards to reward their repeat customers. In the case of BOGO's, sales tax should be charged on the actual reduced price charged to the customer. No use tax is due by the retailer for the "free" item. When a punch card or loyalty card is used and results in a free item or discount, sales tax is due on the reduced price to the consumer. No use tax is due by the retailer for the "free" items purchased using a loyalty card discount but all sales tax should be collected from the customer for all prior purchases that qualify them for the free item.

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Department of Finance – Sales Tax and Licensing Division
749 Main Street - Louisville, CO 80027
Office (303) 335-4514 – Fax (303) 335-4529
www.LouisvilleCo.gov

Cash Discounts

Some retailers sell goods on account and offer a small cash discount off an invoice amount for expedited payment. This is a financing option and does not reduce the full selling price subject to sales tax.

Hostess Credits/Dollars

Direct sales companies that utilize distributors often reward them with credit towards the purchase of company merchandise based on the performance and or sales made by the distributor “hostess” during a party. The direct sales company is required to charge sales tax based on the full selling price of the items purchased by the hostess and then any discount or credit is applied. This is because the hostess is performing or selling for the company in exchange for the goods. See the “Direct Sales Companies” publication in this Tax Guide for additional information.

Examples

Retailer A offers a \$10 store coupon on the purchase of all 20” ceramic garden pots. The coupon reduces the taxable purchase price to the customer and sales tax should be calculated on the reduced price.

Manufacturer B publishes clip-out coupons in an area newspaper that offers a 20% discount on all Manufacturer B’s vacuum cleaners through the end of the month. Customer A takes the coupon to an area retailer that carries the product and purchases a vacuum using the manufacturer’s coupon. Sales tax should be charged to Customer A on the full original price of the vacuum and the 20% discount is subtracted after tax.

Retailer C buys and sells books. Customers can bring in used books and receive a \$1.00 trade-in discount towards future purchases of books. Customer B brings in four books and purchases one book retailing for \$21. Sales tax should be calculated and remitted on the discounted price of \$17.

Retailer D is a coffee shop that utilizes loyalty punch cards and annually hosts a customer appreciation day. Customer C buys a latte and receives one punch on their card. Sales tax should be calculated and remitted on the full price of the latte. The same Customer C buys a latte the following week and has a full punch card to present for payment. No sales tax is due on the latte and no use tax is due by the retailer. On customer appreciation day, Customer C comes in for the free 8oz. coffee. Use tax must be paid by Retailer D on all product consumed throughout customer appreciation day.

Retailer E is an auto parts store that sells tools to mechanics on account with the terms 2/10 net 30 (which is a 2% discount if the invoice is paid in 10 days). The 2% cash discount is not a reduction in the taxable purchase price and sales tax should be collected and remitted on the full retail price by Retailer E.

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The Louisville Municipal Code (LMC) imposes a sales tax on tangible personal property and certain taxable services sold at retail within the City. Items delivered outside of the City are exempt from Louisville sales tax when *all* of the following conditions are met:

- The sales are to those who reside or do business outside the City and such articles delivered are used outside the City.
- The articles purchased are delivered to the purchaser outside the City by common, contract or commercial carrier employed by the seller to effect delivery, or by the seller's vehicles or by mail, but at all time at the seller's expense.
- The seller retains full ownership and liability for all articles being delivered to the destination outside the City.

Examples

1. Denver Business A purchases a new lathe from Louisville Business B and the Denver Business A sends its company truck to pick up the lathe in Louisville. Louisville Business B should charge Louisville sales tax on the purchase price of the lathe because title of the lathe transferred in Louisville.
2. Boulder Business X purchases new warehouse shelving from Louisville Business Y. The Boulder business contracts with a third-party freight company to pick up the shelving and delivery it to their new warehouse in Longmont. Louisville Business Y should charge Louisville sales tax on the purchase price of the shelving because title of the shelving transferred in Louisville.
3. Superior Resident C purchases new outdoor furniture from Louisville Retailer D and has it delivered to their home in Superior. Louisville Retailer D should not collect Louisville sales tax on the transaction because the goods are being delivered outside of Louisville and the retailer maintains ownership of the goods until delivered.
4. The same Superior Resident C purchases other decorative accessories at the same time the outdoor furniture is purchased from Louisville Retailer D, but takes the decorative accessories home with them. Louisville Retailer D should charge Louisville sales tax on the selling price of the accessories because the ownership of the goods transferred in Louisville.

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The Louisville Municipal Code (LMC) defines digital products as an electronic product, including but not limited to:

- 1) “Digital Images” which means works that include, but are not limited to, the following that are generally recognized in the ordinary and usual sense as “photographs,” “logos,” “cartoons,” or “drawings.”
- 2) “Digital Audio-Visual Works” which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.
- 3) “Digital Audio Works” which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones. “Ringtones” means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.
- 4) “Digital books” which means works that are generally recognized in the ordinary and usual sense as “books.”

Digital Products are subject to City sales or use tax on the purchase price paid or charged whether purchased, leased or rented from sources inside or outside the City.

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The Louisville Municipal Code (LMC) imposes a sales tax upon the purchase price paid for tangible personal property sold at retail within the City.

Direct sales companies market goods through a network of independent distributors rather than through retail outlets. Generally, the Company is a wholesaler and the Distributor is the retailer of the product sold. As such, the Distributor is required to collect sales tax based on the delivery location of the goods purchased.

Colorado is a “point of delivery” sourcing state which means that the point where the delivery of the property or services occurs is the point of taxability. Collection or payment of tax to another jurisdiction based on the Distributor’s home location or party location is not permitted.

Distributor’s which are located in the City of Louisville are required to obtain a City Sales/Use Tax License and to remit City sales tax on any purchases delivered within Louisville’s jurisdiction. Louisville sales tax only applies when the delivery of the goods to the purchaser occurs in Louisville.

Sales tax collected by any Distributor on behalf of the City remains the property of the City at all times. All City sales tax collected must be remitted directly to the City. Remittance to the Colorado Department of Revenue or any other taxing authority does not relieve a Distributor of their tax liability to the City. Retailers are encouraged to segregate tax from any other business funds. If a retailer collects tax in excess of the computed tax due, such tax must be reported as excess tax on the Louisville Sales/Use tax return and paid to the City.

Some direct sales companies collect and remit tax on behalf of their distributors. These companies may obtain a City sales/use tax license (or they may require their Distributor’s to license individually), but must ensure that Louisville sales tax is collected and remitted for any sales that are delivered within the jurisdiction of the City of Louisville.

Purchases by Distributors

Goods purchased exclusively for resale by licensed distributors are exempt from Louisville sales and use tax. As stated above, some Distributors may remit sales tax to the direct sales Company who will, in turn, remit the tax to the City of Louisville on their behalf. Distributors must pay Louisville sales tax to the Company for goods used for demonstration and display purposes. If Louisville sales tax is not paid to a Company at the time of purchase, then use tax must be remitted directly to the City. Distributors are also required to pay Louisville sales or use tax on other items purchased but not resold such as party supplies, food, decorations and door prizes.

Hostess Gifts and Credits

In exchange for holding a party, the hostess often receives “credits” toward the purchase of goods. In many cases, the value of the credits received is dependent upon the level of sales generated by the party. The goods given to, or purchased by the hostess based on the amount of “credits” earned, cannot be considered a bona fide gift, but rather, qualifies as a retail sale to the hostess on which City sales tax is due. The sales tax must be based upon the full retail price of the goods.

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See “Coupons, Gift Certificates and Trade Discounts” publication in this Tax Guide for additional information.

Examples

Louisville Distributor A buys food for a party at a Louisville grocery store. The Distributor must pay Louisville sales tax on the purchase of the food and is not permitted to use his/her State or City tax license to avoid paying sales tax. The Distributor is the user/consumer of the food, is not in the business of reselling food, and is not reselling the food at the party.

At the party, the Distributor takes an order from Customer X for \$200 in merchandise. Customer X lives in Boulder where Distributor A will deliver the merchandise in 2 weeks. Because the merchandise will be delivered outside of Louisville, Distributor A should not collect Louisville sales tax from Customer X.

Customer Y is a Louisville resident and also orders merchandise to be delivered to her home in Louisville. Distributor A must collect Louisville sales tax on the purchase price of the merchandise to be delivered in the City and remit the order along with the tax to his Company who in turn will remit the tax to Louisville on the Distributor’s behalf.

Because the party generated \$1,000 in sales, Hostess C earned “credits” and is entitled to use those “credits” to purchase one item from the catalogue. Hostess C selects an item priced at \$100 (\$50 after the “credits”). Distributor A must collect Louisville sales tax on the full \$100 price and then deduct the value of the credits earned.

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The Louisville Municipal Code (LMC) provides for the appeal of certain determinations made by the Finance Director and details the requirements to appeal, the contents of the petition, the time limitations to appeal, the location of the hearing, the conduct of a hearing, and further appeals available.

Requests for Appeal

A taxpayer that has been denied a refund claim, issued a Notice of Determination, Assessment and Demand for Payment, or issued a Jeopardy Assessment for failure to file a return for underpayment of tax owed, or as a result of an audit, may submit a written request for appeal.

Time Limitation

Any petition or request for appeal must be submitted in writing to the Finance Director within 30 days from the date of the notice or denial.

After the expiration of 30 days from the mailing or personal service of the notice or denial, if no tax has been paid or no request for appeal has been made, then the Notice of Determination, Assessment and Demand for Payment previously mailed or served together with penalties and interest, or the denial of a refund shall be final.

Contents of Petition/Appeal

Any written request or petition is under oath of the taxpayer and shall include:

1. The reason for such appeal
2. The amount of tax disputed
3. Any requested changes
4. A complete description of documents and tax periods pertaining to the appeal
5. The name, address, telephone number and sales or use tax license number of the taxpayer

Informal Meeting/Administrative Review

Any timely protest that conforms to the content requirements noted above entitles a taxpayer to a hearing under the provisions of the Louisville Municipal Code (LMC).

If, in the opinion of the Finance Director, the issues involved in such written appeal may be resolved administratively, the Finance Director may recommend or conduct an informal meeting with the taxpayer. Participation in such an informal meeting does not prevent either the taxpayer or the City from setting and holding a hearing if the dispute cannot be resolved by such meeting.

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If the issues are satisfactorily resolved at an informal meeting and a hearing is not requested, the remaining total tax liability, if any, shall be paid on or before ten (10) days after the date of the notification of the amount due. If the issues cannot be resolved, a hearing date will be set.

Time and Place of Hearing

The Finance Director will notify the taxpayer in writing of the time and place of the hearing not less than ten days prior to the hearing. In all cases, the hearing will be held in Louisville, Colorado.

Conduct of Hearing

1. The Finance Director or the Director's designee may conduct any hearing
2. The hearing will be informal and no transcript, rules of evidence, or filing of briefs is required
3. The taxpayer may elect to submit a brief, in which case, the City may submit a brief
4. The City will hold the hearing and issue a final decision within 90 days after the City's receipt of the taxpayer's written request (petition) for a hearing
5. The City may extend the 90-day period if the delay is occasioned by the taxpayer, but in any case, the City will hold the hearing and issue the decision within 180 days of receipt of the written request for extension

Adjustments

The Finance Director may modify or abate in full the tax, penalty and/or interest raised in the written appeal at an informal meeting requested by the Finance Director, or after a hearing based upon the evidence presented or filed in support of the taxpayer's claim, or may approve a tax refund.

Hearing Determination Notices

The Finance Director, whether approved or denied, in whole or in part, will mail a written hearing determination notice to the taxpayer indicating the amount of any claim allowed or denied, the grounds for approval or denial of the petition, in whole or in part, within 45 days following the hearing, but in all cases within 180 days as specified above in item 5.

Appeals to District Court

Any taxpayer that is not satisfied with the final decision of the Finance Director, and only after a hearing, may have the decision reviewed by the Colorado Department of Revenue, or district court of Boulder County and must be in accordance with Rule 106 of the Colorado Rules of Civil Procedure.

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The Louisville Municipal Code (LMC) defines “business” to include all activities engaged in or caused to be engaged in with the object of gain, benefit, or advantage, direct or indirect.

Being engaged in business in the City means performing or providing services or selling, leasing, renting, delivering, or installing tangible personal property for storage, use, or consumption within the City and includes, but is not limited to, any one of the following activities by which a person:

- Directly, indirectly, or by a subsidiary, maintains a building, store, office, salesroom, warehouse, or other place of business within the City
- Sends one or more employees, agents or commissioned sales persons into the City to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons
- Maintains one or more employees, agents or commissioned sales persons on duty at a location within the City
- Owns, leases, rents or otherwise exercises control over real or personal property within the City
- Makes more than one delivery into the City within any 12-month period

Any person engaged in the operation, conduct or carrying on of any trade, profession, business or occupation within the City, regardless of whether or not goods and services are sold must obtain a Louisville sales/use tax license and comply with all the provisions of the LMC.

Examples

Office Supply Company A is located in Boulder and frequently makes deliveries to its customers in Louisville. The office supply company is required to obtain a Louisville sales/use tax license and to collect Louisville sales tax on the purchase price of the items delivered to Louisville.

Mary is a resident of Lafayette and operates a small housecleaning service. One of her clients is a Louisville resident. Mary does not need to obtain a Louisville sales/use tax license because Mary is performing a non-taxable service and has no permanent place of business in Louisville.

Louisville Law Firm B operates from its offices in Louisville. The law firm offers professional services only and does not make any retail sales. Louisville Law Firm B is required to obtain a City sales/use tax license because it has a physical location in the City. Additionally, the law firm is required to annually remit any use tax it may owe on items used in the business (computers, office supplies etc.) on which Louisville sales tax or another lawfully imposed municipal sales tax was not paid.

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Engaged in Business in the City

Louisville Manufacturer C operates a production facility in Louisville. The company leases a large piece of warehousing equipment from a Denver company. The Denver company is required to obtain a Louisville sales/use tax license and to collect City of Louisville sales tax on the rental price of the equipment leased and located in Louisville.

Please see the “Mobile Retail Food Vending”, “Peddlers, Solicitors and Vendors”, and “Special Event Vendors” publications in this Tax Guide for additional information.

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Filing Periods and Due Dates

Filing Frequencies

Every business licensed with the City must file a City of Louisville Sales/Use Tax Return at least annually, **even if no tax is due**. A taxpayer engaged in business in the City at two or more locations must obtain a sales/use tax license for each location but may file one consolidated return and include a schedule showing the gross sales, net taxable sales and sales and use tax due for each location. 13-period filers must notify the City in writing of the scheduled tax payment dates prior to January 1 of each calendar year.

A taxpayer's filing frequency is based on the amount of tax remitted on an average monthly basis as follows:

Estimated Sales or Use Tax Liability	Required Filing Frequency
\$100 or more/month	Monthly
\$100 or less/month	Quarterly
\$25-\$50/year	Semi-Annual
\$25 or less/year	Annual

Annually, taxpayer payments will be reviewed and adjusted, if necessary, for the following calendar year. Notice of the new filing frequency will be shown on the annual Louisville license renewal notice.

Any taxpayer whose annual sales tax liability is in excess of \$75,000 must remit the sales tax monthly by automated clearing house (ACH) credit payment through the City's designated bank. See the "Payment of Taxes" publication in this Tax Guide.

Special event participants must obtain a Louisville Sales/Use Tax License to sell merchandise. Vendors may choose to remit tax monthly by indicating the months' they will be participating on the license application, or they may remit tax quarterly.

Filing Period Due Dates/Timely Filing

Sales and use tax shall be due and must be remitted to the City on or before the 20th day of the month following their required reporting period.

Final returns shall be due 30 days after the legal date of transfer of ownership or closure of a business.

Timely payment will be determined by the U.S. postmark date if mailed, by the date the City's bank confirms receipt of funds if paid by ACH or by the date on the receipt issued by the City cashier if dropped off or paid in person.

Any due date which falls on a Saturday, Sunday or legal holiday recognized by either the Federal Government or State of Colorado shall be extended to the first business day following the weekend or holiday.

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Filing Periods and Due Dates

Filing Period	Start Date of Period	End Date of Period	Tax Due Date for Period
Monthly	1 st day of Month	Last Day of Month	20 th of following month
1 st Quarter	January 1 st	March 31 st	April 20 th
2 nd Quarter	April 1 st	June 30 th	July 20 th
3 rd Quarter	July 1 st	September 30 th	October 20 th
4 th Quarter	October 1 st	December 31 st	January 20 th (of next year)
Semi-Annual	January 1 st and July 1 st	June 30 th and December 31 st	July 20 th and January 20 th
Annual	January 1 st	December 31 st	January 20 th (of next year)

Examples

1. Business A is a service repair company operating in a neighboring city that occasionally performs repairs for Louisville residents and businesses. Business A performs work in Louisville on a regular basis and has sales for parts of approximately \$700 a month (\$25.55 in City sales tax). Business A must obtain a Louisville Sales/Use Tax License and may remit tax on a quarterly basis.
2. Business B is a Louisville manufacturer that sells its product wholesale and seldom or never has sales tax to report. Business B, however, purchases items for the business on which City sales tax was not charged at the time of purchase and therefore must pay use tax to the City. It's annual Louisville Sales/Use Tax Return and payment for the prior year was \$25,000. The City changed the filing frequency for Business B to monthly for the upcoming year based on the amount of use tax paid, and indicated the new filing period on the license renewal notice.
3. Business C is a Special Event vendor selling at the Louisville Farmer's Market. They will be selling food and craft items in July and August only. Business C must obtain a Louisville Sales/Use Tax License by completing the Special Events license application and marking the months of July and August on the application. The vendor will only be required to file returns with the City for those months.
4. Business D closed their business on March 3rd. Business D must file a final Louisville Sales/Use Tax Return on or before April 2nd, remit any sales tax owed for sales made, and remit any use tax owed for purchases made through the March 3rd closure date.
5. Business E purchases a Louisville business on April 10th and commences operations. The purchase includes tangible personal property assets valued at \$30,000 on the bill of sale. Business E must immediately apply for a Louisville Sales/Use Tax License if it has not already (Please see "Licensing Requirements" in this Tax Guide for additional information). The use tax on the purchase price of \$30,000 is due from the purchaser on or before May 10th, and the sales tax collected on taxable sales made between April 10th and April 30th is due by the 20th of May.

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The Louisville Municipal Code (LMC) imposes sales tax on the purchase price paid for tangible personal property and certain taxable services sold at retail. The LMC also imposes a use tax upon the privilege of using, storing, distributing, or otherwise consuming in the City any article of tangible personal property or services purchased, leased or rented, on which a legally imposed sales tax has not been paid.

Banking, financial, and insurance institutions are not exempt from sales or use tax on sales made to customers or on the purchases of tangible personal property for their use or consumption.

Purchases of tangible personal property by an insurance company to replace an insured's damaged property are subject to sales tax at the time of purchase. Tangible personal property purchased by the insured with the proceeds of a damage claim settlement received from an insurance company is subject to sales tax.

Banks, savings and loans, and other financial institutions who offer gifts or premiums of tangible personal property as an inducement for opening an account, making a deposit, adding an account, or using other financial services from which the bank may profit, are subject to sales tax at the time of purchase or use tax to the City if sales tax was not paid.

When gifts and premiums are offered at a reduced price to customers, the full price of the item is subject to sales tax. For example, if an item cost \$50 and is being sold to the customer for \$25, the transaction would be \$50 + tax - \$25.

When gifts and premiums are given away free to a customer, the institution is responsible to remit use tax to the City on the full purchase price (cost) of the item.

See the "Coupons, Gift Certificates and Trade Discounts" publication in this Tax Guide for additional information.

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Food for Home Consumption and Food & Drink

The Louisville Municipal Code (LMC) imposes sales tax on all sales of food and beverages whether purchased for immediate consumption or as food for home consumption.

This includes food or drink served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, drugstores, supermarkets, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carryout shops, and other like places of business, including but not limited to, pushcarts, mobile carts, or motor vehicles.

Candy, soda, bottled water and vending machine food items are all subject to Louisville sales or use tax.

A vendor selling food, soda and water through coin-operated devices is permitted to include the sales tax in the price of the items sold. A vendor selling malt, vinous or spirituous liquors by the drink may also include the sales tax as part of the purchase price of the beverage. All other vendors must add the tax to the price of the items being sold and show the tax as a separate and distinct item.

Food, meals or beverages that are given away as a promotion, donation, “comp meal”, or consumed without charge to an end customer, are subject to Louisville use tax from the food provider on the cost of the food or meal.

Meals provided to employees of the establishments defined above at no charge or a reduced charge, and which are considered as part of their salary, wages, or income are exempt from sales tax. The food provider is responsible to remit use tax on the cost of the food or meal provided.

Cover charges as well as any mandatory service or service-related charges (such as tips or gratuities), are to be included as part of the purchase price for such food and drink and subject to sales tax.

Exemptions

The sale of food to qualifying wholesalers or to government or charitable organizations in the conduct of normal business, are tax-exempt, similar to sales of tangible personal property and taxable services.

Food as defined in 7 U.S.C. 2012(k)(2014), that is purchased with the medium commonly referred to as “food stamps,” and food that is purchased under the supplemental nutrition assistance program or any successor program as defined in 7 U.S.C. sec 2012 (t), is exempt from Louisville sales and use tax.

Examples

1. Business A is an ice cream shop that annually hosts a “Customer Appreciation Day” where all customers receive a free scoop of ice cream. Use tax must be paid by Business A to the City on the cost of the ice cream given away throughout the day.

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2. Business B conducts vending machine sales of food and beverages within the City. The vendor may sell the items at one price which includes City sales tax but Business B must back out the tax from the proceeds and remit such tax to the City.
3. Business C is a local real estate company that purchases coffee, tea, bottled water and soft drinks to give to customers while visiting their offices. Business C purchases the beverages from a neighboring city where the sales tax rate is more than the sales tax rate for Louisville. Business C does not need to remit use tax to the City on the purchase price of the beverages.
4. Special Event Vendor D is selling homemade honey at the Louisville Farmer's Market. Jarred honey is considered food for home consumption. Food for home consumption is exempt from sales tax for the State, RTD/CD and Boulder County, but City of Louisville sales tax must be collected by Vendor D on the retail selling price of the honey.
5. Special Event Vendor E is selling roasted ears of corn at the Louisville Street Faire. The roasted corn ears are prepared as food for immediate consumption. Sales tax must be collected by Vendor D on the retail selling price of the corn ears for the State, RTD/CD, Boulder County and the City of Louisville.
6. Louisville Restaurant F "donated" a dinner for two to a local fund-raiser event as a silent auction prize. Restaurant F must calculate and remit use tax to Louisville based on the cost of the free dinner's provided.

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The Louisville Municipal Code (LMC) exempts the sale of tangible personal property at garage sales, yard sales or estate sales, provided that all of the following conditions are met:

- No sale of automotive vehicles
- Sales may not be conducted more than three times in a calendar year
- The sale must occur at the residence of the seller, by the seller
- All property being sold must have been originally purchased for use by a member of the household where the sale is being conducted

Individuals that conduct sales which do not meet all of the above criteria, are conducting a business and are required to obtain a Louisville Sales/Use Tax License and to charge, collect, and remit City sales tax on the purchase price paid by each customer.

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The Louisville Municipal Code (LMC) imposes sales or use tax on the amount paid or charged for gas, steam, heat and electric service for commercial, industrial or residential consumption not for resale. “Gas” includes natural, manufactured and liquefied petroleum gas.

Exemptions

The sale and purchase of electricity, coal, gas, fuel oil, steam or coke used directly in processing, manufacturing, mining, refining, irrigation, building construction, telegraph, telephone and radio communications, street and railroad transportation services is exempt. This also includes the portion of utilities used by restaurants for the direct preparation of food for immediate consumption.

Qualifying wholesale, government, and charitable organization purchases of gas, electricity, coal, fuel oil, or steam are exempt similar to other purchases of tangible personal property and taxable services.

The industrial utility usage exemption does not include the utilities used for lighting, space heating or for other non-industrial operations or areas, such as offices, break-rooms, testing, R&D or shipping.

The LMC provides no exemption for electricity generated from renewable sources or for the equipment used in generating renewable energy. Renewable energy equipment installed in the City requires the payment of sales or use tax on the cost of the equipment, or in the case of leased equipment, sales tax on the periodic lease cost as well as sales tax on the price of the electricity generated and sold to customers within the City.

Examples

1. Business A is a Louisville manufacturer that produces medical instruments which it sells at wholesale. They have filed Colorado Department of Revenue form DR1666 “Sales Tax Exempt Certificate Electricity & Gas for Industrial Use” with their utility supplier and are not being charged any sales tax on their utility bill. Annually, Business A must remit to the City on the Louisville Sales/Use Tax Return the use tax due on the cost of the utilities for the non-industrial areas or uses.
2. Business B is a solar company that leases photovoltaic systems to residential customers in the City for a specific period as determined by an agreement. In addition to the leased equipment, the property owner purchases the electricity generated by the system. At the end of the lease period, Business B removes the equipment or offers it for sale to the property owner for a set value as determined by an agreement.

Business B is required to collect and remit City sales tax on the periodic lease payment, on the charges for electricity generated by the system, and on the ending sales price of the equipment if purchased by the property owner.

3. Business C is a Louisville restaurant that specializes in smoked food items. Business C is charged, and pays, sales tax on their utilities. Business C also purchases charcoal and apple wood to smoke its product from a vendor in

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another jurisdiction. Annually, Business C may apply to the City for a refund of the taxes paid on the percentage of their gas or electric used directly in preparing food for immediate consumption (by completing Colorado Department of Revenue form DR1465). The wood and charcoal used to smoke the meat is not tax exempt but the utilities used to bake, broil or reheat the meat is tax exempt. Sales tax must be paid to the vendor selling the wood and charcoal at the tax rate of their location when the materials are picked up. If no sales tax is paid, use tax would be due to Louisville on the cost of the wood and charcoal.

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The Louisville Municipal Code (LMC) generally exempts the qualified **purchases** of tangible personal property and services from sales/use tax by government, charitable and community organizations; however, it is the responsibility of the seller to prove, and have documentation to support, that a transaction is exempt. The LMC also generally imposes its sales tax on all **sales** of tangible personal property and certain services by government, charitable or community organizations to the ultimate consumer.

Charitable and Community Organizations

The definition of a charitable organization is as defined in the LMC:

“Any entity which has been certified as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code, and is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons or animals, freely and voluntarily ministers to the physical, mental, or spiritual needs of persons or animals, and thereby lessens the burden of government.”

The definition of a community organization is as defined in the LMC:

“A nonprofit entity organized and operated exclusively for the promotion of social welfare, primarily engaged in promoting the common good and general welfare of the community, so long as:

- No part of the net earnings of which inures to the benefit of any private shareholder or individual.
- No substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.
- And which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Purchases by charitable and community organizations in the conduct of their regular charitable functions and activities, when such sales are billed to and paid for directly by the charitable or community organization, are exempt from City sales tax. Reimbursement of monies paid by any individual does not qualify for exemption.

This includes all sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration or repair of structures, highways, roads, streets, and other public works owned or used by charitable or nonprofit community organizations in the conduct of their regular charitable functions and activities.

Any **retail sales** or occasional sales made by a government, charitable, or community organization to an end user or consumer are subject to Louisville sales tax.

The storage, use, or consumption of tangible personal property by government, charitable, or community organizations in the conduct of their regular functions is exempt from Louisville use tax.

United States Government

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The definition of a government(s) as defined in the LMC:

- U.S. Government
- State of Colorado, its departments or institutions, and the political subdivisions thereof in their governmental capacities only

Purchases are exempt from Louisville sales tax when billed to and paid for directly by the governmental entity. Reimbursement of any person does not qualify for exemption.

Purchases made by the United States government, the State of Colorado, or its institutions, or its political subdivisions in their governmental capacities only, are exempt from Louisville use tax.

Municipal construction projects managed directly by the City of Louisville are exempt from sales and use tax on the purchase of construction materials.

All retail **sales** made by a governmental entity are subject to Louisville sales tax.

Examples

- A. A local church secretary is purchasing office supplies for the local church office. The secretary is paying with a personal check but states that the amount of the purchase will be reimbursed by the church. Because the purchase is not being paid for directly by the funds of the tax-exempt church, the sale is not tax exempt and the retailer should charge and remit sales tax.
- B. A local non-profit hospital is remodeling the doctor's offices wing of the hospital. A Louisville building permit is required but no Louisville or Boulder County use tax will be collected on the permit for the building materials. The materials may be purchased tax-exempt.
- C. A local Louisville qualified non-profit organization is holding a silent auction to raise money. The organization has purchased several items for the auction and will be providing hors d'oeuvres. An area restaurant is donating a \$50 gift certificate for the auction and an area retailer is donating a \$400 wine cooler. There are also several individuals that have donated items, a framed photograph and an in-home spa package.

The non-profit organization may purchase goods to be sold at the auction and the hors d'oeuvres tax-exempt. The restaurant and the retailer of the wine cooler must remit Louisville use tax on the cost of the items donated for the silent auction. The non-profit organization must charge sales tax on the amount paid for the silent auction items by the ultimate purchasers/end users. If tickets are sold, or donations are made, in exchange for tangible personal property or taxable services including food, sales tax must be charged and remitted on the ticket price.

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Government, Charitable & Community Organizations

“Gross sales means the total amount received in money, credit, property or other consideration valued in money for all sales, leases, or rentals of tangible personal property or services.”

“Purchase price or price is the price to the consumer and means the aggregate value measured in currency paid or delivered, or promised to be paid or delivered, in consummation of a sale, without any discount from the price on the account of the cost of materials used, labor or service cost, and exclusive of any direct tax imposed by the federal government or by this article.

“Purchase or sale means the acquisition for any consideration by any person of tangible personal property, other taxable products, or taxable services that are purchased, leased, rented, sold, used, stored, distributed, or consumed.”

“Retailer shall include without limitation any governmental entity, charitable or community organization which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable, community or governmental purposes.”

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749 Main Street - Louisville, CO 80027
Office (303) 335-4514 – Fax (303) 335-4529
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Sand and gravel removed from the ground becomes tangible personal property and are subject to City sales or use tax. The sale of sand and gravel are taxable unless sold to a licensed vendor for resale.

The retailer of sand and gravel who removes sand and gravel to fulfill his own construction obligations is subject to sales or use tax on the acquisition cost of the products used at the time of conversion to his own use or consumption.

Persons who purchase the right to remove sand and gravel from another person's land are subject to a use tax on the purchase price of the sand and gravel when removed, unless the sand and gravel are held for resale.

Ready-mix concrete is taxable on the delivered price unless such charges are separately stated, such as minimum load, transportation, operator, wheel-in charges etc.

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Hold-Harmless, Electronic Address Databases

The Louisville Municipal Code (LMC) provides for the use of an electronic database of addresses that is certified by the Colorado Department of Revenue pursuant to Colorado Revised Statutes Section 39-26-105.3 by vendors to determine the jurisdictions to which tax is owed; however, due to inconsistencies, this section of the LMC has been suspended in two-year increments beginning October 4, 2009 per Resolution No. 33, Series 2009, up to and through its latest suspension which will end October 3, 2019.

During suspension, the City will continue to consider alternatives or may choose to develop and utilize its own address database. Vendors are encouraged to contact the City directly to determine if a certain address is located within the jurisdiction of the City of Louisville.

Vendors are responsible for the collection and payment of the appropriate tax on all taxable sales within the City.

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Article XX, Section 6 of the Colorado Constitution provides that each City or Town of the State with a population of at least two thousand inhabitants shall always have the “power to make, amend, add to or replace the charter of said City or Town, which shall be its organic law and extend to all its local and municipal matters.” The charter and ordinances made by a home rule City supersede any law of the State within its territorial limits.

Effective July 1, 2002, the City of Louisville, Colorado became a home-rule city. With home-rule status, the City of Louisville has the authority to create tax ordinances, a tax base, its tax rates, and other rules and regulations which allow it to administer and collect its own taxes. Transactions taxed by the City of Louisville may differ from those imposed by the State of Colorado or other home-rule cities.

Taxation in Colorado is generally based on the point of delivery, therefore, each taxpayer that does business within a home-rule jurisdiction in Colorado needs to license with that jurisdiction and must collect and remit taxes according to that city’s tax ordinances. The City of Louisville requires all entities engaged in business in the City to license with the City and to collect and remit the appropriate Louisville sales and uses taxes directly to the City. All other taxes collected on behalf of the State, any Special Districts and State-collected Counties should be remitted directly to the Colorado Department of Revenue.

The Colorado Department of Revenue is not a collection agent for the City of Louisville. Payments made to the Colorado Department of Revenue or to another jurisdiction do not relieve a taxpayer of their liability to the City of Louisville.

For a complete listing of home-rule cities, refer to the Colorado Department of Revenue Form DR 1002, which is available on their website at www.taxcolorado.com. This publication is updated January 1 and July 1 of each year.

See Tax Guide Topics “Nexus”, “Taxpayer Responsibilities – Unlawful Acts”, and “Louisville Licensing Requirements”, for additional information.

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The Louisville Municipal Code (LMC) requires all home-based businesses located within the City of Louisville to obtain a City sales/use tax license regardless of whether or not goods or services are sold. Each home-based license application is reviewed by the City Planning and Zoning department to determine if the intended business use within the home is permitted.

The LMC defines “business” as all activities engaged in or caused to be engaged in with the object of gain, benefit, or advantage, direct or indirect.

The LMC defines a “home occupation” as an occupation carried on in the dwelling or accessory building by members of the family occupying the dwelling. No servant, employee, or other person being engaged may work within the residential home.

Additional zoning rules regulate the permitted uses of a home-based business or occupation. Persons must comply with all of the following regulations:

- Home occupations must clearly be secondary to the use of the building and shall not occupy more than 20% of the total floor area of the main building, or if located in an accessory building, shall not occupy more than 5% of the total lot area.
- Home occupations shall be operated entirely from an enclosed structure with no exterior storage of materials or equipment.
- There shall be no visible evidence of the operation and the operation shall not change the residential character of the building.
- The operation of the business shall not generate objectionable traffic in the area, and off-street parking must be provided to accommodate all the needs created by the home occupation.
- The operation shall not be objectionable due to odor, dust, smoke, noise, vibration or other similar causes.
- There may not be any advertising or signage displayed on the premises.
- No home occupation shall cause an increase of any one or more utilities so that the combined total use for the location exceeds the average for residences in the neighborhood.
- The following uses, because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area, are not permitted as home-base businesses or occupations:
 - auto repair or motorized implement repair

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- barber and/or beauty shop
- dance, music or other types of instruction in excess of four students being instructed at one time
- dental offices
- medical offices
- massage therapy by a massage therapist
- medical marijuana centers
- medical marijuana-infused products manufacturers
- medical marijuana optional premises cultivation operations
- nursing homes
- painting of vehicles, trailers or boats
- private schools with organized classes
- radio and television repair
- sexually oriented businesses, and irrespective of whether the use may be categorized as a sexually oriented business, and retail or wholesale sales to consumers upon the premises of any types of materials specified in this title which describe or depict specified sexual activities or specified anatomical areas.
- welding shops

Home-based businesses that sell tangible personal property to a consumer within the City of Louisville are required to collect and remit City sales tax. Home-based businesses that provide services only are required to remit City use tax on any items they purchase for use in their business on which City sales tax or another lawfully imposed and equivalent municipal sales tax has not been paid.

Examples

Resident A operates a home-based business and provides consulting services. No products or goods are sold. The resident needs to obtain a City sales/use tax license and remit any use tax it may owe on the purchase of such things as office supplies, furniture, and computers for which they did not pay City sales tax or another lawfully imposed and equivalent sales tax equal to Louisville's rate at the time of purchase.

Resident B operates a home-based business and repairs musical instruments. The resident needs to obtain a Louisville sales/use tax license. If Resident B charges its customers for time and materials, sales tax must be collected on the purchase price charged to the customer for the materials. If the resident charges its customers a lump sum amount for the repair, the entire amount charged is subject to Louisville sales tax.

Resident C is an artist and operates a small painting studio in their home. The artist generally travels to art shows throughout the state to sell their artwork and occasionally participates at Louisville events. The resident needs to obtain a City sales/use tax license. If the artist sells any of their work within the City of Louisville, they must collect and remit City sales tax. In addition, they must remit any use tax owed on items used or consumed by the business on which City sales tax or another lawfully imposed and equivalent municipal sales tax has not been paid.

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The Louisville Municipal Code (LMC) imposes a sales tax on the purchase price paid for tangible personal property and certain taxable services in the City by the ultimate user or consumer. The LMC also imposes a use tax upon using, storing, distributing or otherwise consuming in the City any article of tangible personal property or services purchased, leased or rented from sources outside the City on which a lawfully imposed sales tax has not been paid.

The sale of ice to other sellers of ice, or to retailers of soft drinks for use as a component part of a drink is a wholesale sale and exempt from City sales tax.

The sale of ice to manufacturers, freight carriers or any other consumer for the purpose of cooling or keeping perishable items of tangible personal property for other uses is taxable.

Ice used for the sole purpose of becoming a necessary ingredient or component part of the finished product is exempt from City sales tax.

Ice purchased for home consumption is subject to City sales tax.

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The Louisville Municipal Code (LMC) imposes its sales or use tax on tangible personal property items purchased over the Internet which are delivered to persons within the jurisdiction of the City of Louisville. The LMC also imposes its sales or use tax on the purchase of online internet subscription services rented, leased or subscribed to. If Louisville sales tax is not paid at the time of purchase, then a use tax must be remitted directly to the City.

The LMC defines “Internet Subscription Service” as software programs, systems, data and applications available online through rental, lease, or subscription, that provide information and services including, but not limited to, data linking, data research, data analysis, data filtering or record compiling.

Internet access service charges, web site hosting and domain name registration are not taxable. Fees charged for on-line lessons are not taxable unless software or other medium is available for purchase and can be downloaded.

See the “Digital Product,” and “Software” publications in this Tax Guide for additional information.

Some Internet retailers are not “engaged in business” in the City. As such, they are not legally obligated to collect Louisville sales tax. There are many misunderstandings about internet sales and purchases and a misconception that these transactions are not taxable due to the Internet Tax Freedom Act. This act exempts the *internet access service fees* only and not the sales of goods and services. See the “Engaged in Business in the City” and “Nexus” publications in this Tax Guide for additional information.

Sales and purchases made via the Internet are subject to tax in the same manner as those made from local retailers. Internet retailers may obtain a City sales/use tax license and collect Louisville sales tax as a courtesy to their customers even though they may not be required by law to do so.

Internet retailers licensed with the City of Louisville voluntarily, or due to physical nexus, should collect City sales tax on items delivered within the Louisville City limits.

Purchasers of tangible personal property or taxable services over the Internet, who do not pay City of Louisville sales tax at the time of purchase, must remit City of Louisville use tax on the purchase price paid.

Examples

Louisville Business A purchases computers from an Internet distributor based out-of-state. The distributor does not collect any sales tax on the purchase. Business A must remit use tax on the purchase price paid to the City of Louisville on their City tax return.

Louisville Business B operates a storefront in the City and also offers its goods for sale over the Internet. Louisville resident X purchases an item on the Internet from the business and picks up the item at the retail store. Louisville Business B should charge and collect Louisville sales tax. Louisville Business C also places an order with Business B over the Internet for delivery to their Louisville office. Business B should charge Louisville sales tax on the purchase price of the items delivered in Louisville. Superior resident Y places an order over the Internet with Louisville Business B for delivery to her home in

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Superior. Louisville Business B should not charge Louisville sales tax on the order delivered to Superior, but should charge State, RTD/CD and Boulder County sales tax.

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Lay-a-Way Service and Cancellation Fees

The Louisville Municipal Code (LMC) imposes a sales tax on the purchase price to the consumer and includes the amount of money received or due in cash and credits.

A lay-a-way plan is a plan offered by a retailer by which the retailer agrees to sell goods to a customer if and when the customer completes a series of payments that amount to the total sales price of the product. Most retailers will also charge a lay-a-way service fee to its customers.

If the customer completes the payments required by the retailer, then the retailer should charge City sales tax on the full purchase price of the tangible personal property purchased, including the lay-a-way service fee.

If the customer cancels a lay-a-way payment plan, the retailer generally refunds all periodic payments made by the customer but retains the lay-a-way service fee. The service fee is not subject to City use tax to the retailer.

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749 Main Street - Louisville, CO 80027
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www.LouisvilleCo.gov

The Louisville Municipal Code (LMC) defines “purchase” or “sale” to include the acquisition for any consideration by any person of tangible personal property or services that are purchased, leased, rented, sold, used, stored, distributed, or consumed.

Purchase or Sale includes capital leases, installment and credit sales, and property and services acquired by:

- Transfer, either conditionally or absolutely, of title or possession or both of tangible personal property, other taxable products, or taxable services
- Lease agreement
- Lease-purchase agreement
- Rental
- Grant of license
- Royalty agreements
- Performance of taxable services
- Barter or exchange for other tangible personal property, other taxable products or services

Conditional Sales/Lease-Purchase Agreements/Secured Sales

A conditional sale or lease-purchase sale of tangible personal property is generally sold under one of these agreements;

- where the retailer retains title as security for all or part of the purchase price
- when the retailer takes a chattel mortgage or other secured interest to secure all or part of the purchase price

The total tax based on the total purchase price becomes immediately due and payable to the City of Louisville. This tax is to be charged and collected by the retailer. The retailer may not collect sales tax on each lease payment. No refund or credit is allowed to either party in the case of repossession of the tangible personal property.

Retailers of Leased or Rented Personal Property

Retailers leasing or renting tangible personal property for use in the City must obtain a Louisville Sales/Use Tax License and collect Louisville sales tax on the lease payments.

Tangible personal property that is purchased exclusively for rental or leasing inventory is exempt from City sales tax provided that the property is not otherwise used for the purchaser’s general business or personal use.

Sales tax is due upon the rental or leasing price of any tangible personal property regardless of whether sales or use tax has been previously paid for the tangible personal property.

Purchasers or “Lessees” of Tangible Personal Property

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Leased and Rented Property/Credit Sales

The purchaser or “lessee” of tangible personal property or services taxed under the LMC is responsible to remit use tax to the City if a lawfully imposed sales tax is not charged or paid for the goods or services leased, rented, used, consumed or distributed in the City.

Please see the “Price/Purchase Price” publication in this Tax Guide for additional information.

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The Louisville Municipal Code (LMC) defines “purchase” or “sale” to mean the acquisition for any consideration by any person of tangible personal property, other taxable products, or taxable services that are purchased, leased, rented, sold, used, stored, distributed, or consumed. Purchase or sale includes capital leases, installment and credit sales, and property and services acquired by lease, lease-purchase, rental, grant of a license, and royalty agreements to use tangible personal property or taxable services.

The transfer, either conditionally or absolutely, of title or possession of almost any item of tangible personal property or taxable service, is of little value unless such possession is accompanied by the intangible right to use that item for a useful purpose. These rights are often in the form of license agreements, subscriptions or royalty agreements.

The City may evaluate on a case-by-case basis, the goal or “true object” of the item or service to the user. If the goal is to obtain a finished product or the use of tangible personal property or taxable services, and when it is impossible to separate the use, lease or rental of tangible personal property or taxable services from the agreement instrument (license, subscription, royalty agreement), the entire transaction is subject to sales or use tax.

Licenses or royalty agreements for the use of intangible personal property, thoughts, ideas, and processes, for example, are not taxable.

Examples

A photographer sells royalty agreements to advertising companies allowing them the use of his photographs for advertising purposes. The purchase price paid for the royalty agreements are subject to Louisville sales tax, or if no sales tax is charged or paid, use tax is due to the City by the user of the photographs.

A motion picture theater regularly enters into agreements with various motion picture distributors to obtain copies of films and a license to exhibit those films to the public. The theater would owe use tax to the City on the entire purchase price of the transaction to provide the license and the rental of the films.

A manufacturing company pays a license or subscription fee to a software manufacturer for the right to use its software in the quality control testing of its equipment. The purchase price for the license or subscription is subject to Louisville sales or use tax.

A manufacturing company pays a royalty to another company that owns a manufacturing process patent which is used in their manufacturing line. The royalty agreement is not subject to City sales or use tax because it is for the use of intangible personal property, the process.

Also see “Internet Sales and Purchases,” “Professional Services,” and “Software” publications in this Tax Guide.

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Liens, Foreclosure & County Certification

The Louisville Municipal Code (LMC) sets forth certain processes and procedures the City may utilize to enforce the collection and remittance of tax pursuant to section 3.20 of the LMC.

The City provides all licensed taxpayers with written notice of missing tax returns within five days of the due date. If no payment or return is received within 10 days, the City may estimate and issue a Final Determination, Assessment and Demand for Payment. This document permits the taxpayer 30 days within which to file the return and make the payment due, or to request a hearing. If the City feels the collection of any tax may be jeopardized by delay, the City may estimate and issue a Jeopardy Assessment, which payment becomes due and payable immediately.

If after the 30 day period, the taxpayer has not filed a return, paid the taxes due, or paid the amount of the assessment in full, the City will, upon the 5th day after the due date, record a lien for the full amount of taxes, penalties and interest with the Boulder County Clerk and Recorder's Office. A lien may be filed in the office of the Clerk and Recorder of any County in the State in which the taxpayer owns real or tangible personal property.

The City's tax liens becomes a first and prior lien superior to all other liens on the tangible personal property sold, purchased, stored, used, distributed or consumed. This includes goods, merchandise, furniture and fixtures, tools equipment, cash, bank accounts and accounts receivable of any retailer.

After the lien notice has been filed, or after a jeopardy assessment has been issued, regardless of whether or not a notice of lien has been filed, the Finance Director may issue a Distrain Warrant and seize as much merchandise, furniture and fixtures, tools and equipment or other property not otherwise excluded, as may be necessary to cover the amount of the lien or jeopardy assessment.

The expenses incurred for a seizure are the responsibility of the taxpayer and include all reasonable collection costs and expenses incurred by the City to enforce the collection by Distrain. These costs may include, but are not limited to, assessment, bank, auction and lien filing fees; locksmith, litigation, prosecution and attorney's fees; and all personnel costs of the City. Such expenses may also be satisfied from the proceeds of the sale of the distrained property.

In the case where the taxpayer does not volunteer entry to the premises, the Finance Director may apply to the Municipal Court of the City of Louisville for a warrant. The City will follow all procedures and compliances required under Rule 241 of the Colorado Municipal Court Rules of Procedure.

Other rules and procedures apply to the disposal of distrained property, exempt property and the return of property. Please contact the City directly if further information is needed or refer to Section 3.20.465 of the LMC.

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The Louisville Municipal Code (LMC) defines linen services as involving the provision of, and the cleaning of linens; including, but not limited to, rags, uniforms, coveralls, and diapers.

The LMC imposes its sales and use tax upon the purchase price paid whether purchased, leased or rented from sources inside or outside of the City.

Linen companies which own the items of tangible personal property provided to the customer are deemed the renter of such goods and must obtain a Louisville Sales/Use Tax License and collect and remit City sales tax on the periodic rental or service fee paid by the purchaser. Any items such as hand soaps, paper towels, toilet tissue, trash bags or similar which are furnished as part of a service contract should be itemized by the company on the customer invoice, and are subject to City sales tax on the purchase price.

Linen service companies that provide only washing or cleaning services of tangible personal property that belongs to the customer, is generally considered to be providing non-taxable labor services. The linen service company however, must pay sales or use tax for all machinery, soaps, racks, hangers, etc., used in providing its services at the time of purchase.

Examples

Louisville Restaurant A contracts with Linen Company B to provide various services to the restaurant. The Linen Company regularly delivers staff uniforms, tablecloths, napkins, kitchen towels and floor mats and removes the soiled items. Linen Company B owns all the items provided to the restaurant and is responsible to obtain a Louisville Sales/Use Tax License and collect and remit City sales tax on the monthly charges billed to the restaurant.

Salon C, a Louisville business, is a full service beauty salon offering hair, nail and massage services. The salon owns the gowns, robes, towels, sheets and blankets used in the business, but contracts with an out-of-city linen company to pick up the linens bi-weekly. The linen company washes, sanitizes, folds and returns the linens to the salon. The linen company is performing a service and is not required to charge Louisville sales tax.

Louisville Manufacturer B contracts with Linen Services Company X to provide and clean the floor mats in its manufacturing areas on a monthly basis. The floor mats are owned by the linen company. Additionally, Linen Company X provides hand cleaner, paper towels, facial tissue and toilet tissue for the employee rest rooms. The sanitary items are billed on an as used basis. Linen Company X should obtain a Louisville Sales/Use Tax License and collect and remit Louisville sales tax on the charges for the mats and on the purchase price of the sanitary items.

Louisville resident Mary just had a baby and has hired a local linen company to provide cloth diaper services. The linen company provides Mary with diapers, two diaper bins, and sealable plastic bags to separate soiled from wet. The linen company picks up the two bags of soiled and wet diapers each week and delivers clean diapers to Mary. Mary is charged a flat monthly fee. The linen company should obtain a Louisville Sales Tax License and collect City sales tax on the monthly fee. The linen company is responsible to pay sales tax at the time of purchase for the plastic bags which are consumable to the linen company. The diapers and diaper bins may be purchased tax-exempt as long as they are used for rental purposes to customers, otherwise, they are taxable to the linen company.

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Lodging retailers engaged in business in the City of Louisville are responsible for the collection and payment of lodging tax and sales/use tax. Sales and use taxes are remitted to the City on a Sales/Use Tax Return and lodging taxes are remitted separately on a Lodging Tax Return.

The Louisville Municipal Code (LMC) imposes a lodging tax, in addition to sales tax, upon the amount of money received or due in cash and credits upon the lease or rental of any hotel room, apartment hotel room, motel room, lodging house room, motor hotel room, guesthouse room, guest ranch room, extended stay lodging room or similar accommodation located in the City.

The lodging tax *does not* apply to extended stay lodging of 30 consecutive days or more when rented under a long-term written agreement.

The lodging tax *does not* apply to the United States Government, the State of Colorado, its departments and institutions or political subdivisions *provided* the lodging charges are billed directly to, or paid directly by, the governmental entity. The person must also be acting within their governmental capacity and/or participating in governmental functions or activities.

See the “Lodging Tax” publication in this Tax Guide for further information.

The LMC imposes a sales tax on the entire amount charged to any person for lodging, rooms or accommodations that are rented for a period of less than one month or 30 consecutive days.

Other Items Subject to Sales Tax

Sales tax applies to the purchase price paid for tangible personal property and certain taxable services. Sales tax must always be shown as a separate and distinct charge. For alcoholic beverages sold by the drink and items sold through coin-operated devices only, sales tax may be included in the selling price.

- Coin-Operated Vending Devices
 - The sale of tangible personal property through coin-operated devices such as snacks, soft-drinks or other sundries, are taxable. The tax may be included in the selling price and no tax is due on individual items selling for less than \$0.17.
- Equipment Rental/Other Rentals
 - The rental of furniture, business equipment, audio/visual equipment, sports equipment, etc. is taxable.
- Food, Beverages and Liquor
 - Restaurant meals, catered meals, banquets, room service, and food sold for guest preparation are taxable.

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- Telecommunications Service
 - Charges for two-way interactive communications including but not limited to voice, image, data and any other information, by the use of any means but not limited to wire, cable, fiber optical cable, microwave, radio wave, Voice over Internet Protocol (VOIP), or any combinations of such media, including any form of mobile two-way communication, are subject to sales tax.
 - Charges imposed by the lodging provider for local and intrastate (within Colorado) long distance telephone calls are subject to City sales tax on the marked up price. This tax is in addition to any taxes the lodging retailer remits to the telephone utility company. Interstate phone calls (outside Colorado) are exempt from Louisville sales tax.
 - If guests are not charged to make local calls, no sales tax is owed.

Other Purchases by Lodging Retailers Subject to Sales/Use Tax

The LMC imposes a use tax upon the purchase price paid for tangible personal property and certain taxable services used, consumed, stored, or distributed in the City whether purchased, leased or rented from sources outside the City on which Louisville sales tax or other lawfully imposed sales tax has not been paid. Items delivered into Louisville are subject to Louisville sales/use tax and credit will not be given for taxes paid to another jurisdiction.

This means that lodging retailers are required to pay sales tax at the time of purchase, or to accrue and remit use tax to the City of Louisville. Some examples of taxable purchases include:

- Complimentary Guest Supplies
 - Items furnished for guest rooms such as soap, shampoo, tissue, glassware, coffee, linens, hairdryers, stationery, mini-refrigerators, etc. are subject to Louisville sales or use tax.
- Complimentary Meals, Food or Beverages
 - Complimentary food, including but not limited to breakfast buffets, continental breakfasts, fruit, hors d'oeuvres, beverages provided to employees or guests, is subject to Louisville sales or use tax on the purchase price paid by the hotel/motel.
- Furniture or Equipment
 - All fixed assets such as furniture, office equipment, recreational equipment for guest rooms, common areas, hotel offices, exercise rooms, meeting rooms or other areas are subject to City sales or use tax. Also any computers, computer software, or kitchen equipment is subject to Louisville sales or use tax.
- Repairs

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- Any materials used for repairs not requiring a Louisville building permit are subject to City sales/use tax. This may include painting, plumbing repairs, landscaping or other minor repairs. Repair or installation labor is not taxable if the labor charges are separately stated on the invoice.
- Supplies
 - All office supplies, cleaning supplies, uniforms, promotional items and similar is subject to Louisville sales/use tax.

Examples

1. Customer A is from out-of-state and reserves a standard room for two days to conduct interviews and meetings with local sales representatives. The Customer uses the fitness center with a daily fee of \$10. Louisville lodging tax would be due on the purchase price of the room because the room is intended to accommodate an overnight stay and is not a dedicated meeting room. Sales tax would be due on the full price of the room and the daily fee for use of the fitness center.
2. A local business group reserves a dedicated meeting room to conduct various presentations and networking activities. No Louisville lodging tax or sales tax is due on the purchase price of the meeting room. Any food or beverages provided by the hotel is subject to Louisville sales or use tax as well as the rental of any equipment.
3. Customer B is an employee of a State municipality. Customer B pays for their room with a City-issued Visa card on which the City's tax exempt tax number is printed. No Louisville lodging tax or sales tax is due on the purchase of the room.
4. A tax-exempt Church reserves five rooms for its members to attend a religious seminar at a nearby university. Louisville lodging tax is due on the purchase price of the room because the LMC does not exempt charitable or non-profit groups from the imposition of the lodging tax, however, no Louisville sales tax is due on the purchase price of the room, provided the charges are billed to or paid for directly by the tax-exempt organization.

Customer C is a Federal Government employee who reserves a room over the phone using their federally issued travel card. Upon check-out, Customer C asks you to use their personal credit card for the payment stating that they will be reimbursed for their travel expenses by their employer. Both lodging tax and sales tax should be charged on the purchase price of the room because the charges are not being paid directly by the funds of the government.

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Taxable Transactions

The Louisville Municipal Code (“LMC”) imposes a lodging tax, in addition to sales tax, upon the amount of money received or due in cash and credits upon the lease or rental of any hotel room, apartment hotel room, motel room, lodging house room, motor hotel room, guesthouse room, guest ranch room, extended stay lodging room or similar accommodation located in the City.

Lodging tax, just like sales tax, must always be shown as a separate and distinct line-item charge and may not be combined with any other fees or charges imposed by the lodging provider. Any excess tax collected as a lodging tax, in excess of the lodging tax imposed by the LMC, must be remitted to the City.

Lodging Tax Exemptions

The lodging tax *does not* apply to the rental of banquet rooms or meeting rooms or lounges offered within a hotel, provided it is the dedicated use of the room and the room cannot also be used to provide overnight lodging.

The lodging tax *does not* apply to extended stay lodging of 30 consecutive days or more when rented under a long-term written agreement.

The lodging tax *does not* apply to the United States Government, the State of Colorado, its departments and institutions or political subdivisions *provided* the lodging charges are billed directly to or paid directly by the governmental entity. The person must also be acting within their governmental capacity and/or participating in governmental functions or activities.

Examples

1. Customer A is from out-of-state and reserves a standard deluxe room for two days to conduct interviews and meetings with local sales representatives. Louisville lodging tax would be due on the purchase price of the room because the room is intended to accommodate an overnight stay and is not a dedicated meeting room.
2. A local business group reserves a dedicated meeting room to conduct various presentations and networking activities. Louisville lodging tax is not due on the purchase price of the meeting room. Any food or beverages provided by the hotel is subject to Louisville sales or use tax as well as the rental of any equipment.
3. Customer B is an employee of a state municipality. Customer B pays for their room with a City-issued Visa card on which the City’s tax exempt tax number is printed. Louisville lodging tax is not due on the purchase of the room.

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4. A tax-exempt Church reserves five rooms for its members to attend a religious seminar at a nearby university. Louisville lodging tax would be due on the purchase price of the room because the LMC does not exempt charitable or non-profit groups from the imposition of the lodging tax.
5. Customer C is a Federal Government employee who reserves a room over the phone using their federally issued travel card. Upon check-out, Customer C asks you to use their personal credit card for payment of the room charges stating that they will be reimbursed for their travel expenses by their employer. Lodging tax, in addition to sales tax, would be due on the purchase price of the room because the charges are not being paid directly by the funds of the government.

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The Louisville Municipal Code (LMC) requires that every person engaged in the operation, conduct, or carrying on of any trade, profession, business, or occupation within the City, with the object of gain, benefit or advantage, whether direct or indirect, and regardless of whether goods or services are sold, to obtain a Louisville Sales/Use Tax License. The City does not require a separate business license.

Licensing Required/Fee

The licensing requirement includes home-based businesses operating within the City boundaries and any business that is engaged in business in the City by performing or providing services or selling, leasing, renting, delivering, or installing tangible personal property for storage, use, or consumption within the City. Engaged in business in the City includes but is not limited to:

- Directly, indirectly, or by a subsidiary, maintains a building, store, office, salesroom, warehouse, or other place of business within the City;
- Sends one or more employees, agents or commissioned sales persons into the City to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;
- Maintains one or more employees, agents or commissioned sales persons on duty at a location within the City;
- Owns, leases, rents or otherwise exercises control over real or personal property within the City, or;
- Makes more than one delivery into the City within any 12-month period

The City of Louisville Tax Department administers all City sales/use tax licensing. Application forms can be obtained at City Hall offices or from the City website www.louisvilleco.gov on the Sales Tax and Licensing Division page. Applications must be fully completed and submitted with the annual license fee of \$25. Licenses are subject to renewal on an annual calendar year basis, and all business changes should be reported at that time. There is no proration of the license fee for partial years. Licenses cannot be transferred.

All special event vendors must obtain the same Sales/Use Tax License and remit the same \$25 fee; however, they should complete the Special Events Sales/Use Tax License application so they may designate the months they will be making sales in the City. This avoids the necessity for the vendor to remit zero tax returns for inactive months. Please refer to the "Special Events Vendors" publication in the Tax Guide for further information.

The City of Louisville restricts the actions of mobile vendors, door-to-door solicitors and peddlers. All Mobile Retail Food Vendors must complete and submit a separate application to receive a City permit. Also see "Peddlers and Solicitors" in the Tax Guide for further information.

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Each separate physical location of a business entity, or premise a business uses within the City, is required to obtain a separate Louisville sales/use tax license.

Tax Returns/Required Reporting

The start date indicated on your license application must reflect the start date of any business activities within the City, and sales/use tax returns must be remitted from that date to the present even if there was no tax due or collected.

Businesses which fail to license with the City are subject to audit, collection, and assessment of any sales or use tax owed from the first date of business activity in the City.

Businesses which close, move, or are sold, must submit written notice to the Tax Department and file a final Sales/Use Tax Return. New business owners must obtain a separate Sales/Use Tax License and no license is transferrable unless a previously licensed business is moving within the City.

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The Louisville Municipal Code (LMC) imposes its sales and use tax on the purchase price of tangible personal property and certain taxable services in the City by the ultimate user or consumer.

Persons engaged in the business of rendering renovation or decorating services, or persons engaged in repairing and servicing tangible personal property under a maintenance or service contract, are deemed to be providing a service and are considered the users of the articles they purchase to provide their services. These articles are subject to sales or use tax at the time they are purchased.

Examples

Louisville Company A, contracts with a janitorial service to provide office cleaning on a weekly basis. The Company requests the janitorial service to strip and wax the floors in the employee lounge area. All the equipment and waxing supplies are taxable to the janitorial service.

Beth is a Louisville decorator under contract with a real estate company to stage vacant homes. All the furnishings and decorations are taxable at the time of purchase to Beth, the decorator.

John is a window washer under contract with several Louisville area businesses to provide Spring and Fall window cleaning services. All the tools, ladders, soaps and solvents are taxable to John at the time of purchase.

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The Louisville Municipal Code (LMC) imposes sales or use tax on the purchase price paid or charged for warranty or maintenance agreements when they are mandatory to the buyer in conjunction with the purchase of any tangible personal property or taxable services.

Equipment/Tangible Personal Property Maintenance Agreements

Maintenance agreements or extended warranties are generally offered for sale to provide ongoing repairs and maintenance of a piece of equipment or vehicle or other type of tangible personal property. Several factors are considered to determine whether the agreement is taxable.

Mandatory Agreements

If the agreement is mandatory to the purchaser, or is included in the price of the item purchased, the agreement is subject to Louisville sales tax.

Optional Agreements

If the agreement is optional to the purchaser, sold separately from the item or service purchased, and any parts, supplies, or taxable services subsequently provided to the purchaser are properly taxed, the agreement is not taxable at the time of sale.

If the optional agreement includes warranty parts, the seller responsible for performing the warranty work must pay use tax on the cost of the materials used to complete the work to the jurisdiction where the work is performed. If a third party is contracted to perform the warranty work, the subcontractor is required to charge and remit sales tax based on the jurisdiction where the work is being performed.

A warranty seller may elect to charge the purchaser sales tax on the purchase price of an optional warranty agreement that includes parts and labor, but only to the extent that any parts replaced that are not covered under the warranty are still subject to Louisville sales tax.

When applicable, the City may exclude separately stated agreement charges which are for labor only. Agreements, and the applicable tax owed, will be evaluated on a case-by-case basis.

Also see “Software” publication of this Tax Guide for information on software maintenance agreements.

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The Louisville Municipal Code (LMC) provides that the gross purchase price of articles sold after manufacturing, or after having been made to order, are taxable and subject to Louisville sales/use tax. This includes the gross value of all materials used, labor or service charges for work performed, and the profit thereon.

Manufacturing Equipment and Tools

Manufacturing equipment or tools used directly in manufacturing a product are not exempt from Louisville sales/use tax. If Louisville sales tax is not paid at the time of purchase, the manufacturer must remit use tax directly to the City on the cost of the equipment or tools purchased.

“Manufacturing” means the operation or performance of an integrated series of operations which places a product, article, substance, commodity, or other tangible personal property in a form, composition or character different from that in which it was acquired, whether for sale or for use by a manufacturer. The change in form, composition, or character must result in a different product having a distinctive name, character or use from the raw or prepared materials.

“Machinery” means any apparatus consisting of interrelated parts used to produce an article of tangible personal property. The term includes both the basic unit and any adjunct or attachment necessary for the basic unit to accomplish its intended function.

Direct use in manufacturing begins at the point at which raw material is moved from plant inventory on a contiguous plant site, and ends at the point at which manufacturing has altered the raw material to its completed form, including packaging, if required. Also, machinery used during the manufacturing process to move material from one direct production step to another in a continuous flow, or machinery used in testing during the manufacturing process, is deemed to be directly used in manufacturing.

Exemptions

The State of Colorado exempts the purchase of manufacturing equipment by manufacturers, but the City of Louisville does not.

The sale of any article, substance or commodity, or tangible personal property to a person engaged in the business of manufacturing or compounding raw materials for sale, profit, or use, is exempt from City sales tax provided all of the following conditions are met:

1. The tangible personal property is actually and factually transformed by the process of manufacturing or compounding resulting in a different product having a distinctive name, character and use;
2. The tangible personal property is manufactured or compounded to be a necessary and recognizable ingredient, component and constituent part of the finished product; and
3. The tangible personal property’s physical presence in the finished product is essential to the use of the product in the hands of the ultimate consumer.

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The sale of tangible personal property to a person engaged in the business of food manufacturing is exempt from City sales tax provided all of the following conditions are met:

1. The tangible personal property becomes an integral or constituent part of a food product which is intended to be sold ultimately at retail for human consumption, or;
2. The tangible personal property is a chemical, solvent, agent, mold skin casing, or other material, used for the purpose of producing or inducing a chemical or physical change in a food product, or is used for the purpose of placing a food product in a more marketable condition, and is directly utilized and consumed, dissipated, or destroyed, to the extent it is rendered unfit for further use, in the processing of food product which is intended to be sold ultimately at retail for human consumption.

The purchase of electricity, coal, gas, fuel oil, steam, or coke for use in processing, manufacturing, mining or refining, is exempt from Louisville sales tax. The purchase of electricity, gas, coal, fuel oil or coke used for the lighting or heating of the manufacturing spaces or any other non-manufacturing spaces, such as offices, meeting rooms, etc., is not exempt from City sales tax.

Taxable Purchase Price of Finished Goods

The purchase price of prefabricated goods and materials is the complete manufactured cost, including all raw materials, labor, overhead and profit.

Manufacturing, fabricating or other processing labor is never exempt, even when separately stated. Manufacturers who sell finished products at retail must collect and remit Louisville sales tax on the purchase price. The purchase price must include the cost of all materials used and the labor or services performed, including fabrication, assembly, configuration, or testing of the tangible personal property.

Consumables and Supplies

Solvents, oils, gases, cleaners or similar, are not exempt and are subject to Louisville sales/use tax. Additionally, purchases of items or taxable services used, consumed, stored, or distributed in the City such as office supplies, office equipment, software, uniforms and furniture are subject to City sales/use tax.

Examples

Manufacturer A is a small furniture company specializing in hand-made items. Even though the company lists the price of the materials and fabrication labor separately on the customer invoice, the company must collect and remit Louisville sales tax on the aggregate purchase price of the materials and labor.

Manufacturer B purchases various computer components in large quantities, which are assembled into completed personal computers for resale. All of the component parts may be purchased at wholesale tax-exempt; however, if the manufacturer removes any of the component parts, or completed personal computers from inventory for its own use in the

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office or for R&D purposes, the manufacturer must remit use tax to the City on the cost of the component parts used. Use tax does not need to be remitted on the fabrication labor.

Manufacturer C builds after-market automobile components and purchases aluminum, steel blanks, welding gases, welding gloves and diamond paste. The gases, welding gloves and diamond paste are supplies used and consumed in the manufacturing process, but they do not become necessary, recognizable ingredients, components, or constituent parts of the finished product, and therefore, are subject to City of Louisville sales/use tax.

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The Louisville Municipal Code (LMC) imposes a use tax upon the privilege of using, storing, distributing, or otherwise consuming in the City any article of tangible personal property or services purchased, leased or rented, on which a sales tax has not been paid.

Licensed medical and dental service providers include doctors, hospitals, medical offices or clinics, nursing homes, and other similar entities.

Non-profit hospitals, clinics or similar qualifying charitable entities, may purchase tangible personal property and supplies tax-exempt, however, the sale of tangible personal property when charged to a patient is subject to Louisville sales tax.

Licensed providers in private practice generally do not qualify as charitable entities, so purchases made by licensed providers are taxable unless the item qualifies as an exempt item as provided in the “Medical Exemptions” publication of this Tax Guide.

Medical and dental procedures are generally considered professional services and the professional fees collected by the practitioners are not subject to Louisville sales tax. Persons engaged in the business of rendering a service are consumers, not retailers, of the tangible personal property they use in rendering their services. Accordingly, sales tax should be charged by vendors for all sales of tangible personal property made to the service providers, otherwise use tax will be due from the practitioner. If, in addition to the rendering of a service, a practitioner also sells tangible personal property to patients/consumers, such sales are subject to sales tax, and such practitioner must collect and remit sales tax to the City.

It is assumed that the costs of all tangible personal property used by licensed service providers in performing a particular service are included in the fees practitioners charge patients. If a licensed provider separately invoices a patient for supplies, those supplies must actually leave with the patient, and the practitioner is required to charge and collect sales tax (provided the item is not exempt as provided in the publication “Medical Exemptions”).

Even when a service provider separately states supplies on an invoice, the supplies are subject to use tax payment by the provider, and not sales tax by the patient, when such supplies do not actually leave with the patient. This includes items used by the doctor and then disposed of by the doctor. All disposable items used one-time for one patient, and then discarded, are considered to be consumed by the licensed provider and not provided to the patient. Such supplies are taxable to the provider. Drugs requiring a prescription that are dispensed or furnished by a provider as part of their professional service are exempt from City sales/use tax.

Common items subject to use tax by practitioners include:

- Complimentary items and samples
- Journals, magazines, newsletters and other publications, except newspapers
- Medical supplies purchased by a practitioner, for use by the practitioner in providing their services, and which supplies do not leave with the patient, or are not exempt (see “Medical Exemptions” publication in this Tax Guide for the definition of medical supplies subject to tax when consumed by the service provider and not prescribed by written prescription to a specific individual).

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- Nutritional supplements, vitamins etc.
- Office furniture, patient room furniture and fixtures
- Office computers, software or license fees
- Office supplies, cleaning supplies, uniforms, office equipment
- Tools, instruments and equipment
- Videos, CD, DVD's

Examples

A Louisville physician purchases rubber gloves, cotton swabs, gauze pads, antiseptic spray, syringes, and various disposable instruments from a medical supply house. The supply house is located outside of Louisville and charges State and RTD taxes only. The physician must remit use tax to the City of Louisville for all items purchased.

A Louisville dentist performs an extraction for a patient. The provider invoices the patient \$300 for the service. The cost of the disposable instruments, gauze, syringes, sutures and any non-prescription drugs used during the procedure are subject to City use tax by the service provider if sales tax was not paid at the time of purchase. The dentist also provides the patient with a written prescription for an antibiotic. When the patient purchases the prescription from the pharmacy, it will be exempt from sales tax.

A Louisville physician's office utilizes medical billing software provided by an out-of-state software vendor. The physician's office pays an annual license fee of \$2,000 for the software which includes periodic upgrades, enhancements, debugging and on-line support. The entire license fee of \$2,000 is subject to City use tax if the vendor does not charge the Louisville sales tax on the invoice. (See the "Software" publication of the Tax Guide).

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The Louisville Municipal Code (LMC) provides for certain medical related exemptions.

The following **are exempt** from Louisville sales/use tax:

- Prescription Drugs for Humans
- Prosthetic Devices for Humans
- Certain Medical Supplies
- Therapeutic Devices for Humans

- Prescription Drugs for Animals - please see the “Veterinarians” publication in this Tax Guide
- Prosthetic Devices for Animals – please see the “Veterinarians” publication in this Tax Guide

Definitions of Exempt Items and Qualifying Factors

Prescription Drugs for Humans means:

A drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C Sect. 301, et. seq., as amended, to state at a minimum the symbol “Rx Only”, and is dispensed in accordance with any written or electronic order dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and any required information of the patient for whom the medicine, drug, or poison is offered and directions, if any, to be placed on the label.

Prescription Drugs for Humans excludes medical and retail marijuana which is taxable.

Prescription Drugs for Humans that do not, by law, require a prescription, are taxable.

Prosthetic Devices for Humans means:

Any artificial limb, part, device or appliance for human use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient; and is prescribed by a licensed practitioner of the healing arts. Prosthetic devices include but are not limited to prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

Therapeutic Devices for Humans means:

Therapeutic device means devices, appliances, or related accessories that correct or treat a human physical disability or surgically created abnormality. When such device has retail value more than \$100, the appliance or related accessory must be sold in accordance with a written recommendation from a licensed practitioner in order to qualify as exempt.

Medical Supplies means:

- Special beds for patients with neuromuscular or similar debilitating ailments

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The above is exempt when sold for the direct personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine.

- Corrective eyeglass lenses including eyeglass frames and corrective contact lenses

The above is exempt when sold for the direct personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine or optometry.

- Hearing aids, hearing aid batteries
- Human whole blood, plasma, blood products and derivatives
- Insulin, insulin measuring and injecting devices, glucose to be used for treatment of insulin reactions
- Oxygen and hemodialysis products for use by a medical patient
- Wheelchairs and crutches

The above are exempt when sold for the direct personal use of a specific individual.

Taxable Transactions/Use

The above items are taxable (except for Prescription Drugs for Humans) when purchased for use by medical or dental practitioners, or by medical facilities in providing their services, even though some items may be packaged for single use by individual patients after which the item would be discarded.

See “Medical/Dental Service Providers” and “Professional Services” publications in this Tax Guide.

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The Louisville Municipal Code (LMC) imposes sales tax on all sales of food and beverages whether purchased for immediate consumption or as food for home consumption.

The City of Louisville requires all mobile food vendors obtain a Louisville Sales/Use Tax License. Applications are available from the Tax Department or at the following link:

<http://www.louisvilleco.gov/business/sales-tax-licensing-division/forms-applications>

The City of Louisville Planning and Building Safety requires all mobile food vendors to obtain a permit. Applications for a permit are available at the following link or may be obtained from the Tax Department or Planning/Building Safety Department:

<http://www.louisvilleco.gov/home/showdocument?id=12511>

The processing time for both the permit and the license is a minimum of three business days.

It is important to note that the location and hours of operation for mobile food vendors are regulated and restricted by the City of Louisville.

John is a resident of Broomfield and operates a mobile food cart. John is interested in setting up his food cart in Louisville. For John to obtain a Louisville Sales/Use Tax License, he must first complete a Mobile Retail Food Vending Application. This application must be reviewed and approved by the Planning and Building Safety Department before a Louisville Sales/Use Tax License may be issued. If both applications are approved, John must collect and remit Louisville sales tax on the price of all food sold in the City.

Mobile Food Company C is based in Denver and operates a fleet of mobile vending trucks within the metro-Denver area. The company sends one of its trucks into Louisville which travels through the City stopping at various locations to sell food until finally it parks on the street near a City park. Mobile Food Company C's operations are in violation of the Louisville Municipal Code, the Peddler/Solicitor ordinance and other City rules and regulations. Mobile Food Company C is subject to citation to appear in Municipal Court for failure to obtain proper permitting and licensing.

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The Louisville Municipal Code (LMC) exempts motor and special fuels used for the generation of power for the propulsion of motor vehicles upon the public highways, and the industrial use of fuel oil used in processing, manufacturing, mining, refining, irrigation, building construction, telegraph, telephone, and radio communications, street and railroad transportation services.

Motor fuel means gasoline, casing head or natural gasoline, benzol, benzene and naphtha, gasohol and any other liquid prepared, advertised, offered for sale, sold for use or used or commercially usable in internal combustion engines for the generation of power for the propulsion of motor vehicles upon the public highways. The term does not include fuels used for the propulsion or drawing of aircraft or railroad cars or railroad locomotives.

Special Fuel means kerosene oil, kerosene distillate, diesel fuel, all liquefied petroleum gases, and all combustible gases and liquids for use in the generation of power for propulsion of motor vehicles on the public highways. The term does not include fuel used for the propulsion or drawing of aircraft, railroad cars or railroad locomotives.

The LMC exemption does not apply to the sale of special fuels when used for any purpose other than propelling a motor vehicle, or aviation jet fuels as defined by the Colorado Revised Statutes Section 39-27-101 and 39-27-102.

Residential, industrial and commercial users of gas and electrical services should refer to the “Gas, Electric and Steam” publication in this Tax Guide.

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Newspapers, Magazines & Publications

The Louisville Municipal Code (LMC) exempts “newspapers” from its sales and use tax.

The LMC defines a “newspaper” as a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. Publishers or other retail vendors are not required to collect sales tax on the sale of newspapers.

The term “newspaper” does not include magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

The electronic delivery of any publications into the City, other than daily or weekly newspapers, is subject to Louisville sales/use tax.

“Preprinted newspaper supplements” means inserts, attachments or supplements circulated in newspapers that are primarily devoted to advertising and the distribution, insertion, or attachment is commonly paid for by the advertiser. Preprinted newspaper supplements are subject to Louisville sales or use tax.

All retail sales made into the City by publishers or other retail vendors of other types of printed matter such as magazines, trade publications or journals, or other periodicals named above, including electronic delivery, are considered the sale of tangible personal property and subject to City sales tax on the purchase price.

Subscriptions taken within the City and sent to a publishing house outside the City, where the publication is mailed directly to the subscriber are subject to City use tax. When the publications are printed and sold in the City of Louisville, the subscription price is taxable. When both the printing and the delivery occur outside the City of Louisville, the sale is not taxable.

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Department of Finance – Sales Tax and Licensing Division
749 Main Street - Louisville, CO 80027
Office (303) 335-4514 – Fax (303) 335-4529
www.LouisvilleCo.gov

The Louisville Municipal Code (LMC) defines sales tax as the tax that is collected or required to be collected and remitted by a retailer on all sales inside the City and taxed under the Code. Use tax is the tax that is paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City and taxed under the Code.

The responsibility to collect and remit sales tax lies with the retailer or vendor for all retail sales. The amount of sales tax a retailer is lawfully required to collect and remit depends on nexus. Nexus is defined in the Merriam-Webster Dictionary as “a relationship or connection between people or things.”

In taxation, the physical locations shared between a seller and a purchaser, the goods purchased, and where transfer of ownership occurs, determine the amount of tax collected by the retailer and paid by the purchaser.

Nexus affect the minimum amount of sales tax a retailer is required to charge, collect, and remit, or that a purchaser should be charged. A retailer is responsible to collect and remit a sales rate based on the jurisdictions they share with the purchaser (“shared tax”) or for any jurisdictions in which they have nexus.

Some retailers are also “voluntary collectors” and are licensed to collect City sales tax as a courtesy to their customers. These retailers do not have physical nexus in the City of Louisville and are not required to charge local sales tax, but elect to do so.

Also see the “Packaging, Freight & Delivery” and “Use Tax” publications in this Tax Guide.

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The Louisville Municipal Code imposes its sales and use tax on the purchase price paid for tangible personal property sold at retail in the City. The taxable purchase price does not include freight, shipping or delivery service charges when such charges are billed as separate line-item charges on the vendor invoice. If freight, shipping and delivery charges are not separately stated, then the entire purchase price including all freight, shipping or delivery service charges is taxable.

Charges representing the actual cost of postage purchased from the U.S. Postal Service are exempt from tax if separately stated.

Transportation charges via a third party whereby, the purchaser is directly paying for pick-up and delivery, the purchaser assumes all risk of loss, and the purchaser is not being billed by the seller for the transportation charges are not subject to Louisville sales or use tax. However, the actual goods being picked up in Louisville by a third party under the above conditions are subject to Louisville sales tax on the purchase price of the goods. The point of sale is in Louisville and sales tax should be collected and remitted by the seller.

Commercial Packaging/Commercial Shipping Materials

Commercial packaging materials means containers, labels and/or cases that become part of the finished product to the purchaser, which is used by or sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing, or bottling for sales, profit, or use, and such materials are not returnable for reuse.

Commercial packaging materials that meet all of the following conditions are exempt from City sales tax: 1) the materials are used by a manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to label or contain the finished product, 2) the materials are transferred along with and as part of the finished product to the purchaser, and 3) the materials are not returnable for reuse.

Commercial shipping materials means, materials that do not become part of the finished product to the purchaser and which are used exclusively in the shipping process. These materials included but are not limited to containers, labels, pallets, banding material and fasteners, shipping cases, shrink wrap, bubble wrap or other forms of binding, padding or protection.

Commercial shipping materials that are not returnable for reuse and the charges are separately stated are exempt from City sales tax.

The retail sales of packaging or shipping materials to an end consumer not engaged in one of the above named commercial activities are subject to City sales tax.

Drop Shipments

A drop shipment is a sale in which a retailer or seller directs the manufacturer, wholesaler or supplier of a product to ship the merchandise directly to the Louisville customer on behalf of the seller. Drop shipments of retail sales of tangible

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personal property are subject to sales tax when billed by the seller or use tax remitted by the purchaser, unless the item being shipped is exempt from Louisville sales tax. The freight, delivery or transportation charges are exempt from City tax if separately stated on the customer invoice.

Examples

1. Business A is a Louisville business that purchases office furniture from a retailer outside Louisville and has the furniture delivered. The retailer charges a separate shipping fee on the invoice but does not collect any Louisville sales tax for the furniture. Business A is required to remit use tax to the City on the purchase price of the furniture but not on the shipping charges.
2. Business B is a Louisville business that purchases computers from a retailer outside Louisville and has the computers delivered and installed by the retailer. The retailer charges a lump sum of \$5,000 for the computers, delivery and installation, but no Louisville sales tax. Business B is required to remit Louisville use tax on the entire price of \$5,000.
3. Business C is a Louisville business that manufactures neon signs. Customer A is a retailer that ordered a custom neon sign for their store in Denver. Customer A informed Business C that they would be sending their own truck and employee to pick up the sign in Louisville. Business C should charge Louisville's combined sales tax rate on the purchase price to Customer A. The point of sale is in Louisville.
4. Business D is a Louisville business that purchased technical manuals on the internet from Seller A. Seller A charges Business D the full Louisville sales tax rate for the manuals plus a separate handling fee and the actual charge for shipping from a U.S. post office. Business D is not required to remit use tax on the handling fee or the mailing costs as they were separately stated on the invoice. No additional use taxes are due for the manuals as the full Louisville combined rate was charged.
5. Louisville Manufacturer A sells its product at wholesale to Distributor B in Texas. Manufacturer A invoices Distributor B for the product produced, but does not charge sales tax because the purchase is for resale. Distributor B is a retailer that sells the products to its customers throughout the United States. Distributor B maintains a warehouse in Colorado where the product produced by Manufacturer A is stored. Distributor B is responsible to invoice their customer's for the goods purchased. The product is shipped from Manufacturer A's warehouse in Louisville to either the Colorado warehouse or directly to purchaser as determined by the instructions of Distributor B.

The location of Distributor B and the location of the purchaser determine the taxes to be charged. Because Distributor B maintains a warehouse in Colorado, any deliveries to Colorado customers are subject to State sales tax and the tax of any other lawful jurisdiction applicable to the purchaser's location.

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The City of Louisville offers several methods of paying taxes owed to the City.

By Mail

Any taxpayer with a Louisville Sales/Use Tax License may remit their taxes by mail along with a copy of the City Sales/Use Tax return. Returns and the accompanying payment must be postmarked on or before the due date of the period being paid. The post office postmark will determine timely payment, not the postmark of a postage meter. Payment should be mailed to: City of Louisville Tax Department, 749 Main Street, Louisville, CO 80027.

By ACH Credit

The Louisville Municipal Code requires taxpayers that remit tax in excess of \$75,000 annually to pay such taxes via Automated Clearing House (ACH) system. If you are not experienced with payment by ACH Credit, please refer to the National Automated Clearing House Association (NACHA) for a complete set of rules and regulations governing the ACH system.

Any taxpayer is permitted to pay sales, use, or lodging tax by ACH Credit. Taxpayers should first contact their financial institution to ensure they are able to initiate ACH payments in the proper format. The financial institutions may charge a fee for this service. The City will provide its banking information and the required taxpayer information to be included with the electronic payment. Additionally, the taxpayer is required to fax or email a copy of the tax return no less than 24 hours prior to the ACH payment.

On-Line

The City of Louisville allows payment of some tax returns through its online Business/Tax Manager. Taxpayers which owe \$100 in tax or less may use the Business Tax Manager to file their returns and remit their tax with the use of a credit card only. All taxpayers may pay their license renewal fees on-line, and taxpayers that need to file a zero tax return may also use the on-line system.

Use of the on-line system requires the City to issue an initial temporary password prior to use. Afterwards, the taxpayer may change the password and access the system any time they wish. A taxpayer may make payments, view the account history, use the self-calculating Louisville Sales/Use Tax Return Form, or update contact information.

The Business Tax Manager allows all taxpayers to access a blank, self-calculating tax return which may be printed and mailed with tax payments in excess of \$100. For those owing a tax payment of \$100 or less, the form may be submitted electronically with the credit card payment. Use of the self-calculating return form helps to eliminate math errors and will automatically calculate any penalties or interest that may be owed for late payments.

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The Louisville Municipal Code (LMC) Chapter 5.06 prohibits certain types of activities of peddlers, solicitors and vendors within the City.

The right of every Louisville business and resident to prevent unwanted solicitation includes:

The right to post a notice or notices upon private property to the effect that peddlers, solicitors and vendors shall not enter the premises or solicit or attempt to solicit orders or sales from the owner or occupants.

Permitted activities in the City include:

Solicitation by a bona fide religious, charitable, school and civic organizations, or other organization eligible for exemption under Section 501(c) of the Internal Revenue Code. To confirm such an exemption, these entities may obtain a City Door-to-Door Permit (no fee) upon providing the City a copy of their IRS exempt letter.

Distribution of non-commercial information in the exercise of a person's First Amendment rights under the United States Constitution.

Solicitation of newspaper subscriptions, milk deliveries, trash collection services, or linen services by persons who sell and deliver such goods or services within the City by vehicle over a fixed route based on previous orders or on a regular schedule. These business entities must comply with all postings or signs of a business or resident indicating "no solicitation" or "no trespassing". Any person that fails to comply with such notices is guilty of an unlawful act and punishable as provided in Section 1.28.010 of the LMC.

Prohibited activities in the City include:

To enter or remain upon any private premises or office building in the City, having not been requested or invited by the occupant for the purpose of contacting the occupant to solicit the immediate or future purchase or sale of goods, services, or any other thing of value.

To enter or remain upon any private premises or office building in the City when a "No Solicitation" or "No Trespassing" sign is posted at or near the entrance to such premises.

To sell or offer for sale any goods, services, or any other thing of value from or upon any street, alley, sidewalk, park, or property owned or controlled by the public or by the City, except as authorized by the Planning Department, City Council or its designee.

To attempt to obtain, by telephone or otherwise, an invitation to visit any private residence or other private premises for the purpose of soliciting the purchase or sale of goods, services, or any other thing of value, by knowingly making a false or deceptive representation or statement.

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The Louisville Municipal Code (LMC) imposes penalties and interest for failure to file a tax return or pay the tax by the prescribed due date and for other costs associated with the City's ascertainment of taxes due, refund claims or collection.

Penalties

The penalty for late filing of a tax return or late payment of taxes due to negligence or intentional disregard of the ordinances or rules and regulations of the City, but without the intent to defraud, is a minimum of \$15 or 10% of the tax due, whichever is greater. Penalties are in addition to any interest imposed.

The penalty for non-filing or non-payment of a tax return with the intent to defraud or evade the tax due is 100% of the tax due plus the amount of tax due. Penalties are in addition to any interest imposed.

The penalty for recurring failure to file a tax return or to pay taxes due, without good cause, for three or more consecutive filing periods, is a minimum \$50 or 50% of the tax amount due, whichever is greater, and is calculated through the third filing period. Penalties are in addition to any interest imposed.

The corporate and partnership penalty for the willful failure to collect, account for, evade or pay any taxes imposed by the LMC is 150% of the total amount of tax not collected, accounted for, paid, or otherwise evaded.

In addition to the personal liability provided in the LMC, an officer of a corporation or a member of a partnership or other entity is subject to this penalty if the corporation, partnership or other entity is subject to filing returns and paying taxes, and if such officer or member, voluntarily or at the direction of his superiors, assumes the duties or responsibilities of complying with the provisions of any tax administered by Section 3.20 of the LMC on behalf of the corporation, partnership or other entity.

Interest

If any amount of sales or use tax is not paid on or before the prescribed due date, interest on the tax amount will be imposed at the rate of one percent (simple interest) per month. Interest accrues from the date the tax payment was due until the date paid.

Cost of Collection

If any person liable for the payment of tax imposed by Chapter 3.20 of the LMC repeatedly fails, neglects, or refuses to pay, and enforcement proceeds by issuance of Determination, Assessment and Demand for Payment have been required three or more times, the Finance Director is authorized to assess and collect, in addition to taxes, penalties and interest, any such additional amounts as are necessary to compensate the City for administrative and collection costs incurred in collecting the delinquent taxes.

Collection costs include, but are not limited to, all costs of audit, assessment, bank fees, hearings, execution, lien filing, distraint, litigation, locksmith fees, auction fees and costs, prosecution and attorney fees.

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The current cost (2017) upon the third Assessment is \$25.00 for each subsequent occurrence.

The current cost (2017) upon the third recording of a Lien is \$40.00 for each subsequent occurrence (an additional \$40.00 is due to record each lien release cost).

County Collection Fees

In cases where a taxpayer has refused or neglected to pay any tax due to the City and a lien has been filed, the Finance Director may certify the amount of tax, penalties and interest due to the County Treasurer of any County in the State in which the taxpayer owns real or personal property. If county collection is required, the taxpayer will be liable to pay an additional 10% of the total amount of taxes, penalties and interest due to cover the certification and collection costs.

Staff and Auditor Fees

It is the duty of every taxpayer to keep and preserve records, books, invoices, receipts and the like for a period of three years. All documentation is subject to open examination by the Finance Director to determine the amount of refund owed or tax due under audit and must be made available at a suitable place within the City.

If the taxpayer does not wish to make records available within the City, then the taxpayer shall enter into a binding agreement with the City to reimburse the City for all expenses incurred, including all reasonable travel expenses, food and lodging based on the time an auditor departs the City and until their return to the City.

If the taxpayer does not provide records in an organized format and the auditors must go through the taxpayer's files, folders, boxes or the like, in order to obtain the records for audit, or if the taxpayer fails to provide the information in a timely fashion, the City is entitled to charge an hourly fee for time spent organizing, gathering, or in any way assembling taxpayer records in any form for audit. The fee will be set by the City Manager or the Finance Director and shall be based on the actual labor costs incurred.

Refund Processing Fees

If the taxpayer does not provide the required documentation necessary to substantiate a refund claim in an organized format and staff must go through the taxpayer's files, folders, boxes or other documents or records, in any form, the City will be entitled to charge an hourly fee for time spent in excess of eight hours deciphering, organizing, gathering or in any way assembling the taxpayer records. The fee will be set by the City Manager or the Finance Director and shall be based on the actual labor cost incurred. Such liability, if not paid on a direct billing by the City, may be deducted from any refund amount to be paid to the taxpayer.

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The Louisville Municipal Code (LMC) imposes its sales/use tax upon the purchase price paid for tangible personal property and certain taxable services purchased at retail in the City.

Photofinishers

Photofinishers are engaged in the business of selling tangible personal property to their customers and their sales are taxable. The purchase of materials that become ingredients or component parts of the finished picture, such as mounts, frames, and sensitized paper, may be purchased by the photofinisher tax exempt because these items are purchased for resale. Any other purchases made, that do not become a part of the product sold to the customer, are taxable to the photofinisher at the time of purchase, or if no tax was paid, subject to Louisville use tax.

Professions that use X-Ray Film

Physicians, surgeons, dentists, hospitals, laboratories and other professions that purchase X-ray film and then expose it for the purpose of diagnosis or examination are the users and consumers of the film and all related supplies used to expose and develop the finished product. These items are subject to sales tax at the time of purchase or use tax due to the City of Louisville.

Format Conversions

The conversion from one medium to another medium, such as VHS tapes to DVD, is subject to City sales tax. The purchase price should include any costs for labor, profit, and materials. The true object to the customer is the DVD which is tangible personal property.

Photographers

Certain photography professions are in the business of selling tangible personal property to their customers while others provide services only. In determining whether a transaction involves the sale of tangible personal property or the performance of a service, the City will examine the transaction from the purchaser's perspective. If in the eyes of the purchaser the object of the transaction is the acquisition of tangible personal property, then the transaction, or its use after the sale, is taxable. If the essence of the transaction is, from the purchaser's perspective, the acquisition of a service, then the purchase or subsequent use is not taxable, even though some tangible personal property is incidentally transferred with the performance of the service. The City will also consider the value or charge for the service versus the value or charge for the tangible personal property transferred.

When a professional photographer is hired to photograph or record to DVD a special event, the photographer is required to charge sales tax on the entire amount (including consultation, sitting fees, and/or other production charges) since the true object sought by the customer is the photographs or DVD. The photographer may purchase the film, videotapes, DVD's, or other supplies which directly become a part of the item sold, tax exempt for resale. Sales tax must still be paid on camera equipment, lenses and other goods not purchased for resale.

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When a transaction is regarded as a sale of tangible personal property, City sales tax applies to the full amount of furnishing the item without any deduction for labor, skill, thought, time spent or other expense of producing the property, even if separately charged to the customer.

Photographers that do not directly provide a customer with the photographs, DVD's or other tangible medium, which includes electronic photo files, are the users of their equipment, film and other materials, and are subject to sales tax at the time of purchase or use tax if no sales tax was paid. These photographers may charge their customer a fee for the service or labor, but then electronically send the end product (photographs) to a third-party or website whereby the customer may purchase the photographs in any size and quantity desired. The third-party is responsible to collect and remit the appropriate sales tax for such purchases.

Photography as a Service

When a professional firm is hired to assist the Department of Transportation in researching the structural needs of Colorado bridges, the firm may hire a professional photographer to take pictures which may be used or presented to DOT by the firm when it submits its research findings. Both the firm and photographer were contracted with to provide research (the true object) and are performing services in which an inconsequential amount of tangible personal property (photographs, reports, etc.) changes hands. The research report and photographs submitted to DOT are not subject to City tax.

Please see the "Professional Services" publication in this Tax Guide for additional information.

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Printers are primarily engaged in the business of manufacturing and selling tangible personal property in the form of printed matter. As with other tangible personal property, printed matter is subject to City sales tax on the purchase price paid inclusive of the gross value of all materials used, labor and services performed, and the profit thereon if the purchaser does not resell the articles but uses or consumes them, such as by distributing them at no charge, unless the purchaser is otherwise tax exempt. Labor and service charges, even if separately stated on the invoice are taxable except as noted below.

Supplies and Materials

Tangible personal property which becomes a constituent part of the finished product may be purchased by the printer tax free for resale. Such property must be actually and factually transformed or a necessary and recognizable ingredient whose physical presence in the finished product is essential to the use by the ultimate consumer. Some examples include:

Paper/Newsprint; stock on which the finished product is printed and delivered to the customer and the wrapping materials for finished products sold to customers.

Ink; printers ink, ink additives, and overprint varnishes.

Chemicals; anti-offset sprays, fountain etch solutions, gum solutions and all component chemicals when used with the above materials.

Finishing materials; padding compound, stitching wire and staples, and book-binders tape.

Manufacturing Labor and Services

Labor or services expended in the production of the article sold, are part of the taxable purchase price of the printed matter even though the printer may elect to state these charges separately from the stock charges. With few exceptions, any labor or services performed to create a finished, made-to-order product are subject to tax. These charges include without limitation, setup charges, batch charges, cutting and finishing charges, binding and assembly charges, minimum charges, rush charges, and other similar labor or service charges.

If separately stated on the invoice, services for typesetting or graphic design, design, art, and camera mechanicals performed by a printer or its subcontractor for a customer or another printer, freight, delivery and transportation charges are not subject to Louisville sales tax.

Examples

A Louisville print shop purchases paper, printers ink, blanket conditioner, blanket wash, plate cleaner and toner from an out-of-state vendor. The vendor does not charge sales tax on the items shipped to the print shop. The Louisville print shop must report and remit Louisville use tax on all supplies except for the paper and printer's ink which are exempt.

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A Louisville business contracts with a Denver vendor to design and print an advertising brochure. The printer charges \$300 for the design, \$100 for typesetting, \$150 royalty payment for a photo used on the brochure, \$500 for labor and \$150 for other materials. The design, typesetting and shipping charge are exempt from Louisville sales and use tax. The other items, including the royalty payment, labor and other materials are subject to sales/use tax.

A Louisville business places an order with a printer for 5,000 business cards. The cards are to be printed with the company logo, address and web address. The cards are to be stored with the printer and as business cards are needed, the cards will be pulled from the stock and specific names, departments, titles, phone numbers and email addresses added. The invoice for the initial run of 5,000 cards included \$150 for the design, \$50 for typesetting and \$850 for the printing. The charge for adding employee specific information to the cards is \$45 per 500 cards. Sales tax is due on the initial printing charge of \$850 and also on the subsequent printing charge of \$45.

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The Louisville Municipal Code (LMC) imposes a use tax upon the price of tangible personal property stored, used or consumed, or withdrawn from inventory for business or personal use within the City on which a lawfully imposed tax has not been charged or paid by the consumer.

Use tax is due to the City of Louisville on all tangible personal property transferred into the City unless the sale, storage, use or consumption occurred more than three years ago, and the property has been significantly used within the State of Colorado for the principal purpose for which it was purchased. This includes but is not limited to, business assets transferred into the City by a business relocating in the City, or assets transferred to a business currently located in the City from another business location outside the City.

Credit will be given against the Louisville tax owed for any lawfully imposed sales or use tax paid for the assets to a prior municipality where the business was located, or to a municipality where the assets were originally purchased.

Examples

- A. A Louisville manufacturer has a second facility in a neighboring jurisdiction. The Louisville manufacturer decides to move a manufacturing line from the neighboring jurisdiction to the Louisville facility. The Louisville manufacturer will owe City use tax on all the production line assets which were transferred into the City of Louisville, and which were last purchased within the past three years, unless the manufacturer can demonstrate a lawful sales or use tax has been paid. The amount of use tax due will be based on the purchase price, the book value used for depreciation purposes, or the fair market value determined by its last sale.
- B. The corporate headquarters of a company is expanding and relocating to Louisville. The headquarters intends to move most of its current furniture and equipment into Louisville. The company also decides to purchase new furniture and computers to furnish two new offices at the Louisville location. For the time being, the new items are delivered to their current office outside the City. The computers are purchased on-line and no sales tax is charged. The furniture is purchased from a Denver vendor and State, RTD and CD taxes are charged and paid.

All the furniture and equipment in use at its previous location was purchased four years ago, and is therefore exempt. No use tax will be due to Louisville on these items. The corporate headquarters will need to remit Louisville use tax on the purchase price of the new computers and the new office furniture because no municipal tax was paid at the time of purchase.

- C. An out-of-state software company has decided to relocate its operations to the City of Louisville. The company paid a State sales tax rate of 5% to the other state in which it resided on the purchase of all its goods subject to tax in that State. Upon relocation to Louisville, the company would owe City use tax for any tangible personal property or assets that are less than three years old and taxable per the LMC. The rate of use tax owed to Louisville would be calculated as follows:

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Prior Use, Pre-Owned Property, Initial Use

1. Credit would be given for the assets on which 5% state sales tax was paid to the other state. The calculation is the Louisville combined tax rate, less the Colorado state rate, less the RTD/CD rate, and less the City of Louisville rate. The remaining percentage (of 2.65% see below) is due to the City of Louisville.

5% (Other State's Tax Rate)

-2.9% (State)

-1.0% (RTD)

-0.1% (CD)

-3.65% (Louisville)

-2.65%

2. Any tangible personal property that was not subject to sales tax in the other State, but which is taxable in Louisville, and was purchased less than three years from the date of relocation to Louisville, is subject to Louisville use tax.

The company is relocating its inventory of packaged software that it intends to resell. The inventory is not subject to Louisville use tax.

The company is relocating all of the packaging materials it uses to ship its software products. The packaging materials are exempt from Louisville use tax.

The company is relocating its computers which were exempt from taxation in the other state. 70% of the computers used by the company were purchased over three years ago and are not subject to Louisville use tax. The remaining 30% of the computers were purchased a year ago. Louisville use tax would be due by the software company on the purchase price, book value or fair market value as determined by the last sale of the computers.

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Department of Finance – Sales Tax and Licensing Division
749 Main Street - Louisville, CO 80027
Office (303) 335-4514 – Fax (303) 335-4529
www.LouisvilleCo.gov

Professional service businesses that have a physical location in the City of Louisville must obtain a Louisville Sales/Use Tax License, even if they do not sell tangible personal property or provide taxable services. Although service businesses may not have a sales tax liability (for goods sold by the business), they will usually have a use tax liability (on goods purchased by the business). This use tax liability must be reported and paid on a Louisville Sales/Use Tax Return at a minimum of annually, and, even if no tax is due, a zero tax return must be filed.

Please see the “Use Tax” publication in this Tax Guide for additional information. As noted above, an annual Louisville Sales/Use Tax Return is required to be filed. It is important that service-based businesses review and understand their use tax obligations.

Taxability of Services

Generally, professional services are not subject to Louisville sales tax, such as accounting services, legal services, consulting services, and planning and design services. Persons engaged in the business of rendering services are consumers, not retailers, of the tangible personal property they use in rendering their services. A few services are explicitly taxed by the Louisville Municipal Code (LMC), such as telecommunication services, gas and electric services, security monitoring services, and linen services.

In determining whether a transaction involves the sale of tangible personal property or the performance of a service with a transfer of tangible personal property occurring incidental to the performance of the service, the City will examine the transaction from the purchaser’s perspective. If the essence of the transaction is, from the purchaser’s perspective, the acquisition of service, the transaction is not taxable, even though some tangible personal property is incidentally transferred with the performance of the service. However, if a service is performed in the production of tangible personal property, and if the object of the transaction, from the purchaser’s perspective, is the acquisition of the tangible personal property produced, the transaction, or use of the item after sale, is taxable.

Manufacturing Services

The commission, hire, or purchase of professional services or labor used in manufacturing tangible personal property is taxable. Manufacturing or fabrication labor or services expended in the creation, assembly, production or configuration of tangible personal property is part of the taxable purchase price, even when the cost or charges for such labor or services is segregated or stated separately from the cost or charges for materials on the customer invoice.

Repair Services

Businesses that sell tangible personal property along with the service of installing, affixing, or repairing property, must collect sales tax on the purchase price of the property or materials sold. The service or labor charges may be excluded from the taxable purchase price if separately stated on the customer invoice.

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Research & Development Services

The development of information in a research and development contract is not a sale of tangible personal property, it is a service. Since certain information such as plans, designs etc., cannot be delivered orally, the information is conveyed on paper. The transfer of information on paper is not a sale of tangible personal property and is a transfer that is incidental to the service of developing information. In some instances, the information must be conveyed by transfer of a prototype or model. The transfer of a prototype or model is incidental to the transfer of the information or ideas and is not a retail sale of the unit to the customer. However, the service business, researcher, or similar, that manufactures the prototype or model is responsible to pay sales tax at the time of purchase, or, if sales tax is not paid, use tax to the City, on the cost of the materials used to construct the unit along with the cost of any other materials consumed.

If thereafter a contract is entered into for the production of the prototype, model or similar, the cost of all materials, labor, skill, thought, and profit should be included in the purchase price, and the appropriate City sales tax charged. Tax would also apply to any subsequent sales of the original prototype, plans, or models, or copies thereof, which are sold to subsequent buyers.

Examples

Louisville Business A is a CPA firm that provides financial planning services. In the conduct of their service, they transfer documents, portfolios or plans to their clients. This is not the sale of tangible personal property; it is a service. The true object of the transaction is for a conceptual plan or ideas and is merely conveyed on paper. However, the CPA firm is the user and consumer of all materials, paper, binders, etc., and is required to pay sales tax at the time of purchase, or use tax to the City if sales tax was not paid.

Louisville Business B is an architectural firm that provides construction and design plans to its clients. The firm provides a house plan to a resident based on his requirements. The conveyance of the plan is not the sale of tangible personal property. The true object of the transaction from the client's perspective is to have his requirements designed into his plans for a house. If, however, the firm transfers the same house plan to another client, the sale of the plan copy, including any profit, is taxable. The true object of this transaction is to obtain the house plan without modification and therefore is the sale of tangible personal property.

A Louisville Resident commissions a local artist to create a sculpture for their front foyer. The resident and the artist consult on the size and theme of the sculpture to be created. The artist should include any cost of materials, time, labor, creative thought, consulting fees and profit in the purchase price of the sculpture and charge the client sales tax on the full purchase price. The true object of the agreement from the purchaser's perspective is the acquisition of the sculpture and not merely the transference of an idea or thought.

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The Louisville Municipal Code (LMC) imposes a use tax on the purchase price paid for tangible personal property, except for inventory held for resale, rent or lease, when acquiring or establishing a business inside the City of Louisville.

Purchase of an Existing Business

Use tax is due on the tangible personal property purchased or acquired with the purchase of any business in the City, whether involving a retail establishment or any other type of business enterprise. The tax is based on the price recorded in the bill of sale or agreement, provided the valuation for the tangible personal property is as great, or greater, than the fair market value of the property. If the transfer of ownership is a lump sum transaction, the use tax is based on the fair market value of the property or on the book value established by the purchaser for income tax depreciation purposes. When a business is taken over in return for the assumption of outstanding indebtedness owed by the former owners, use tax is to be paid on the fair market value of all taxable tangible personal property.

The use tax is due within (30) days of the execution of the bill of sale or agreement.

In determining the fair market value, the City may use the best information available including personal property tax declarations filed with the County Assessor, like-item pricing, or other information from independent sources.

New Business

City use tax is due on the purchase price paid for all tangible personal property purchased for use inside the City, except inventory held for resale, rent or lease. If you are moving a business or assets into the City of Louisville, please see the "Prior Use/Pre-Owned Property/Initial Use" publication in this Tax Guide.

The use tax is due within (30) days of the date of establishment of the business.

Sale or Cessation of a Business

A final Louisville Sales/Use Tax return is required to be filed by the 20th of the month following the sale or closure of a business by the seller of any business within the City.

Caution to Buyers

Purchasers are encouraged to make sure that any tax liens that may have attached to the personal property of the former business have been satisfied. Any outstanding taxes resulting from the previous owner will become the debt of the purchaser and liens will remain attached to the tangible personal property included in any sale.

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The Louisville Municipal Code (LMC) provides specific procedures and limitations for obtaining a tax refund depending on the nature of the overpayment. Generally, in order to receive a refund for a tax overpayment, a taxpayer must complete and sign a Claim for Refund form and include all such documentation to substantiate the claim.

Burden of Proof

The burden of proving that any transaction or item is not taxable or is exempt as provided in the LMC shall be upon the person asserting the claim and shall reasonably meet the requirements of proof prescribed by the Finance Director. All Claim for Refund forms must be accompanied by the original paid invoice or sales receipt.

Overpayment on a Tax Return

If the amount of tax remitted with the tax return is more than the amount of tax due as computed from the information provided, the taxpayer will receive a written error notice from the City indicating the filing period, the line item on which the error occurred, and the amount of the overpayment.

If the amount of tax paid was correct, but the tax return contained errors, the taxpayer must provide the City an amended return indicating the correct information.

If the overpayment was simply an error, is in excess of \$10, and is in excess of the amount of tax collected or due, the taxpayer may deduct the amount of the overpayment from the next return, or they may complete a Claim for Refund form for the overpayment amount. If the taxpayer desires a refund, the completed and signed claim form (including any required documentation) must be received within 30 days of the date of the error letter. No refund will be approved if received after the 30th day.

If the overpayment was an error, is less than \$10, and is in excess of the amount of tax collected or due, the taxpayer may deduct the amount of the overpayment from the next return. No refunds will be processed for amounts less than \$10.

Any overpayment not used for the next reporting period will be forfeited.

Overpayment Determined through Audit

If the City ascertains through an audit of a taxpayer's records that the tax amount due is less than the full amount of the tax paid, a notice shall be issued indicating the amount of the overpayment. After examining the notice, the taxpayer may submit a Claim for form within 30 days of the date of the overpayment notice. No refund will be approved if received after the 30th day, and the amount of tax overpayment will be forfeited.

Tax Disputes – Retailers, Purchasers or Consumers

Retailers engaged in business in the City are required to collect, and the purchasers and consumers are required to pay, the taxes levied by the LMC, regardless of the fact that the retailer, purchaser or consumer disputes the tax. If the transaction

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taxed is disputed, the retailer shall collect, and the purchaser or consumer shall pay, the tax. The taxpayer that paid the tax may then apply for a refund. Retailers are responsible to pay sales tax on all taxable sales even if the retailer failed to collect the full amount of applicable taxes due. Retailers are not permitted to retain any excess taxes collected, and such tax must be remitted.

A purchaser or consumer that disputes the tax charged by a retailer because they are exempt, or because the goods or services are exempt, must file a Claim for Refund form with the City within 60 days after the date of purchase, storage, use or consumption of any goods or services upon which an exemption is being claimed. No refunds will be approved after this period.

A retailer that paid taxes in error or by mistake must file a Claim for Refund form with the City within three years after the date of purchase, storage, use or consumption of the goods for which the refund is claimed.

When possible, retailers are encouraged to refund a tax overpayment to a customer when satisfactory documentation is presented to the retailer. The Tax Department of the City cannot obligate a retailer to make any refunds beyond their established policies.

Denial of Refunds

A taxpayer may appeal the denial of a refund claim provided the taxpayer submits in writing to the Finance Director a petition within 30 days from the date of the denial notice. No appeal will be accepted after the 30th day. The petition shall be under oath of the taxpayer and shall state:

1. The reason why a hearing should be granted
2. The amount of tax disputed
3. Any requested changes
4. A complete description of documents and tax periods to be reviewed under the appeal
5. The name, address, telephone number and sales/use tax license number of taxpayer

Recovery of Refund

The Finance Director is authorized to exercise any appropriate action necessary for the recovery of any refund obtained unlawfully.

Processing Costs

In all cases, applications for refund will be reviewed and processed in a timely manner.

If, however, the taxpayer does not provide the required documentation in an organized format, and staff must go through the taxpayer's files, folders, boxes, or other documents or records, in any form, in order to substantiate the claim, the City shall be entitled to charge an hourly fee for time spent in excess of eight hours deciphering, organizing, gathering, or in any

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way assembling taxpayer records to substantiate the claim. The fee will be set by the City Manager or the Finance Director and shall be based on the actual labor costs incurred by the City. Any such fees become a liability of the taxpayer, which if not separately billed by the City and paid by the taxpayer, may be deducted from any refund amount due to the taxpayer.

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The Louisville Municipal Code (LMC) imposes a sales tax upon the purchase price paid for tangible personal property and certain services sold at retail. In addition, the LMC imposes a consumer use tax upon the privilege of using, storing, distributing, or otherwise consuming tangible personal property and certain services purchased, leased or rented from sources outside the City, on which a lawfully imposed municipal sales tax has not been paid.

Restaurants, bars and other food and beverage establishments engaged in business in Louisville must charge sales tax and show the tax as a separate and distinct charge on the customer receipt. Sales tax may only be included as part of the purchase price for liquor sold by the drink, or for items sold through a vending machine or other coin-operated devices.

Items Subject to Sales Tax

Items which are subject to sales tax include but are not limited to:

All food, beverage, and liquor sales, including any customer charges for mandatory tips or gratuities. This includes cover charges when such charges are included as part of the price for such meals or beverages.

Any restaurant merchandise, such as t-shirts, glasses, mugs, key chains, or other sundry items, such as chewing gum, breath mints, aspirin packets, cigars, and chewing tobacco.

All sales of tangible personal property from coin-operated devices, such as snacks, soft-drinks, or other sundry items. The sales tax may be included in the price of the item and no tax is required to be charged for an item with a price of \$0.17 or less.

The utilization of coin-operated devices, such as pool tables, juke boxes or other amusement devices that do not vend tangible personal property are exempt from City sales tax.

Purchases Subject to Sales/Use Tax

Like other retailers, restaurants and bars are required to pay sales tax on the purchase price paid for tangible personal property and taxable services used in the business and not for resale. When Louisville sales tax has not been paid, or when another legally imposed municipal sales tax has not been paid, a use tax must be reported and remitted directly to the City of Louisville. Credit will not be allowed for any unlawful taxes collected and remitted to another City when the property purchased or services are delivered into Louisville. Many vendors will charge State sales tax but not necessarily local municipal sales tax. It is up to the restaurant, bar, or other food establishment to verify the tax rate that was paid and to remit City use tax accordingly.

Some common examples of goods or services subject to sales or use tax include, but are not limited to:

Use tax is due by the restaurant on the cost of food provided as complementary meals to customers or employees. This is because the food and beverage inventory purchased by the restaurant is purchased tax-exempt for resale. When the food

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or beverages are not resold, but given away, the restaurant becomes the consumer of the food or beverage items and must pay use tax to the City.

Sales or use tax is due on assets purchased for the restaurant or bar, such as furniture, fixtures, point-of-sale systems, computers, office equipment, computer software, and kitchen equipment, whether such items are purchased, leased, or rented from sources inside or outside the City.

Materials or parts used for equipment repairs, plumbing repairs, painting, landscaping or other work that does not require a City of Louisville building permit, are subject to City sales or use tax.

Other tangible personal property, including but not limited to office supplies, cleaning supplies, uniforms, promotional items, forms, menus, linens, tools, kitchen utensils, glassware, china, plants, decorations, etc., are subject to Louisville sales or use tax.

Food, beverages and some disposable items, such as napkins, straws, eating utensils and food containers, may be purchased tax-exempt provided that all of the following conditions are met:

The items are used to contain the finished product or become an ingredient of the finished product

The items are transferred to the buyer with the finished product and the cost of the items is included in the purchase price of the finished product

The items are not returnable to the seller for reuse

Exemptions

The LMC provides restaurants a sales tax exemption on the cost of the utilities used to produce meals. The business is required to complete Colorado Department of Revenue Form DR1465 in February of each year for the prior year. The form must be included with the Louisville Sales/Use Tax Return and the amount paid for utilities, as calculated on CDOR form DR1465, deducted under other deductions on the City of Louisville Sales/Use Tax Return..

Examples

Restaurant A is a licensed Louisville restaurant that provides sit down meals. A group has reserved a table for twenty for a birthday party. The restaurant adds a mandatory 20% gratuity to the cost of the meals. The entire cost of the meals including the mandatory gratuity is subject to sales tax.

Bar B is a licensed Louisville establishment that sells liquor by the drink and light meals. The bar has pool tables and a coin-operated device with snacks. The bar may add the tax to the price of a drink (i.e. \$3.50 for a vodka tonic) and to the coin-operated device prices (i.e. a bag of chips for \$0.50), but the bar must pay sales tax to the City for all these items by

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subtracting out the tax from the selling price. The sales tax should be added to the purchase price of any light snack that the bar provides (such as hot dogs or pizza slices). To calculate how much tax should be paid for the items priced to include tax, you divide the sale amount (including tax), by the tax rate amount (sales = \$7,000 for all liquor and coin-operated device sales; $\$7,000 / 1.0365 = \$6,753$ in gross sales). The gross sales amount calculated is reported on your Louisville tax return as gross sales and then the tax is calculated.

Restaurant C is a licensed Louisville restaurant that provides its employees a shift meal free of charge. The restaurant must pay use tax to the City on the cost of the food used to prepare the free meals. If the restaurant charges the employees a discounted price for their shift meal, then City sales tax is due on the discounted price.

Restaurant D is a small deli that generally prepares sandwiches to order for take-out. The deli purchases to-go boxes, napkins, wax paper to wrap the sandwiches, a box of plastic gloves, and some new cutting blades for the meat slicer from a Denver vendor who delivers the supplies to Louisville. The restaurant may purchase the to-go boxes, napkins, and wax paper tax-exempt for resale, but must pay use tax to the City on the purchase price of the slicer cutting blades and the gloves if the Denver vendor does not collect City of Louisville sales tax.

Restaurant X is a licensed Louisville restaurant that serves sit-down meals. The restaurant has a small gift shop area where they sell T-shirts, beer glasses, shot glasses, and aprons with the restaurant's logo on them. They also sell cigarettes, cigars, chewing gum, breath mints and other small sundries. The restaurant must charge sales tax on the sale of all promotional items and all small sundries, including the cigars, but excluding the cigarettes which are not subject to Louisville sales tax.

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The Louisville Municipal Code (LMC) requires every person or business engaged in the business of providing taxable goods or services in the City of Louisville to obtain a Sales/Use Tax License. For all businesses with a physical location in the City, regardless of whether or not goods or taxable services are sold, a Sales/Use Tax License is also required.

The LMC imposes a sales tax on the purchase price paid for tangible personal property and certain services, which are purchased at retail in the City. Retailers are responsible to collect this tax on behalf of the City and to remit the tax to the City on Louisville Sales/Use Tax Returns according to the filing frequency established by the City.

The LMC also imposes its sales tax on transactions where delivery to the customer of the taxable property or services occurs within the City, whether or not the seller has a physical location within the City of Louisville.

Please refer to Section 3.20.020 for various definitions, and Sections 3.20.210 and 3.20.305, for the property and services taxed by the City of Louisville.

Sales Tax Added to the Price

Retailers must add the sales tax due to the taxable purchase price and show the tax as a separate and distinct item. The only two exceptions are the sales of liquor by the drink and items sold through coin-operated vending machines for which the tax may be included as part of the purchase price.

Every retailer must remit sales tax equal to the total taxable sales for the reporting period. The taxable sales should be multiplied by the City tax rate and the tax remitted, even if the retailer did not collect as much as is owed.

Please see the “Absorption of Tax” publication in this Tax Guide for additional information.

Sales Tax is Transactional

Sales and use tax are transactional taxes, meaning that each time an item is sold, transferred or similar transaction, to a different user, consumer or owner, the item is subject to taxation.

Let’s use a refrigerator as an example of multiple taxable transactions.

When a new refrigerator is purchased from a retailer for \$1,000, the retailer must charge the purchaser sales tax on the \$1,000. Two years later, the purchaser sells the refrigerator to a used appliance dealer for \$500. The purchase by the used appliance dealer is a wholesale purchase for resale and no tax is due. When the used appliance dealer sells the used refrigerator to a machine shop for \$700, he must charge and collect sales tax on the \$700. The machine shop goes out of business and all the assets of the business are put up for sale at auction. The auction company sells the refrigerator for \$250 to the highest bidder. The auction company must charge and collect sales tax on the \$250.

Keeping the above example in mind, the City will not give credit for sales/use taxes paid by the original owner/purchaser of the item or goods sold or transferred to a new owner. The new owner must pay sales or use tax on the purchase price.

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Trust Status of Taxes Collected and Excess Tax Collected

All sums of money paid by the consumer to the retailer as taxes on behalf of the City remain the property of the City at all times. Retailers are required to hold these taxes in trust for the sole use and benefit of the City until paid to the City as required by the LMC. Retailers are never permitted to use the City's trust tax personally or in the operation of their business. Retailers are encouraged to deposit taxes in a separate account in order to segregate it from other business funds.

If a retailer should charge too much tax in error, such tax amount must be remitted to the City on the excess tax line of the Louisville tax return. A retailer is never permitted to retain excess tax collected; it is trust tax owed to the City.

Taxes remitted to the Colorado Department of Revenue or any other taxing authority does not relieve a retailer of their liability to the City of Louisville.

Please see the "Taxpayer Responsibilities – Unlawful Acts" publication in this Tax Guide for additional information.

Tax-Exempt Sales

There are certain transactions involving tangible personal property that are exempt from the imposition of sales tax; however, as Colorado Revised Statutes provide (C.R.S. 39-26-104), there is a strong presumption that taxation is the rule and exemption the rare exception.

The Louisville Municipal Code (LMC) Section 3.20.220 provides for the exemption from sales tax of transactions involving various goods and services. This list may not be increased by implication or similarity. These exemptions are specific with taxation being the rule unless explicitly exempted. 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 including penalties and interest. Should any dispute arise between a retailer and a 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. See the "Refunds" publication in this Tax Guide for additional information.

As a home-rule City, Louisville administers its own taxing rules, regulations, policies and practices independent of the State of Colorado and other Colorado home-rule municipalities, and as such, may impose taxes on various transactions, goods or services differently than the State and other jurisdictions.

Some items that are taxed by Louisville which may not be taxed by other jurisdictions include:

- Combined personal property rentals with operator service, when the operator charge is not separately stated
- Prewritten, modified or enhanced software programs, software as a service (SaaS), software license fees, and software maintenance agreements regardless of delivery method

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- Subsequent sales of customized software programs regardless of delivery method
- Food for home consumption
- Linen services
- Machinery, manufacturing equipment and machine tools in excess of \$500
- Security system services
- Coin-Operated and Vending machine sales

Deductions, Credits, Vendor Fees

The Louisville Municipal Code does provide for a retailer to take certain deductions on their City tax return. Deductions may only be taken when the gross sales and service amount includes the purchase price being deducted. These deductions are covered in detail in the following publications in this Tax Guide:

- Bad Debts
- Deliveries Outside the City
- Gasoline and Special Fuels
- Government, Religious and Charitable Organizations
- Medical Exemptions
- Newspapers, Magazines & Publications
- Professional Services
- Trade-Ins
- Wholesale Sales

The LMC *does not* allow the deduction of a vendor fee, service fee or collection fee. Please see the publication “Vendor Fee or Service Fee Deduction”.

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The Louisville Municipal Code (LMC) imposes a use tax upon the privilege of using, storing, distributing or otherwise consuming in the City any article of tangible personal property or services purchased, leased or rented from sources outside the City, on which a sales tax has not been paid.

Taxability of Samples, Demonstration Units and Displays

Tangible personal property used by a retailer, wholesaler, or salesperson to sample, demonstrate, or display goods available for sale is subject to City tax, unless the goods will be resold in an unaltered state and basically unused to the ultimate consumer. The basis of the use tax is the purchase price paid for the sample, display or demonstration unit. 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 the future sale of the units. The City use tax owed is calculated on the full purchase price the retailer or wholesaler paid to the supplier or manufacturer. When a sample unit is fabricated by the user, use tax is based on the cost of the materials only.

The intent of the purchaser to resell sample, display or demonstration units does not necessarily qualify the units for exemption from use tax, even if the units are carried as "inventory" on the purchaser's books. Taxation is the rule and exemption the rare exception. The purchaser must show clearly that the primary purpose of the purchase is for resale in an unaltered condition and basically unused by the purchaser.

For a sample, display or demonstration unit to be exempt and subject to resale, the retailer or wholesaler cannot make any use, other than incidental use of the item prior to resale. When a retailer or wholesaler's use of items from inventory is more than incidental, then the use becomes a taxable transaction which is separate and distinct from the retailer's subsequent taxable retail sale of the item to the end customer.

The City may consider several facts in determining the primary purpose of a unit of tangible personal property. Primary purpose considerations include:

The nature of the retailer's contractual obligations, if any, to use, alter or consume the property to produce goods or perform services;

The degree to which the items in question are essential to the retailer's performance of those obligations;

The degree to which the retailer controls the manner in which the items are used, altered or consumed prior to their transfer to third parties;

The degree to which the form, character or composition of the items when transferred to third parties differs from the form, character or composition of those items at the time they were initially purchased;

The details of the sale/purchase transaction between the seller and buyer including the purchase price and delivery terms;

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The treatment of the inventory for federal income tax purposes and whether or not items are capitalized and depreciated

In general, retailer's who place product on display while also holding the same out for sale, have only incidentally used the product and are not liable for use tax. For example, a bookstore that withdraws a book from inventory for the purpose of display, and for which the same book is also for sale, does not create a use tax liability. However, a retailer that withdraws a unit from inventory by which a customer may order or purchase a similar unit or which unit is sold at a reduced price, is subject to Louisville use tax.

Related Definitions

A "wholesaler" means a person selling to retailers, merchants, jobbers, dealers or other wholesalers for the purpose of resale and not for storage, use, consumption or distribution.

"Storage or Storing" means any keeping or retention of, or exercise of dominion or control over, or possession for any length of time, of tangible personal property not while in transit but on a stand still basis for future use when leased, rented or purchased at retail from sources either within or outside the City from any person or vendor.

A "retail sale" means all sales except wholesale sales and includes lease, rental, barter or grant of license to use tangible personal property or taxable services as specified in Chapter 3.20 of the LMC by the ultimate user or consumer.

"Consumer" means any individual person, or persons engaged in business in the City that uses, stores, distributes or otherwise consumes in the City tangible personal property or taxable services purchased from sources inside or outside the City.

"Purchase or Sale" means the acquisition for any consideration by any person of tangible personal property, other taxable products or taxable services that are purchased, leased, rented, sold, used, stored, distributed, or consumed and includes the transfer, either conditionally or absolutely, of title or possession or both to tangible personal property; and the lease, lease-purchase agreement, rental or grant of a license, including royalty agreements to use tangible personal property, other taxable products, or taxable services.

Examples

1. Louisville Manufacturer A sends out demos of its product to trade shows. The demos used for marketing purposes are subject to use tax to the manufacturer on the cost of the materials used to manufacture the demo unit. Any subsequent sale of the demo unit (at a standard or reduced purchase price) is a separate transaction and subject to sales tax.
2. Louisville Retailer B operates a furniture store in the City and has a warehouse and a showroom. The retailer uses furniture, rugs, lighting, wood and fabric samples and other decorative accessories in its showroom. Customers

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view the floor samples, sit on the furniture, and if they like an item, may purchase the same item from stock or, may select the desired wood or fabric they want and place a custom order.

The floor stock, rugs, lighting, wood and fabric samples are all subject to City use tax to the retailer. If some of the floor samples are eventually sold, either at the full retail price or a reduced price, the transaction is subject to sales tax.

3. Louisville Manufacturer C operates a food manufacturing business in the City. The manufacturer will periodically display new product in area grocery stores. The display requires the use of a custom refrigerated case which the manufacturer provides free of charge to the grocery store. If the manufacturer is providing the food to the grocery store free of charge, then the manufacturer must pay use tax to the City on the cost of the food provided. If sales tax was not paid by the food manufacturer on the price of the refrigerated display case, then use tax is due to the City on the purchase price.
4. Louisville Retailer D operates a second-hand store and regularly buys and sells used items. The items purchased for sale are displayed in the owners shop and are for sale “as is,” “where is”. Even though the items are “used”, they are being sold in an unaltered condition subsequent to the store’s acquisition. These items are not subject to use tax to the retailer, but the retailer must charge sales tax on the purchase price paid by the buyer even though the used item may have been taxed previously by prior owners.
5. Louisville Retailer E operates an electronics store in the City. To entice customers to purchase goods, the retailer uses some of its inventory as demonstrator units on its sales floor. The retailer does not adjust their inventory value on their books as they intend to resell the items. The units are connected to a power source and are available for potential customers to view and test during store hours.

Because Retailer E is using these units for marketing and demonstration purposes, they must pay Louisville use tax on their wholesale purchase price of the units. Should any of the demonstrator units be subsequently sold, the retailer must charge City sales tax on the purchase price paid by the customer.

6. Louisville Retailer F is a liquor store operating in the City. On the weekends, the retailer offers a “tasting” of wines it carries in the store and provides cheese and crackers to prospective customers. The wine is taken from inventory and the cheese and crackers are purchased from a local grocer. The retailer must pay use tax to the City on the cost of the wine used or discarded during the tasting. If sales tax was not paid by the retailer when purchasing the cheese and crackers, then use tax would be due on those items as well.

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The Louisville Municipal Code (LMC) imposes sales or use tax on electronic security system services. Other services such as consulting or the use of human or guard dog security services are exempt from tax.

The LMC requires the provider of security systems to obtain a Louisville Sales/Use Tax License and to charge, collect and remit City sales tax on the price paid for security system hardware, software, keypads and all other tangible personal property installed or provided to the end customer as part of the service, including monitoring charges, whether the system is purchased, leased or rented for use in the City of Louisville.

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The Louisville Municipal Code (“LMC”) imposes sales/use tax on the purchase price paid for Software Programs, Software as a Service, Software License Fees, and Software Maintenance Agreements. Separately stated technical support charges are exempt from Louisville sales or use tax.

City tax applies regardless of whether the above software-related items or services are purchased, leased, rented, used, stored, distributed, consumed, subscribed to, or the user is granted a conditional or absolute right to use the software or service, such as with a license or similar, and regardless of delivery method.

“Software Program” means a sequence of instructions that can be measured, interpreted and executed by an electronic device (e.g. a computer, tablets, smart phones) regardless of the means by which it is accessed or the medium of conveyance. Software program includes:

- Pre-written software program, which is a software program prepared for sale or license to multiple users and not to the special order or specifications of a single customer. Pre-written software is commonly referred to as “canned,” “off-the-shelf, (“COTS”),” “mass produced” or “standardized”;
- Modified software, which means pre-written software that is altered or enhanced by someone other than the purchaser to create a program for a particular user; and
- The generic term “software,” “software application,” as well as “updates,” “upgrades,” “patches,” “user exits,” and any items which add or extend functionality to existing software programs.

“Software as a Service” means software that is rented, leased or subscribed to from a provider and used at the consumer’s location, including but not limited to applications, systems, or programs.

“Software License Fee” means a fee charged for the right to use, access, or maintain software programs.

“Software Maintenance Agreement” means an agreement, typically with a software provider, that may include:

- Provisions to maintain the right to use the software
- Provisions for software upgrades including code updates, version updates, code fix modifications, enhancements, and added or new functional capabilities loaded into existing software.

Special Order Custom Software Programs

Special order custom software programs developed to the special order or specifications of a single customer and billed to the customer on an hourly labor basis is exempt from Louisville sales/use tax. Subsequent sales of custom software or programs will be treated as prewritten modified or enhanced software and taxed accordingly regardless of delivery method.

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Software Maintenance Agreements

Mandatory software maintenance agreements, which are included as part of the purchase price of the software, hardware or license agreement, are subject to Louisville sales/use tax.

Optional maintenance agreements, which include the right to use the software and the provision for any upgrades, code updates, version updates, code fix modifications, enhancements, or any added or new functional capabilities loaded into existing software, are subject to Louisville sales or use tax.

Examples

1. An out-of-state company maintains a local office in Louisville. The local Louisville office purchases 10 annual software licenses for \$100 each to access the corporate accounting system. The servers on which the accounting system is located are out-of-state. Minimal software is required to be installed locally. The license fees are subject to Louisville sales/use tax.
2. A Louisville business utilizes a third-party company for their IT services and has an optional maintenance agreement. The third-party provides “help desk” assistance for all the daily IT functions, for print or software errors, setting up new users, and occasionally installs new software. The third-party IT company charges an hourly rate for the help desk issues. City sales or use tax is due for any standard software purchased, downloaded or installed by the Louisville business. The hourly help desk support is exempt from City sales or use tax if separately stated on the customer invoice.
3. Louisville Business X purchases accounting software from the internet to track its sales and expenses. The business downloads the software at a cost of \$179. There is no tax added to the cost of the software during the checkout/payment process. Business X must pay City use tax on the cost of the software.
4. A leasing company leases computers to a Louisville business and requires that a maintenance agreement be sold with all leases. The maintenance agreement is subject to Louisville sales/use tax because it is mandatory.
5. A software company sells an optional service agreement with the sale of its software package for \$3,000. The service agreement consists of online support, updates and security patches. Because the non-taxable support labor is not separately stated on the invoice, the full \$3,000 is subject to Louisville sales/use tax.

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The Louisville Municipal Code (LMC) requires sales tax be collected from a purchaser and remitted by the retailer on all taxable sales made in the City to the City of Louisville.

Special Event vendors that are merely providing public information or pure services (i.e., labor) are not required to purchase a Louisville Sales/Use Tax License.

Vendors participating in special events in the City such as the Street Faire, Farmer's Market, Fall Festival, etc. are required to purchase, in advance of an event, a City Sales/Use Tax License if they plan to sell any tangible personal property or take orders for the future delivery of goods in the City. Please see the "Louisville Licensing Requirements" publication in this Tax Guide for further information.

The City of Louisville does not exempt any food sales from the imposition of sales tax.

It is unlawful for any retailer to advertise, hold out, or state to the public or to any customer that the sales tax imposed by the City shall be assumed or absorbed by the retailers or that the tax will not be added to the selling price of the goods sold.

Only the retailers of alcohol by the drink or goods sold through coin-operated devices may include or lump the tax into the selling price. All other retailers must add the amount of tax to the selling price of the goods purchased and show such charge as a separate and distinct item.

The City of Louisville can provide any special event vendor with a rate chart that indicates the amount of tax to collect based on the selling price. Please contact the Tax & Licensing Department (303) 335-4524, (303) 335-4570, or (303) 335-4514, if you would like to receive a tax rate chart.

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The Louisville Municipal Code (LMC) defines the permissible periods allowed by the City for the collection of taxes, penalties and interest owed by a taxpayer.

Failure to File a Return

If a taxpayer fails to file a tax return, the tax, penalties and interest may be assessed and collected by the City at any time.

False or Fraudulent Return

If a taxpayer files a false or fraudulent return with the intent to evade tax, the tax, penalties and interest may be assessed or collection proceedings started by the City at any time.

Use or Consumption of Tangible Personal Property

The use or consumption of tangible personal property which occurs more than three years after the most recent purchase of such property, is exempt from City taxation, provided the property has been significantly used within the State of Colorado for the principle purpose for which it was purchased.

Assessments, Collections and Liens

The City may not assess, file liens, issue distraint warrants, file suit for collection, or any other action to collect taxes, penalties or interest more than three years after the date on which the tax was due or is payable. Any liens filed for taxes assessed prior to the expiration of the period will continue for one year after the filing of the notice of lien.

Tolling of Statute of Limitations

“Toll” is defined as an interruption of the running or continuation of the statute of limitations. The commencement of collection proceedings, including the mailing of a notice of audit, shall toll the running of the statute of limitations. In the case of mailing of a notice of audit, such audit shall be diligently pursued by the City.

Extensions

Before the expiration of such period of limitation, the taxpayer and the Finance Director may agree in writing to an extension (signed waiver form), and the period agreed on may be extended by subsequent agreements in writing, but made before the expiration of the previously agreed upon time.

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The Louisville Municipal Code (LMC) imposes a tax upon the periodic charge for the rental of indoor or outdoor storage facility space ordinarily used to store tangible personal property in the City.

The term storage facility means any indoor or outdoor area, structure, warehouse or unit, whether mobile or immobile, which is ordinarily used to store tangible personal property. The term storage facility does not include kennels, lockers, mobile home pads, safe deposit boxes, or reservoirs.

Storage facility retailers must also collect Louisville sales tax on the purchase price paid for other tangible personal property sold or rented, such as padlocks, lock cutters, boxes, padding or wrapping materials, storage bins, rope, twine, tape, tarps or pallets, in addition to the rental of any vehicles provided.

Purchases made by storage facility retailers of tangible personal property or taxable services that are used, stored, distributed or otherwise consumed in the City are subject to sales/use tax. Storage facility retailers are given credit against the Louisville tax rate for items purchased from another jurisdiction where a lawfully imposed sales or use tax was paid. Use tax must be paid to the City for any purchases where the tax paid was less than the Louisville rate or where no municipal tax was paid.

Common items where the storage facility retailer is the consumer of taxable items and must pay sales/use tax include:

Fixed Asset purchases, including the lease or rental of any furniture, fixtures or equipment including office equipment, computer hardware/software (including license fees), fire abatement systems, temperature control systems, sprinkler systems, security or monitoring equipment, access control systems including security gates and landscaping.

Maintenance materials used to make facility repairs, including the replacement or repair of overhead doors, tracks, walls, floors, signage and landscaping, are subject to City sales/use tax. Labor is not taxable if separately stated on the invoice. When repairs are invoiced as a lump sum with labor, the whole purchase price paid is taxable.

Other consumable items that are taxable include office supplies, maintenance and cleaning supplies, and any tools that are not held as inventory, but are for resale or rental.

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The Louisville Municipal Code (LMC) sets forth the legal requirements of retailers and business owners and defines certain punishable offenses.

Public Trust Funds

City sales or use tax are public trust funds and are the property of the City to be used for municipal purposes as authorized by the residents of the City. Each retailer or vendor must hold any taxes in trust for the sole use and benefit of the City until paid to the City. It is unlawful to fail or refuse to pay all such taxes collected or owed.

If a retailer is suffering financial difficulty, or is delinquent in making payment of sales tax collected, or is apparently using City tax money collected for its own purposes, the Finance Director may require the trust funds to be kept segregated in a special account at a bank or other financial institution. Any withdrawals from the account would only be payable to the Finance Director. If a segregated account is not kept as required, all of the tangible personal property owned by the taxpayer will become the trust property of the City.

Duty to Keep Records

The LMC requires every taxpayer to keep and preserve for a period of three years, all books, accounts, records, original sales and purchase invoices, exemption certificates, and all other documents required to determine the amount of tax the taxpayer is liable to collect or pay under the rules of the LMC.

All records of the taxpayer shall be open for examination by the Finance Director upon demand. If records are maintained outside the City, then the taxpayer is required to make the records available at a suitable location in the City as determined by the Finance Director.

Violation/Penalty

It is unlawful to violate any provisions of Section 3.20 of the LMC. A person convicted of violating the section is subject to the general penalty provisions contained in Section 1.28.010 of the LMC unless otherwise expressly provided in Section 3.20. Each and every 24-hour period of violation of this Section constitutes a distinct and separate violation.

Prosecution of any person in violation of the LMC Section 3.20 does not reduce, eliminate or suspend any of the person's obligation to fulfill the requirements or make payment of any taxes, penalties, fines or interest due, nor does it limit the ability of the City to proceed under this Section of the LMC to collect taxes under a civil suit or other method of collection.

Taxpayer Responsibilities – Tax Collection

The tax imposed by Section 3.20 of the LMC is in addition to all other taxes imposed by law, unless otherwise provided in the Section.

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It is unlawful for any retailer to advertise or state to the public or to any customer, directly or indirectly, that the sales tax imposed by this chapter will be assumed or absorbed by the retailer or that if added, any part of the tax shall be refunded.

Except as provided for alcoholic beverage sales by the drink and coin-operated device sales, all other retailers shall add the tax imposed by the City to the sale price or charge, indicating the tax as a separate and distinct item. The tax charged becomes part of the purchase price and is a debt from the consumer or user to the retailer until paid and is recoverable at law in the same manner as other debts.

It is unlawful for any person to engage or be engaged in the operation, conduct, or carrying on of any trade, profession, business, or occupation within the City, regardless of whether or not goods and services are sold, without first having obtained a Sales/Use Tax License from the City.

The tax schedules contained in the LMC may be used by a retailer in determining amounts of tax owed; however, the use of any schedules does not relieve the retailer from liability for the payment of the full amount of tax imposed.

If any retailer collects as sales tax an amount in excess of the amount of the sales tax imposed by the LMC, the retailer must remit the excess amount in addition to the correct amount of tax to the City.

Any person liable for the payment of tax, penalties or interest owed the City that has issued three or more checks that have been returned for non-sufficient funds, may be required to pay the City by cash or other guaranteed funds as required by the Finance Director.

Unlawful Acts

It is unlawful for any retailer, consumer or any other person subject to Section 3.20 of the LMC:

To fail to file any tax return by the due date

To fail to make payment to the Finance Director by the due date of any taxes, penalties or interest due the City

To make any false or fraudulent tax return or any other filing under the LMC

To make any false statement on any return or in any other filing permitted or required by this Section of the LMC

To evade the collection or payment of any taxes, penalties or interest collected or due the City

To aid or abet another in any attempt to evade payment of tax, penalties or interest due the City

To issue the City a check in payment of any taxes, penalties or interest due the City that is returned for insufficient funds

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The Louisville Municipal Code (LMC) provides the following definitions:

“Telecommunications Service” means:

The service of which the object is the transmission of any two-way interactive electronic or electromagnetic communications, including but not limited to voice, image, data and any other information, by the use of any means, including but not limited to wire, cable, fiber optical cable, microwave, radio wave, Voice over Internet Protocol (VoIP), or any combinations of such media, including any form of mobile two-way communication.

“Toll Free Telecommunications Service” means:

A telecommunications service that allows a caller to dial a number without incurring an additional charge for the call.

“Carrier Access Services” means:

The services furnished by a local exchange company to its customers who provide telecommunication services, which allow them to provide such telecommunications services.

“Private Communications Services” means:

Telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate intercommunications system for the subscriber’s stations.

Sales Tax

The City of Louisville imposes a sales tax upon all telecommunication services for all intrastate (originating and ending within the City) telecommunications service and mobile telecommunications service originating from or received on telecommunication equipment in the City when the charge for the service is billed to an apparatus, telephone or account in the City, to a customer location in the City, or to a person residing in the City without regard to where the bill for such services is actually received.

Sales tax is imposed upon the purchase price paid or charged upon all sales, rentals, leases and purchases of telecommunications equipment. In the case of a sale or transfer of wireless telecommunication equipment as an inducement to a consumer to enter into or continue a contract for telecommunication services that are taxable pursuant to the LMC, the “purchase price” shall be limited to the monetary amount paid by the consumer and shall not include any sales commission or other compensation received by the retailer as a result of the consumer entering into or continuing a contract for telecommunication services. The foregoing definition of “purchase price” shall not be construed to apply to the amount a retailer collects from a consumer who defaults or terminates a contract for telecommunication services.

Use Tax

The LMC imposes a use tax on the sale or transfer of telecommunication equipment to a consumer as an inducement to enter into, or continue, a contract for telecommunications services.

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Exemptions

Carrier access services are exempt from Louisville sales tax.

Interstate calls (calls originating within Colorado and ending outside Colorado) are exempt from Louisville sales tax.

International, Toll Free, or WATS/800 telecommunication services are exempt from Louisville sales tax.

Interstate private communication services furnished to subscribers are exempt from Louisville sales tax.

Separately stated non-transmission services which constitute computer processing applications used to act on the information to be transmitted are exempt from Louisville sales tax.

Telephone Utility Tax

Each telephone utility provider operating within the City must pay a tax upon the occupation and business of providing basic local exchange service within the City and upon supplying basic local exchange service at retail to the inhabitants of the City.

The annual amount of tax levied shall be equal to \$8.00 per telephone account.

The number of accounts for which basic local exchange service is provided within the corporate limits of the City will be determined on January 1 of the current year for which the tax is owed, and upon each anniversary thereof.

E-911 Emergency Telephone Service Surcharge

The Boulder Regional Emergency Telephone Service Authority (BRETSA) provides E-911 service to the City of Louisville.

The surcharge is on a per subscriber line/per month basis and the remittance should be made directly to BRETSA, **not** to the City of Louisville.

Please contact BRETSA directly for the current surcharge rate and payment information at (303) 441-4816 or (303) 441-4444.

Internet Access

Internet access services that provide or enable computer access by multiple users to the Internet are exempt from City sales tax. The remaining portion of any packaged or bundled services providing phone services, when the package or bundle includes the sale of Internet Access Services, is subject to Louisville sales or use tax.

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The Louisville Municipal Code (LMC) imposes a sales tax upon the purchase price paid for tangible personal property and certain taxable services sold at retail including the purchase of food and beverages.

Voluntary tips or gratuities paid by patrons are not subject to City sales tax. However, if a retailer established a mandatory gratuity or service fee, in some cases for a certain group size or “table top”, and the full price of the meals plus the mandatory gratuity are included on the bill and not optional to the patron, the full amount is subject to Louisville sales tax.

Mandatory catering fees or fees charged by restaurants, hotels, banquet halls or similar facilities that are combined with the providing of, and charges for food, are subject to Louisville sales tax.

Any tips or gratuities that are collected by the employer of the service providers, and either distributed as wages, retained by the business, or are used to compensate other persons that are not the service providers, are subject to Louisville sales tax.

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The Louisville Municipal Code (LMC) provides for a reduction of the taxable purchase price by the fair market value of property exchanged at the same time and place of the sale, provided that:

The exchanged property is to be resold in the usual course of the retailer's business, and any money or other consideration paid over and above the value of the exchanged item is subject to tax.

If the exchanged property is an automotive vehicle being exchanged for another automotive vehicle, for which both vehicles are subject to licensing, registration, or certification under the laws of Colorado, including, but not limited to, automotive vehicles operating upon public highways, off-highway recreation vehicles, watercraft and aircraft, and any money or other consideration paid over and above the value of the exchanged property is subject to tax.

Examples

Customer A brings five used books to a Louisville book store. The book store will give Customer A \$5 in trade-in value towards the purchase of another book(s). Customer A purchases a book that retails for \$15. The book store should collect City sales tax on the reduced price of \$10. The book store should report the sale of the full \$15 as gross sales on their tax return, but may take a deduction under Trade-Ins for the \$5 since they are in the business of reselling books.

Company B is a licensed Louisville cosmetic manufacturer. Company C is a licensed Louisville sign manufacturer. Company B is replacing a conveyor in its shipping area for a larger unit. Company C offers Company B an industrial compressor in trade for the old conveyor that Company B is replacing. Neither manufacturer is in the business of reselling conveyors or compressors. Louisville sales or use tax is due on the fair market value of both items being traded.

Brad is a Louisville resident that is buying a car from a licensed Louisville car dealer. Brad purchases a new car which sells for \$23,000. He is trading in his used car to the dealer for \$6,000. The taxable price for the new car is \$17,000. The dealer should report the full selling price of \$23,000 as gross taxable sales on their tax return, but may take a deduction under Trade-Ins of \$6,000 because they are in the business of reselling automotive vehicles and the vehicle is required to be licensed and registered under the laws of Colorado.

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The Louisville Municipal Code (LMC) imposes its sales and use tax on the purchase price paid for tangible personal property and certain taxable services per Section 3.20 of the LMC.

In general, upholsterers are engaged in the sale of tangible personal property to their customers. If the upholsterer separately states the labor charges on the customer's invoice for any repair, recovering or upholstering or similar work from the taxable tangible personal property, then the labor is exempt from City sales tax. If the upholsterer charges one lump sum for the repair, then the entire price is subject to City sales tax.

If an upholsterer manufactures items for sale to an end user, sales tax is due on the full price of the item including any labor, markup or supplies used to create the item. If an upholsterer purchases tangible personal property which is refurbished or recovered for sale to an end user, sales tax is due on the full price of the item including labor, markup or supplies used to prepare the item for sale.

Any fabrics, trims, studs, nails or other items offered for sale by the upholsterer are subject to Louisville sales tax on the purchase price.

The upholsterer must pay Louisville sales or use tax on any items purchased for use by the upholsterer that do not become part of the finished product, such as tools, equipment, heat guns, office equipment and supplies, etc.

See "Services" publication in this Tax Guide for additional information.

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The Louisville Municipal Code (LMC) requires use tax be paid by a consumer for purchasing and using, storing, distributing or otherwise consuming tangible personal property or taxable services within the City, whether purchased, leased or rented from sources inside or outside the City on which a sales tax has not been paid as specified by the LMC.

The purpose of use tax is to equalize competition between in-city and out-of-city vendors and lessors of tangible personal property and services and to eliminate incentives for City residents and businesses to go outside the City to purchase or lease such goods and services. Use tax also compensates for tax avoided by purchasing in cities with lower tax rates. Louisville use tax is due where the rate paid at the time of purchase is less than the tax rate of the City of Louisville. Credit is given for other lawfully imposed municipal sales taxes up to the City of Louisville rate.

When Louisville sales tax is not paid to a vendor at the time of purchase, then use tax is owed and must be paid directly to the City. Use tax is the same rate as sales tax, is complementary to sales tax, but is paid directly to the City. All Louisville taxpayers must pay sales or use tax on purchases of tangible personal property or taxable services that are not purchased for resale or which are not specifically exempted per the LMC.

Use tax is levied upon not only the privilege of use or consumption, but also on storage or distribution in the City. The acquisition for any consideration by transfer, either conditionally or absolutely, of title or possession or both to tangible personal property is subject to City use tax.

“Use” means the exercise, for any length of time by any person within the City of any right, power or dominion over tangible personal property or services when rented, leased or purchased at retail from sources either within or without the City from any person or vendor or used in the performance of a contract in the City whether such tangible personal property is owned or not owned by the taxpayer. “Use” also includes the withdrawal of items from inventory for consumption.

Use Tax is Transactional

Sales and use tax are transactional taxes, meaning that each time an item is sold, transferred, or similar transaction, to a different end-user, consumer or owner, the item is subject to tax.

The City will not give credit for taxes paid by the original owner/purchaser of the item or goods to a new owner. The new owner must pay sales or use tax on their purchase price.

Identifying Use Tax Liabilities

There are various reasons why Louisville sales tax may not have been collected and why Louisville use tax is due:

- A purchase was shipped into the City by a vendor that is not licensed to collect City of Louisville sales tax, but is licensed by the Colorado Department of Revenue to collect State, RTD, CD and State-collected County sales tax. You may have been charged State sales tax only, or State and RTD/CD only, or any combination thereof, but not Louisville sales tax, so it is important that you examine your invoices to determine the rate of tax charged.

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- A purchase is made and the items are picked up from a vendor located outside the City of Louisville. This purchase would be taxable at the municipal rate of the City in which the item was purchased and picked up. Colorado is a “point of delivery” sourcing state, which means that the point where delivery, or transfer of ownership of the property or service occurs, is the point of taxability. However, if that City’s sales tax rate is less than Louisville’s use tax rate, the difference up to the City’s rate, would still be owed to the City of Louisville.
- Items are originally purchased for resale by a business, but then pulled from inventory for use in the operation of the business, or used as give-a-ways or complimentary items. This also includes construction materials used for lump-sum contracts or similar by retailer-contractors. See the “Construction and Contractors” publication in this Tax Guide for additional information related to construction materials.

Also, see the “Sales Tax” and “Calculating Previously Paid Sales/Use Tax” publications in this Tax Guide for additional information.

Use Tax for Individual Louisville Residents

Use tax is imposed both upon business consumers and individual consumers. Use tax is complimentary to sales tax, but is paid directly to the City rather than to a vendor or retailer. In general, if sales tax would apply to a purchase made from a Louisville retailer, then use tax will apply to the same purchase made from a retailer in another city or state.

The purpose of use tax is to protect local sellers who would otherwise be at a competitive disadvantage when out-of-city retailers make sales to Louisville customers without collecting tax. Use tax also compensates for tax avoided by purchasing in cities with lower tax rates. Together with sales tax, the use tax creates a system that ensures that all consumers contribute fairly to fund City services whether they choose to purchase goods from local or out-of-city retailers.

Common transactions by residents that may be subject to use tax include:

- Purchases made from a mail-order catalogue or over the internet
- Purchases delivered into Louisville from a retailer in another city or state
- Purchases picked up from a retailer in an unincorporated area or city with a lower sales tax rate

Residents may submit a letter to the City of Louisville, Tax Division, with their name and address stating the date of their purchase, the purchase price before tax, and list any other municipal tax paid for which they are taking a credit and enclose a check for any use tax owed payable to the City of Louisville. Residents are not required to file any letters or tax returns with the City if no use tax is due.

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The Louisville Municipal Code (LMC) imposes its sales tax on the sale of tangible personal property through “coin-operated” devices also known as vending machines.

A coin-operated device or vending machine means any device operated by coins or currency or any substitute that offers tangible personal property to a consumer. This definition does not include such things as video games, pinball machines, pool tables, laundry mat washers and dryers, or car washes.

Any person or company with a vending machine or coin operated device located in the City is required to purchase a Louisville Sales/Use Tax License and to collect and remit sales tax to the City.

Any person or company who removes the receipts from coin-operated devices or vending machines is liable for remitting City sales tax on the device or machine revenues.

To calculate the gross sales to report on the City tax return, take the total amount of receipts divided by the Louisville tax rate. For example, if \$500 was collected the calculation would be $\$500 \div 1.0365$ (tax rate effective 1/1/18 is 3.65%) = \$482.39. The \$482.39 will be used on line 1 of the City tax return as the gross sales amount.

The operator, owner or person selling tangible personal property by coin-operated device or vending machine is liable for the sales or use tax on the purchase or use of the actual devices, and is required to collect sales tax on any subsequent lease, rental or sale of such devices on the full lease, rental, or sale price.

Examples

Louisville Company A contracts with a Coca-Cola distributor for a vending machine located in their break room. The distributor periodically collects the proceeds, and restocks the machine. The distributor is responsible to obtain a City sales/use tax license and to remit sales tax to the City on the vending machine sales.

Louisville Company B contracts with a company to place a coin-operated snack device in their office. Company B receives 20% of the proceeds from the snack machine vendor each month. The snack machine vendor collects the revenue, repairs and restocks the machine. The snack machine vendor is responsible to obtain a City sales/use tax license and to remit sales tax on the total amount of revenue (including the 20% paid to Company B) to the City.

Louisville Company C owns their own food vending machine, but contracts with a vending machine supplier to service the machine and to restock its contents periodically. Company C pays the supplier a set amount each month plus the price of the food stocked in the machine. Company C collects the proceeds from the vending machine and uses it towards an employee picnic it hosts each year. Company C is required to obtain a City sales/use tax license and to remit sales tax on the total amount of revenue collected to the City.

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The Louisville Municipal Code (LMC) does not permit a vendor fee or service fee deduction for vendors on their Louisville sales/use tax returns.

This deduction was discontinued effective for all returns due on or after February 1, 2010. Late returns or returns received as part of a voluntary disclosure agreement for periods prior to February 1, 2010 will not be permitted to deduct a vendor or service fee as it only applied to the on-time filing of tax returns.

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The Louisville Municipal Code (LMC) exempts the performing of professional and medical services from sales tax. Such services may include exams, diagnosis, treatment, surgery, euthanasia, boarding, and grooming so long as such charges for services are separately stated on the invoice or bill.

Prescription Drugs

Prescription drugs for animals means “a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect. 301, et. Seq., as amended, to state at a minimum the symbol “Rx Only”, and is dispensed in accordance with any order in writing, dated and signed by a licensed veterinarian, specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.”

Prescription drugs which meet the above definition are exempt from Louisville sales tax.

Non-exempt Drugs, Food and Pet Supplies

Veterinarians should purchase items to be resold in the normal course of business without the payment of sales tax by obtaining a State of Colorado sales tax license. Sales tax should be charged by the veterinarian to the customer on the marked-up selling price of non-exempt items at the time of sale. Items which are not exempt from City sales tax include, but are not limited to, drugs not requiring a prescription, pet food, treats, vitamins, nutritional supplements, grooming supplies, leashes, collars, toys, books, CD's or other similar items.

Purchases by Veterinarians

Veterinarians are considered the consumer of medical supplies and goods used in their practice. All items used, consumed, stored or distributed within the City of Louisville whether purchased, leased, or rented from sources inside or outside the City are subject to Louisville sales tax. If items are purchased without payment of sales tax, then use tax must be paid by the veterinarian to the City. Credit will be given for items purchased from other municipalities for which a lawfully imposed sales tax was paid.

Taxable business purchases include all equipment, instruments, medical tools, medical supplies, non-prescription drugs, office furniture and supplies, computers, software licenses and similar, which are used by the business in providing its veterinary services.

Examples

Pet Owner A brings their cat to Veterinarian X for its annual exam. The veterinarian administers a rabies vaccination and recommends the owner purchase a special formula cat food to help with joints. The exam charge is \$40, the vaccination \$25 and the bag of special cat food is \$18. The exam charge and vaccination are not subject to sales tax to the Owner, but the cat food charge of \$18 is taxable. The veterinarian should have purchased the pet food tax-exempt for resale.

Pet Owner B brings their dog to Veterinarian Y on an emergency basis. The dog has been involved in a fight and has serious wounds. The Veterinarian sedates the dog, administers antibiotics and fluids and recommends surgery to clean and suture

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the wounds. The Veterinarian will keep the dog overnight for observation. The charge to the owner for the emergency visit is \$100, the surgery is \$300, the injections and IV's are \$150, and the overnight stay is \$75. None of the charges are subject to City sales tax to the Owner; however, the veterinarian must pay Louisville use tax on any non-prescription drugs, as well as items used during the surgery and overnight stay such as gauze, bandages, cleaning solutions, sutures, and pet food.

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The Louisville Municipal Code (LMC) exempts wholesale sales from City sales and use tax.

Every wholesaler with a physical location in the City of Louisville must obtain a Louisville Sales/Use Tax License.

A wholesale sale means any sale to a licensed retailer, jobber, dealer or other wholesaler for resale. Any other type of sale to users or consumers and not for resale is deemed a retail sale and is subject to the sales or use tax imposed in the LMC.

Louisville does not issue City tax exemption certificates. In many cases, the City will honor a state-issued exemption certificate, but not in all cases. Vendors are encouraged to contact the City Tax Department directly to verify whether certain transactions are taxable or exempt.

Manufacturing Wholesalers

For tangible personal property transactions to be exempt in the process of manufacturing or compounding, the tangible personal property being purchased must meet the following criteria:

The tangible personal property is actually and factually transformed by the process of manufacturing or compounding in a form different from that in which it was acquired for sale or for use by a manufacturer.

The tangible personal property becomes a necessary and recognizable ingredient, component and constituent part of the finished product by the manufacturer, resulting in a different product having a distinctive name, character or use from the raw or prepared materials.

The tangible personal property's physical presence in the finished product is essential to the use in the hands of the ultimate consumer.

Food Manufacturing Wholesalers

For transactions to be exempt in the processing or manufacturing of food products sold for sale or profit, the tangible personal property being purchased must meet the following criteria:

The tangible personal property must become an integral or constituent part of a food product which is intended to be sold ultimately at retail for human consumption.

The tangible personal property is a chemical, solvent, reactive agent, mold skin casing, or other similar material that is used for the purpose of producing or inducing a chemical or physical change in a food product or for the purpose of placing a food product in a more marketable condition and is directly utilized and consumed, dissipated, or destroyed to the extent it is rendered unfit for further use, in the processing of a food product which is intended to be sold at retail for human consumption.

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Exemption

In order for a sale to be wholesale, the storage, use or consumption of tangible personal property must be made by a licensed person of a business organized to resell, manufacture or compound product for sale or profit.

Seller Responsibilities

Per the LMC, the seller is responsible to collect and the purchaser is required to pay sales tax on the purchase price of tangible personal property.

Wholesalers must determine if the documentation presented for exemption is valid for the purchase being made and that the goods being purchased are regularly resold by the purchaser. It ultimately becomes the responsibility of the licensed vendor/wholesaler/seller to pay any taxes owed on unqualified purchases for which they granted an exemption in the event of an audit. Documentation is crucial.

Tax Disputes

Purchasers that claim an exemption from Louisville tax that a retailer/seller will not accept, are required to remit the tax, but may file a Refund Claim Form to the City of Louisville within 60 days of the purchase date. All documentation supporting the request for exemption should be included. Please see the "Refunds" publication in this Tax Guide for additional information.

Examples

Wholesaler A is a licensed Louisville business that manufactures medical instruments. Company B is an out-of-city vendor that sells roll stainless steel. Wholesaler A must provide Company B with a copy of its State-issued tax exemption certificate. Company B may then sell the roll stainless steel used to manufacture the medical instruments to Wholesaler A tax-exempt.

Louisville Restaurant C is a licensed, full-service restaurant, which purchases a flat-screen television from Louisville Retailer X. The restaurant presents the retailer with its state sales tax-exempt license. Louisville Retailer X should charge the restaurant City sales tax on the purchase price paid for the television because the restaurant is not in the business of reselling televisions.

The information contained in the Tax Guide publications is intended to offer general guidance in layman's terms, for this topic, industry or business segment, and is not intended for legal purposes to be substituted for the full text of the Louisville Municipal Code rules and regulations. This guide does not constitute a city tax policy.