

The following is an alphabetical list of the Tax Regulations.

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TAX GUIDE

ADVERTISING AGENCIES

Advertising agencies engaged in furnishing advertising services to their customers are required to pay sales or use tax on purchases of tangible personal property used in rendering their services. Non-taxable services, if separately stated include, but are not limited to:

- Writing copy for use in newspapers, magazines or other advertising or to be broadcast on television or radio
- Typesetting, color separation and design
- Compiling statistical and other information
- Placing or arranging for the placing of advertising in print media, billboards and other forms of outdoor advertising cards in cars, buses and other facilities
- Charges for supervision, consultation and research

Agencies engaged in selling tangible personal property at retail in connection with the performance of their services must hold a City of Pueblo sales tax license and collect sales tax on the entire amount charged to customers for items of tangible personal property. These items include, but not limited to, tapes, films, photographs, printed material and promotional items. (Whether the item is used for reproduction or display purposes is irrelevant to its taxability. This includes labor used to render tangible personal property sold or leased into a form usable by the purchaser or lessee. If non-taxable services are commingled with charges for tangible personal property, the total amount is taxable.)

Those agencies with their own printing facilities must be licensed to collect sales tax on their printing jobs (See Related Tax Guide Topic - Printing Industry).

EXAMPLES:

1. ABC Advertising Agency buys supplies for the development of design projects (clip art software, supplies for storyboard preparation, etc.). Sales tax should be charged by the vendor of the supplies. If the vendor is unlicensed, or for any reason fails to charge sales tax, then ABC Advertising Agency is responsible for remitting use tax to the City on its sales/use tax return.
2. ABC Advertising Agency designs an annual report for the XYZ Corporation. An outside printer is engaged by ABC to do the printing. A single charge to XYZ Corporation for the in-house design work and for printing the report is taxable. If the design charge is separately stated, only the charge for printing the report (including agency markup of printing) is taxable.

RELATED TAX GUIDE:

Printing Industry
Service Enterprises

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AGENTS: Salespersons, Auctioneers, and Manufacturer's Representatives

The Pueblo Municipal Code defines "retailer" as "...any person selling, leasing or renting tangible personal property or services at retail." Specifically included in this definition are auctioneers, as well as sales persons and representatives who make taxable sales as an agent for another party (principal). An agent is a person authorized by another to act for him/her, one authorized to transact business of a principal. Examples of agents include but are not limited to salespeople, auctioneers, peddlers and manufacturer's representatives. An agent shall be responsible for the collection and remittance of the sales tax whenever the principal of the agent is not licensed to collect sales tax or fails to collect sales tax.

In some cases the company represented by an agent handles the shipping and billing of the goods sold. If said company does not collect sales tax on goods shipped to a Pueblo address, then the agent has the responsibility of collecting the sales tax and remitting the tax to Pueblo.

The PUEBLO MUNICIPAL CODE defines "engaged in business in the City" as performing or providing taxable services or selling, leasing, renting, delivering, or installing tangible personal property for storage, use or consumption within the City. This includes but is not limited to maintaining a place of business, sending or maintaining employees or agents to solicit business or to install, repair, or demonstrate products, etc., owns, leases, or rents real property, or makes more than one delivery into the city within a twelve (12) month period.

EXAMPLE:

John works out of his home as a sales representative for XYZ Company, which is located outside the City of Pueblo. John makes sales calls on businesses throughout the City of Pueblo and takes orders for goods shipped from XYZ's warehouse to its customers, some of who are located in Pueblo. XYZ Company handles the billing for these sales. If XYZ Company does not collect Pueblo sales tax, then John, acting as an agent of XYZ, would be required to do so.

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AIRCRAFT

The sale and purchase of aircraft are subject to sales and use tax unless exempt. Exempt aircraft include:

- A. Aircraft used or purchased for use in interstate commerce by a commercial airline. Commercial airline means an airline carrying freight or passengers on regularly scheduled flights for a fee, but does not include a charter air carrier providing charter air transportation.
- B. Aircraft owned or leased by any department of the federal or state government.
- C. Aircraft held for resale constituting stock in trade of a manufacturer, dealer, distributor or retailer of aircraft, if such aircraft is not used for commercial purposes.
- D. Aircraft operated from a fixed base outside of Pueblo.

The City of Pueblo allows a credit against sales and use tax on aircraft used in providing charter air transportation by a charter air carrier located in the aviation area of the Pueblo airport. The amount of this credit is two-thirds (2/3) of the sales and use tax levied and imposed upon such aircraft. This exemption does not apply to parts and accessories when installed on aircraft at the airport.

Aircraft are required to be registered with the Federal Aviation Administration (FAA). They are not required to be registered by the State of Colorado or the City of Pueblo.

Parts and accessories are taxable when installed on aircraft in Pueblo regardless of where the aircraft is registered. The Pueblo Municipal Code includes aircraft in its definition of automotive vehicles.

EXAMPLES

1. A Pueblo resident, whose plane is operated from Meadow Lake airport outside the city, flies into Pueblo to have repair work done by a fixed base operator at the Pueblo Memorial Airport. Repair parts installed on the plane in Pueblo are subject to city sales tax.
2. An individual purchases a plane in Kansas and flies the plane back to Pueblo for operation from the Pueblo Memorial Airport. If the State of Kansas does not legally impose sales tax on the aircraft purchase in the State of Kansas, the purchase of the plane is subject to City of Pueblo use tax when the plane is brought into the city.
3. GIC Realization Company purchases a new corporate jet that will be principally operated and maintained in the city at the Pueblo Memorial Airport. GIC owes city sales or use tax on the purchase of the new jet.

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AUTOMOTIVE VEHICLES

PURCHASED VEHICLES:

Motor vehicles purchased by a Pueblo resident are required to be registered at the purchaser's address in Pueblo. Pueblo sales/use tax is due on the net purchase price (total purchase price less the amount allowed by a dealer for a trade-in, if any; no trade-in deduction is allowed if the sale is not by a licensed dealer). The purchaser must pay the sales or use tax to the seller if the seller is licensed and authorized to collect and remit the tax to Pueblo. If the seller is not licensed and authorized, then the purchaser shall pay the use tax directly to the City of Pueblo or the Pueblo County Clerk. Until the tax is paid, no certificate of title or registration certificate or license plates will be issued for the vehicle.

Persons who purchase a motor vehicle, and at the time of purchase are non-Pueblo residents, and who subsequently move into Pueblo must register their vehicles at their Pueblo address.

VEHICLES PURCHASED JOINTLY BY TWO OR MORE PERSONS:

If any motor vehicle is purchased jointly by two or more persons, as defined, City of Pueblo sales/use tax is due if either person is a resident of the City of Pueblo. This tax must be paid as outlined above.

VEHICLES PURCHASED BY BUSINESSES:

Any motor vehicles purchased by a business must be registered at the address of the business. If that address is in the City of Pueblo, City sales/use tax is due on the purchase. Tax is applied to the purchase of a vehicle by a business in the same manner that it is applied to the purchase of a vehicle by an individual.

LEASED VEHICLES:

Motor vehicles leased for more than 30 days by a Pueblo resident (lessee) must be registered at the lessee's address, in Pueblo. Pueblo residents include businesses located in Pueblo even though the business owners are non-Pueblo residents. Thus, motor vehicle leases to businesses in Pueblo for business use in Pueblo are subject to Pueblo tax. Pueblo sales tax must be collected by the vehicle leasing company (lessor) on each lease payment.

If at the inception of the lease, the lessee was a non-Pueblo resident, and subsequently moves into Pueblo, the vehicle would be required to be registered in Pueblo at the address which becomes the lessee's address, within 30 days, and the lessor would be required to collect Pueblo tax on the lease payments. If the lessor is not licensed or fails to collect the Pueblo tax, then the lessee is required to pay City use tax directly to the City of Pueblo.

DIFFERENCES IN LEASING RULES:

There are two major differences that exist between Pueblo and the State of Colorado with regard to the application of taxes on leases, including leases of automotive vehicles. When collecting taxes for the State of Colorado (including non home-rule statutory cities, if applicable):

1. The lessor may elect to collect the taxes from the lessee on the lease payments (same rule as required by Pueblo). However, on leases of thirty-six (36) month or less, the lessor may pay the tax up front on the total cost of the vehicle and not collect Colorado tax on the lease payments. The lessor must handle all leases in the same manner.

2. Taxes collected on the lease are based on the lessee's location when the lease was entered into and remain in effect during the term of the lease.

In reference to Part "A" above, Pueblo does not allow this option for City of Pueblo tax.

In Part "B" above, Pueblo taxes apply only during the period the lessee is a Pueblo resident. Each periodic lease payment is considered a separate transaction for Pueblo tax purposes.

For additional information regarding statutory cities and state taxes, contact the Colorado Department of Revenue.

VEHICLES RECEIVED AS A GIFT:

Vehicles claimed as gifts between family members that are truly gifts without consideration are not subject to the City tax. However, assumption of a debt (lien) between family members is consideration and causes the transaction to be subject to Pueblo tax. The taxable value of the vehicle would be the debt plus any other consideration given.

The donor and the recipient are considered family members if one of the following relationships exist:

- | | |
|------------------------|----------------------|
| A. Spouse | C. Child, grandchild |
| B. Parent, grandparent | D. Brother, sister |

Claimed gifts between parties not including the above stated family relationships are presumed to be with consideration and subject to Pueblo tax. The vehicle is taxed at the fair market value as determined by using the Kelly Blue Book average wholesale value. If unrelated parties insist the change of ownership is a bona fide gift, without consideration, the new owner may appeal to the Sales Tax Division for review and evaluation. If the claimed gift is in fact a gift without consideration, it is not subject to Pueblo tax.

EXAMPLES:

1. Donald decides to give his old Buick to his granddaughter. Donald holds free and clear title to the vehicle. He completes Form MV3 (Affidavit of Purchase Price, Trade, or Gift of Motor Vehicle.) The form is accepted at face value; thus, the transfer of title and registration to his granddaughter's name is considered to be a tax-free gift.
2. Joe, the owner of a RV, was recently laid-off from his job and finds himself unable to make the loan payments. Joe offers to transfer the title to his brother, Harry, if Harry will assume the loan payments. Harry accepts. Because consideration is involved, Pueblo tax is due on the consideration given (the loan balance).

RESIDENCY GUIDELINES:

A person's residence for motor vehicle registration purposes shall be his/her principal or primary home or place of abode to be determined in the same manner as residency for voter registration purposes. Residency considers such circumstances as: children's school registration, the address shown on the vehicle insurance policy as the location where the vehicle is kept, work location, telephone directory address, drivers license address, address from which income taxes are filed, address used to receive insurance, credit card, utility, and other bills, address used to receive Social Security, dividends and interest, pensions, or other income, and public records.

Active members of the U.S. Armed Forces temporarily living in Pueblo may elect to register a vehicle in their state of residence. If they do not elect to register the vehicle in their state of residence, they must register the vehicle at their residence in Pueblo.

Note: Automotive parts and accessories are taxable when sold and installed in Pueblo, regardless of where the vehicle is registered.

FALSE AFFIDAVIT:

If any purchaser who is a resident of the City shall file a false affidavit stating he/she is a non-resident of the City or shall register any such vehicle to a place or address outside the City, he/she shall be liable for City sales/use tax on such purchase and shall be guilty of a violation of the Pueblo Municipal Code and be punished as provided in Section 1-2-1 of this Code with penalty of up to \$300.00 fine and/or 90 days in jail. The person is also subject to a \$500.00 fine for violation of the Colorado Revised Statutes.

RELATED TAX GUIDES:

Automotive Service & Repair
Common Carriers
Trade-Ins

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AUTOMOTIVE SERVICE AND REPAIR PARTS AND SUPPLIES

SALES BY REPAIR SHOPS:

As a general rule for repair shops, the taxable amount is the total amount charged to the customer, with deductions allowed for service or labor charges, if they are separately stated. Therefore, parts, fluids and accessories installed in automotive vehicles are subject to sales/use tax. Automobile dealers, garages and repairpersons must itemize parts, fluids, accessories, supplies and labor on customer invoices. If not itemized, the total invoice is subject to sales/use tax.

Shop supplies charged to a customer based on a flat charge or a percentage of other costs are also taxable. This charge is considered part of the selling price of the tangible personal property and thus is taxable.

If a repair shop sub-contracts a portion of the repair job to another repair shop, the total amount charged to the end customer is taxable, unless the charges for parts and labor are separately stated on both the sub-contractor's invoice and on the invoice to the end customer. If separately stated, only the parts would be subject to sales tax on the invoice to the end user.

EXAMPLES:

1. An automobile repairperson charged a customer the following on an invoice: \$75 brake pads, \$5 air filter, \$15 oil, \$5 supplies (a flat charge) and \$125 labor. The repairperson must charge tax on the brake pads, air filter, oil and supplies; the labor is not taxable to the customer. The repairperson must pay sales tax on the supplies when purchased or report it as use tax.
2. An automobile repairperson charged a customer the following on an invoice: tune-up \$225. The total invoice is subject to sales tax because it was not itemized.

PURCHASES BY REPAIR SHOPS:

Automotive repair shops purchase parts or other items to repair vehicles and resell to customers. As a general rule, for the purchase of an item to qualify for exemption from sales or use tax by the repair shop, it must be purchased for resale, become a physical component of or be permanently attached to the vehicle being serviced, and sales tax must be charged by the repair shop on the selling price of that item. Resale purchases include such items as repair parts, oil, paint, car wax, filters, hubcaps, and other materials or accessories affixed to the vehicle.

Purchases of items that are used or consumed by auto repair shops in performing repair services are taxable to the repair shop. Examples of these types of items include machinery or equipment, rags, solvents, hand tools, rubbing compounds, sandpaper, paint thinner or reducer, office supplies, etc. The repair shop must pay sales tax to the vendor of these items if the vendor is licensed and authorized to collect and remit the tax. If the vendor is not licensed and authorized to collect and remit the tax, then the repair shop must pay use tax on the purchase directly to the City of Pueblo.

EXAMPLES:

1. A body shop purchases masking tape and degreaser for use in painting cars. These items are taxable to the body shop because they do not become permanently affixed to the car being painted. These are supplies, which are used or consumed by the body shop in rendering its service.
2. A repair shop purchases engine parts for installation on a customer's car. The repair shop may purchase these parts tax-free for resale because they will become a permanent part of the car being repaired. The repair shop must charge sales tax to its customer on the sale of the parts.

DEPOSITS AND CORE CHARGES:

Deposits on parts or accessories, which are collected as a "core charge" or similar deposits are held by the seller until the customer returns a used or exchange part, are considered part of the taxable selling price of the part or accessory. Sales tax must be collected by the seller on the entire selling price including the deposit. When the customer returns the used or exchange part for refund of the deposit, sales tax on the deposit should be refunded to the customer along with the deposit. If the seller has remitted the sales tax charged on the deposit on a prior period tax return, the seller is allowed to take a trade-in deduction on the current period tax return.

EXAMPLE:

A customer purchases a rebuilt starter from an auto parts retailer for \$35.00 plus a \$10.00 core charge. The store must collect sales tax on \$45.00. When the customer returns the old starter to claim the \$10.00 deposit, the store should refund the \$10.00 deposit plus the sales tax paid on the \$10.00. If the customer trades in an old starter at the time of purchase, there is no deposit collected, and sales tax applies only to the \$35.00 purchase price.

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AUTOMOTIVE VEHICLES/SHORT-TERM RENTAL

TAX RATE:

The rental of any automotive vehicle in the City of Pueblo is subject to the City's sales/use tax at the rate of 3.7%.

TAXABLE VERSUS NON-TAXABLE CHARGES:

The following is a list of common charges appearing on an automotive vehicle rental invoice. Included is a summary describing the taxability of the charge and the appropriate tax rate:

1. Time & Mileage: Taxable
2. Additional Driver: Taxable
3. Collision Damage Waiver (CDW) or Loss Damage Waiver (LDW): Taxable
This is not a charge for insurance. It is a fee imposed by the rental company, at the renter's option, that eliminates or reduces the monetary liability the renter would otherwise be subject to when damage occurs to the vehicle.
4. Personal Accident Insurance (PAI), Personal Effects Coverage (PEC), and other optional insurance charges: Insurance will be taxable if provided by the rental company as part of the rental agreement, but **not** taxable if provided by a third party.
5. Refueling Charge: Not taxable if the rental contract imposes a refueling charge when the vehicle is returned with less than a full tank of gas. Taxable if the rental contract imposes a mandatory fuel charge, regardless of whether the vehicle is returned with a full tank of gas or not.
6. Optional Rental Items (e.g., cellular phone, baby seat, ski rack): Taxable

In addition to the above charges, the State of Colorado allows automotive vehicle rental companies, at their option, to pass the ownership tax to the renter, by adding a 2% ownership tax to the rental billing. This charge is **not** subject to the sales or use tax.

EXAMPLE:

Eddie rents an automobile from Airport Rent A Car at the following daily rates:

A. Base daily rental	\$69.95
B. Additional driver	5.00
C. CDW	11.95
D. Refueling Charge @ \$2.00/Gal.	22.00
E. Car Phone	15.00

In this example, charges A, B, C & E are taxable at 3.7% City rate. The charge for D is not taxable.

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BANKS AND CREDIT UNIONS

Sales of tangible items to national and state banks, trust companies, savings and loans, and to state-chartered credit unions are taxable. Sales made to federally chartered credit unions for their own use are exempt, as courts have held them to be instrumentalities of the federal government.

Whenever national and state banks, trust companies, savings and loans, and state or federally chartered credit unions engage in the sale of tangible personal property at retail, they must collect and remit the sales tax. Examples of retail sales commonly made by such entities include leases of equipment and autos, sales of obsolete equipment, and sales of credit card supplies.

EXAMPLE:

XYZ Bank, ABC Credit Union (State Chartered), and Mytown Federal Credit Union each purchase a new computer system. These entities then sell their old computer equipment at retail.

If the purchase is made from a licensed Pueblo vendor, sales tax is due on the sale to XYZ Bank and ABC Credit Union. Sales tax would not be collected on the sale to Mytown as this is a federally chartered credit union. If the purchase were from a non-licensed vendor, XYZ Bank and ABC Credit Union would be required to remit use tax on the purchase. Mytown Federal Credit Union is not subject to use tax because it is federally chartered.

All of these entities would be required to collect and remit sales tax on the retail sale of their old computer equipment.

RELATED TAX GUIDE:

Use Tax

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BARBERS AND BEAUTY SHOP OPERATORS

Barber and Beauty Shop engaged in selling tangible personal property at retail in connection with the performance of their services must possess a City of Pueblo Sales Tax License and collect sales tax on the sale of any supplies sold to customers. They are also consumers of any supplies used in providing their services and therefore, must pay sales tax, at time of purchase, or remit use tax on these supplies. These supplies include, but are not limited to, shampoo, conditioner, tints, colors, combs, brushes, hair dryers and curling irons.

Booth or chair rental in a barber or beauty shop is a taxable transaction for the portion of the rental contract that is for the use of tangible personal property or fixed assets associated with that space. Commission paid to the owner of the booth or chair in addition to the rental amount is not subject to sales/use tax. If the rental contract between the owner of the shop and the independent contractor does not separately state the portion applicable to tangible personal property and fixed assets, then 50% of the total charge to the independent contractor will be subject to sales tax.

EXAMPLES:

1. A contract between a beauty shop owner and an independent contractor states that the independent contractor will pay the owner \$250 for booth rental and 20% of the income derived from use of the space. The \$250 is taxable and the 20% would be exempt from sales tax. If the contract stated a flat \$400 for use of the space, \$200 would be subject to sales tax.
2. A beauty shop owner orders 2 cases of shampoo, one for use in the shop and the other for resale to customers. The owner must pay tax on the case purchased for use in the shop. If tax is not charged, the owner must report use tax. The owner must also collect tax on the sale of the shampoo to customers.

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BROADCASTING STATIONS AND OTHER MEDIA

The purchase, lease or rental of tangible personal property by broadcasting stations for use in their operations inside the City of Pueblo is subject to City sales tax. Personal property includes, but is not limited to, satellite dishes, transmitting towers, other electronic receiving or transmitting equipment, tapes, compact discs and equipment used in the studio, business office and general station facilities.

Tax must also be paid on the purchase price of promotional and advertising items. The purchase of items for resale would be exempt from City sales tax, provided that sales tax is collected on the price charged to the end user. The sale of on-air advertising spots would not be subject to sales/use tax.

EXAMPLES:

1. A Pueblo radio station holds an event at a local bar. The radio station purchases t-shirts to be sold at the event and advertising flyers to promote the event. The radio station must pay sales tax on the flyers, but not on the t-shirts, because they were purchased for resale and sales tax will be collected on the price charged at the event.
2. A Pueblo radio station purchases two transmitting towers, one to be delivered and installed in Pueblo, the other in Beulah. Sales tax is due on the tower delivered and installed in Pueblo. The tower installed in Beulah is not subject to Pueblo sales/use tax, provided that the tower is delivered to Beulah. If both towers were shipped to the radio station in Pueblo, then ownership passed in Pueblo and both towers would be subject to Pueblo sales/use tax.

RELATED TAX GUIDES:

Use Tax
Gifts & Giveaways

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CEMETERIES, FUNERAL HOMES AND MORTICIANS

Sales of vaults, urns, caskets, shipping containers, grave boxes, burial clothing, granite bases and other tangible personal property are taxable at the time of sale. The "time of sale" depends upon the terms of the contract. In the case of a pre-need contract, the sale occurs when title to or possession of the property passes to the purchaser.

Sales or use tax should be paid on lawn crypts at the time of purchase by the cemetery or mortician if purchased as finished products. If the lawn crypts are erected by contractors, the contractor is responsible for use tax on the materials used.

Sales of memorial plaques, headstones, and grave markers are taxable at the full installed purchase price. If installation charges are separately stated on the invoice, those charges are not subject to tax.

Services rendered by cemetery or mortuary staff are not taxable; however, any personal property used in rendering these services is taxable to the mortician or cemetery staff at the time of purchase. Sales of flowers, cards, etc., by the mortuary to its clients are subject to sales tax just as any other retail sale.

Perpetual care is a charge for maintenance and lawn care of the cemetery grounds and markers. These services are not taxable to the purchaser. Any equipment and supplies purchased or used by the cemetery in providing these services are subject to tax.

Monetary assistance provided by insurance companies or by government agencies such as The Veteran's Administration, Department of Social Services and Victim's Compensation is considered payment by a third party, not as a tax-exempt sale to the government. Therefore, the above guidelines are valid regardless of how payment is made to the funeral home, mortuary, or cemetery.

EXAMPLES:

1. Pueblo Department of Social Services pays a portion of funeral expense for a low-income/indigent person. The portion paid by Social Services is considered a third party payment; it is not considered a tax-exempt sale to the government. The funeral home must collect sales tax, on full price, on tangible items sold to the family of the deceased.
2. A couple purchased a pre-need insurance plan from a local mortuary. The mortuary placed the funds in a trust account, consistent with Colorado law. That transaction is not taxable until the time of need and utilization of tangible personal property.

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CHARITABLE, RELIGIOUS AND GOVERNMENTAL EXEMPTION

The Pueblo Municipal Code provides exemption from the sales, use, lodger's and admission tax on sales to charitable, religious or governmental entities, when the purchased property or service is to be used in the conduct of the regular charitable, religious or governmental functions and activities. This exemption does not exempt the organization from collecting and remitting sales tax on the sale of tangible personal property and taxable services, lodger's tax on accommodations and admissions tax by or on behalf of the exempt organization.

CHARITABLE AND RELIGIOUS EXEMPTIONS:

Organizations claiming an exemption to City of Pueblo tax must have an exempt license issued by the City of Pueblo. A copy of this exempt license must be provided to vendors prior to or at the time of sale. The vendor must keep a copy of this license on file to substantiate the exempt transaction. A tax exemption certificate issued by the State of Colorado for exemption from state and Pueblo county taxes does not entitle the organization to an exemption from Pueblo city taxes. The City of Pueblo is much more stringent in this regard than the State of Colorado.

The definition of **CHARITABLE**, within the terms of the Pueblo Municipal Tax Ordinance is as follows:

- A. An entity which has been certified as a not-for-profit organization under section 501(c)(3) of the Internal Revenue Code and is a religious or charitable organization, and
- B. Which exclusively, and in a manner with existing laws and for the benefit of an indefinite number of persons, freely and voluntarily ministers to the physical, mental or spiritual need of persons, and which thereby lessens the burdens of government.

GOVERNMENTAL EXEMPTIONS:

Direct sales to and direct purchases by the U.S. Government and all departments and institutions thereof, the State of Colorado and all departments and institutions thereof and their political subdivisions, including city municipalities, are exempt from sales and use tax under the Pueblo Municipal Code, but only in the exercise of their governmental functions and only when paid directly from the governments account directly to the seller.

CHARITABLE, RELIGIOUS AND GOVERNMENTAL TRANSACTIONS:

To be exempt, purchases made by a qualifying organization must be billed to the organization and paid directly from the funds of the organization. A "petty cash" purchase must be authorized by an official purchase order of the exempt organization. The purchase order must be maintained by the vendor as a basis for exempting the sale.

Acceptable forms of payment to comply with the above payment requirement shall be:

- A. Check from the exempt entity;
- B. Purchasing card from the exempt entity, Bank One State of Colorado Purchasing Cards, "State Tax Exempt" Dinner Club cards, Federal GSA SmartPay cards or other purchasing or procurement card billed directly to the exempt organization (other credit cards in the employee's name are not acceptable as they are billed to the employee and not directly to the exempt entity);
- C. Purchase order resulting in a direct bill to the exempt organization and direct payment from the exempt organization.

The following transactions are not exempt:

- A. Sales between the exempt organization and its members;
- B. Sales of tangible personal property to the public, even though the property sold was acquired by the charitable corporation as a gift or donation or that the proceeds of the sale are to be used for charitable purposes;
- C. Banquets or other activities where the participants buy a ticket or reimburse the organization for the meal or lodging;
- D. Purchase of a taxable item, such as supplies, a room or meal, paid for with the personal funds of an individual (i.e., check, credit card, or cash), even though the funds may be reimbursed by the exempt corporation;
- E. Purchases, made by an exempt organization, that are used in a function or activity that does not qualify as the regular charitable or religious function for which it was organized.

Construction contractors who perform a construction contract for a charitable or religious organization are considered to be the ultimate user of the purchased material and thus subject to the Pueblo sales and use tax upon their acquisition of building materials used to perform the contract.

RELATED TAX GUIDES:

Fund Raising
Non-Profit Organizations

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City of Pueblo, Colorado

TAX GUIDE

CIGARETTES, CIGARS AND TOBACCO

All sales of cigarettes are exempt from Pueblo sales tax.

The sale of any tobacco product, which is not a cigarette, is subject to sales tax.

“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, while, 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.”

The sales of cigars, chewing tobacco, pipe tobacco, snuff and products used in conjunction with these tobacco products are taxable. If one of the above products is sold in a vending machine, the tax can be included in the sales price.

EXAMPLE:

A smoke shop sells a pack of cigarettes, a bag of pipe tobacco, 2 cigars and rolling papers. The shop must collect sales tax on all of the items sold except the cigarettes.

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City of Pueblo, Colorado

TAX GUIDE

Coins, Currency, & Precious Metals

The *Pueblo Municipal Code* imposes a sales tax upon the purchase price paid for tangible personal property sold at retail in the City. To the extent that a sufficient, legally-imposed sales/use tax was not paid at the time of purchase to the City or another municipality, Pueblo use tax is due.

While some taxing jurisdictions provide an exemption for certain coins, stamps, and precious metal bullion (monetized or non-monetized), Pueblo's Code provides no such exemption.

Coins & Currency

Where coins and currency constitute legal tender of the United States or another nation, and are in general circulation as a medium of payment, their exchange in the open market, at an exchange rate that reflects their relative values as currency, will not be regarded as a taxable sale of tangible personal property. The same will be true even when the transferee is charged a small fee, or does not receive the full face value of the currency exchanged.

Numismatic Items

The purchase of coins and other currency no longer in general circulation is subject to Pueblo sales and use tax. Rare or commemorative coins purchased at a rate not reflective of their face value as a medium of payment, or at a value determined by their precious metal content, are also subject to Pueblo sales and use tax on the price paid for their purchase, even though they may technically be acceptable as legal tender.

Precious Metal Bullion

The sale and purchase of non-monetized, precious metal bullion, such as gold, silver, platinum, and palladium, is subject to Pueblo sales and use tax. (See "Numismatic Items" above for the treatment of monetized bullion). Pueblo's Code does not provide an exemption for bulk purchases of precious metal bullion, or for bullion held for investment purposes.

Trading & Bartering

Persons who use precious metals or precious stones in lieu of legal tender to acquire taxable items must pay Pueblo sales and use tax on the price of such items. The bartered exchange of taxable coins or currency for other taxable coins or currency is also subject to Pueblo sales and use tax.

Examples

1. Person A has a jar full of change (legal, generally circulating U.S. tender) and wishes to exchange the jar for bills. Person A takes the jar to a coin counting machine. The machine returns only 95¢ for each \$1 counted. There is no Pueblo sales tax due on this exchange.
2. Person B is traveling to Europe. Before his trip, he visits the bank and exchanges U.S. dollars for Euros at the current market exchange rate. There is no Pueblo sales tax due on this exchange.
3. Person C purchases an American Silver Eagle coin from an online coin dealer. Person C pays \$20 for the coin. The face value of the coin as legal U.S. tender is \$1. The online dealer does not collect any sales tax. Person C must report and pay Pueblo use tax on the \$20 purchase price.

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City of Pueblo, Colorado

TAX GUIDE

COMPUTER HARDWARE, SOFTWARE AND DATA PROCESSING SERVICES

The Pueblo Municipal Code imposes sales and use tax on the sale or purchase of computer hardware and pre-written software programs.

COMPUTER HARDWARE

Computer hardware, peripheral equipment, parts and accessories are taxable tangible personal property.

COMPUTER SOFTWARE

The sale or purchase of computer software may be taxable or exempt as circumstances indicate. Computer software may be broadly classified into two categories.

Pre-written software – This category includes “canned,” “shrink-wrapped,” “off-the-shelf” or any other software that is developed by a software company for sale or license to multiple users. Pre-written software may also include software modules or components that are designed to be integrated into a larger software package. Software that is in existence before the software is sold or licensed to the user is tangible personal property and is taxable on its retail sale. Software that is already loaded on a computer when the computer is sold is taxable. Charges for software that are downloaded from or licensed over the internet are taxable.

If software implementation includes both the sale of pre-written software and services necessary to enhance or adapt the program to the user’s system, the entire charge is taxable unless the selling price of the pre-written components and the labor necessary to adapt the component are separately stated. If charges for pre-written elements of a total software implementation package are minor relative to the price of the total package, the total package is considered to be a service sale and is not taxable. However, the consultant who buys the pre-written elements at retail and not for resale is responsible for paying city sales or use tax on the purchase.

Custom Software – This category of software is a non-taxable service. This software is written or designed to meet the needs of a specific user, and its value lies in the creation or development of the program--not in the sale of tangible personal property.

Factors indicating a taxable transaction for the sale or purchase of software include the presence of a buyer and seller of the program and a transfer (by sale, lease, rental or license) of ownership or a right to use the program. A sale of personal services is indicated when the service provider does not own the work in progress.

SOFTWARE MAINTENANCE AGREEMENTS:

Computer software is sometimes sold, or licensed for use, with an additional periodic fee, generally called a maintenance fee.

If the periodic fee is mandatory to maintain the right to use the programs, then the periodic fee is subject to sales/use tax.

If the periodic fee entitles the customer to program enhancements, improvements, modifications, revisions, discounts on additional software purchases, etc., the agreement is taxable. If the agreement also includes technical support, fixes or other services, the service portion of the agreement is not taxable provided that it is stated separately from the taxable portion.

If the periodic fee provides only technical support, fixes or other services, it is not subject to City of Pueblo tax. Any tangible personal property that changes hands as an incidental part of the service such as disks or CDs is taxable to the service provider.

DATA PROCESSING SERVICES:

Data processing services where the charges are for manipulation of client owned data, such as payroll services, computer accounting services, etc., are **not** taxable. Charges for a physical product that results from data processing services are taxable. The City of Pueblo sales/use tax is due on the sale of products such as mailing lists or seismic reports without regard to whether the list or report is transferred electronically or transferred on tape, disk or paper.

EXAMPLE:

1. ABC Co. is expanding their Pueblo operations and purchases 25 personal computers and 25 software packages. In addition, ABC purchases 25 maintenance agreements that entitle the customer to all future revisions. The personal computers, the software package and the maintenance agreements are all taxable.
2. ABC contracts to have John's Programming provide and install a prewritten program to network the 25 personal computers. John will also provide technical support and trouble shooting on an "as needed" basis. The prewritten networking program is taxable, but John's service labor is exempt.
3. Doowright Manufacturing has outgrown their current accounting and payroll package and they need to purchase a new software system. They sign a contract with Consultants Anonymous to design and install the new system. Consultants purchases a data base and applications modules but the substantial portion of the contract is for the services of Consultants to implement the new system. Since the majority of the contract is for service labor, the software contract is not taxable. However, since Consultants Anonymous purchases prewritten software components to install in Doowright's system, the purchase of the components is taxable to Consultants.
4. A Pueblo business enters into a licensing agreement with a software company to pay \$10,000.00 per month for the right to use the software company's new inventory control package. The full \$10,000.00 is subject to sales/use tax.

RELATED TAX GUIDES:

Information Service
Maintenance Agreements

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City of Pueblo, Colorado

TAX GUIDE

CONSIGNMENT SALES

Any seller who takes goods on consignment must collect sales tax on the full sales price when the goods are sold at retail. Even though the seller (the consignee) may be acting as an agent in selling goods for the consignor, this does not relieve the consignee of the responsibility to collect the sales tax. The Pueblo Municipal Code Defines the terms "retailer" and "vendor" to include any person who sells goods as an agent for another person or entity (principal) and imposes on them the duty to obtain a sales tax license and to collect sales tax, whenever the principal is not licensed or fails to collect sales tax.

EXAMPLES:

1. John has a retail outlet for goods made by local artisans. The craftspeople place their goods on consignment with John to be sold to the general public. As the retailer, John must collect sales tax on the sales of the consigned goods.
2. Charlie operates an auction house and takes goods on consignment from businesses seeking to dispose of outdated or overstocked items, estates needing to liquidate assets such as furniture, etc., or anyone with items they want to sell. As the retailer, Charlie must collect sales tax on the sales of the consigned goods.

RELATED TAX GUIDE:

Agents: Salespersons, Auctioneers

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City of Pueblo, Colorado

TAX GUIDE

CONSTRUCTION CONTRACTORS

DEFINITION:

The term “construction contractor” applies to general contractors and subcontractors and includes all building constructors, highway and road constructors, electrical, plumbing, and heating constructors, excavators, and others engaged in the construction, reconstruction, expansion, alteration, repair, or wrecking of **any physical structure that is part of real estate.**

Business enterprises providing completed units of personal property to be affixed to, installed in or used in conjunction with a structure will **not** be regarded as performing work by a **contractor** if the personal property can be removed:

1. Without substantial damage to the structure, and
2. Without altering the functional use of the structure.

Business enterprises, as described above, are considered vendors who make retail sales and must charge City of Pueblo Sales Tax on these items if licensed to do so. If the vendor is not licensed to collect City of Pueblo Sales Tax or for any reason fails to do so, then the contractor must pay the tax due as Use Tax. These types of items include, but are not limited to, appliances, storm doors and windows, patio covers, carpeting, pre-fabricated swimming pools, lockers, athletic equipment, toilet partitions, movable partitions, nursery stock, sod or other similar items used in connection with a structure.

STATE EXEMPT PROJECTS:

The State of Colorado provides an exemption for purchases by contractors of construction and building materials that become permanently affixed to the real property when the owner of the real property is a non-profit school or a governmental, charitable, or religious entity. **Pueblo has no such exemption.**

The contractor may not avoid the payment of the Pueblo Sales or Use Tax by use of provisions in the construction agreement or by use of the name of a tax exempt entity on an invoice or purchase order as the purchaser because the contractor is deemed to be the consumer of the materials used in construction. No exemption certificate issued by the Colorado Department of Revenue, nor any other taxing authority, will be recognized as a basis for exemption from the Sales of Use Tax levied by the City of Pueblo on construction materials.

CONSTRUCTION MATERIALS:

All building materials purchased, used or consumed in the City of Pueblo are subject to sales or use tax, unless the materials are purchased for resale or by seller holding a valid City of Pueblo Sales Tax License.

The general contractor on a project is responsible for the City of Pueblo tax on all material used or consumed on his project, including that used by the subcontractors he employs on the job. If the subcontractor is properly licensed with the City of Pueblo Finance Department, the subcontractor will be liable for his own taxes. **But the general contractor is responsible for the taxes owed by any unlicensed subcontractor they hire.**

Caution: City of Pueblo Sales Tax paid to a vendor who is not licensed to collect Pueblo Sales Tax does not relieve the contractor of this tax liability until said tax is remitted to the City of Pueblo.

SALES TAX:

1. Materials delivered by a Pueblo vendor to a construction contractor at a job site or other location in Pueblo are subject to city sales tax.
2. Materials picked up inside the City of Pueblo are subject to city sales tax regardless of whether the materials are used inside or outside the city.
3. Materials delivered by a Pueblo vendor to a location outside the City of Pueblo, for use outside the city, are exempt from city sales tax.
4. There is no exemption in the sales tax ordinance for the temporary storage of construction materials in Pueblo.

USE TAX:

City of Pueblo use tax is due on all materials used, consumed or stored in the city on which City of Pueblo sales tax was not paid. Examples might include the following:

1. For materials purchased outside of Pueblo to be used or stored in Pueblo on which sales tax was legally paid to another municipal corporation, use tax would be due only to the extent that the Pueblo tax exceeds the amount of sales tax paid to the other municipality. Sales tax is legally paid to another municipal corporation only if delivery of the material takes place in that municipality.
2. For material purchased outside Pueblo and delivered into Pueblo either by the vendor or common carrier, the full 3.7% City of Pueblo use tax is due.
3. If for any reason a licensed vendor fails to charge City of Pueblo sales tax, the contractor as the ultimate user must pay the full use tax.

CONSTRUCTION TOOLS & EQUIPMENT:**NEW PURCHASES:**

All purchases of tools, supplies and equipment from a Pueblo licensed vendor that are delivered inside the City of Pueblo are subject to city sales tax.

If no Pueblo sales tax was paid, the City Code imposes a use tax on the purchase of tools, supplies and equipment used or received in Pueblo. However, if sales tax was legally paid on a purchase to another Colorado municipality, Pueblo allows a credit for the rate of tax legally paid to another municipality up to the rate of Pueblo's use tax.

USED EQUIPMENT:

Machinery and equipment, which has been used prior to being brought into the City of Pueblo, is subject to city use tax on the actual purchase price of the equipment and is due at the time the equipment is first brought into the city. Credit is allowed for the rate of legally imposed sales and use tax previously paid to another municipality up to the rate of city use tax.

CONSTRUCTION EQUIPMENT:

Pueblo sales and use tax applies to the purchase or use of construction equipment (cranes, grades, backhoes, bulldozers, welders, etc) in the city. Any equipment owned by a local construction company is subject to city tax when the equipment is purchased or first brought into the City of Pueblo. Construction companies located outside the city are subject city tax when equipment is brought into Pueblo. **EXCEPTION:** The City of Pueblo provides a prorated use tax on construction equipment brought into the city for a period of thirty (30) consecutive days or less if the taxpayer has complied with the provisions of C.R.S. Section 29-2-109.

MOTOR VEHICLE EXEMPTION:

Automotive vehicles (vehicles whose primary purpose is transportation upon public streets) registered and required by law to be registered outside of Pueblo are exempt. Specifically, construction contractors' pickup trucks and over-the-highway dump trucks, which are based and maintained at a location outside of Pueblo, would not be subject to Pueblo's sales or use tax.

RETAILER-CONTRACTOR:

Some contractors as defined above, also may be retail merchants of building supplies or construction materials, which were purchased tax free for resale. In the performance of their own construction contracts they might remove from their own stock whatever is needed for their contract operations. Such use of tax free merchandise is subject to tax in one of the following ways:

1. On time and material type contracts for all now tax exempt entities, sales tax must be charged and remitted on the total retail price charged to the customer.
2. On lump sum contracts and all jobs for tax exempt entities, use tax must be paid based on the acquisition cost of the merchandise.

Retailer contractors must have a City of Pueblo sales tax license. No sales tax license will be issued to regular contractors. They are not retailers of tangible personal property and are deemed to be users or consumers of all articles they use.

MANUFACTURER CONTRACTORS:

Manufacturing is defined as "the performance as a business of an integrated series of operations which places personal property in a form, composition or character different from that in which it was acquired whether for sale or use by the manufacturer. The change in form, composition or character must result in a different product having a distinctive name, character and use."

Organizations engaged in the manufacturing of tangible personal property who also perform construction contracts (i.e., permanently affix personal property to real property) are subject to Pueblo tax on the gross value of all materials, labor and services used and employed in the manufacture of the product.

FABRICATORS:

Shop tasks performed on construction materials, such as cutting, welding, drilling and painting structural steel or cutting, bending and attaching sheet metal pieces into "duct work," are not regarded as "manufacturing". Thus, in such cases, fabrication labor is not part of the tax base for a contractor/fabricator.

Fabricated labor is part of the tax base when transfer of title to the fabricated item takes place after performance of the fabrication by the retailer/fabricator.

RELATED TAX GUIDES:

Liens, Distraints & Enforcement
Manufacturers
Rental & Service Charges Combined
Special Mobil Machines & Equipment
Use Tax

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City of Pueblo, Colorado

TAX GUIDE

CONTAINERS, LABELS AND SHIPPING CASES

Containers, labels and shipping cases are taxable unless specifically exempt by the City of Pueblo Sales and Use Tax Ordinance.

Sales and purchases of tangible personal property for use as commercial packaging materials, i.e. containers, labels and shipping cases are exempt from sales and use tax when **all three of the following conditions are met:**

- A. The item is sold to and used by a manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to contain or label the finished product;
- B. The item is transferred by such a firm along with and as a part of the finished product to the purchaser; and,
- C. The item is not returnable to that firm for reuse.

Generally, containers and labels include boxes, crates, jars, bags, sacks, bottles, packing cases, and gummed tapes and tags. The term also may include associated items such as twine, plastic stuffing, wrapping materials and wire necessary to make the container functional.

Returnable containers are taxable at time of purchase. If a deposit is charged on a returnable container city sales tax must be charged on this deposit. The tax must be refunded upon return of the container.

Any sale of a container or bag to a retailer or vendor of food, meals or beverages, which is to be furnished to a customer or user for the purpose of packaging or bagging the articles is exempt, if such container or bag becomes the property of the consumer or user, together with the food, meals or beverages purchased at retail.

Containers sold to firms performing services (i.e. a moving and storage company) are taxable because they are used by the company and not sold to the customer.

Pallets for warehouse use, which are not sold with a product as a container, are taxable. A pallet is not taxable only when it is included with the merchandise as packaging and the pallet is not returnable to the seller.

EXAMPLES:

1. ABC Speaker Company manufactures stereo speakers and speaker parts. After the speakers are produced and tested, they are packed in a cardboard box, along with plastic stuffing, and placed in inventory for sale. Neither the plastic stuffing nor the cardboard box are subject to sales tax when they are sold by XYZ Box Company to ABC Speaker Company because they meet all three conditions as a container: they contain the finished product, they are transferred by ABC Speaker Company to the purchaser as part of the product, and they are not returnable to the ABC Speaker Company for reuse.
2. U.S.A. Moving Company is a nationwide mover specializing in personal household moving. U.S.A. is located in Pueblo and uses various size boxes to contain various items during the moving process. The boxes in this case are subject to sales or use tax because they do not meet all of the three conditions required to be an exempt container. U.S.A. Moving Company is providing a service and does not manufacture finished items.
3. XYZ Company ships products to a warehouse for repackaging and delivery to XYZ's retail store. Containers, labels and packaging supplies are all taxable at this point because they are used by XYZ internally.

4. A glass manufacturing company purchased bubble wrap to wrap its product for shipping, 20 pallets for shipping, 20 pallets for stock storage and address labels for the billing department. The bubble wrap and the 20 pallets for shipping would be exempt from sales/use tax. The 20 pallets for stock storage and the address label for the billing department would be subject to sales/use tax because it does not meet the definition of "exempt commercial packaging materials." The items were purchased for the company's own use.

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City of Pueblo, Colorado

TAX GUIDE

COUPONS AND PROMOTIONAL ITEMS

DISCOUNT COUPONS:

THERE ARE TWO KINDS OF COUPONS:

1. Store coupons are issued by retail stores. When presented by the customer, they discount the selling price of the product. Because the coupon is used to reduce the price charged to the customer and there is no reimbursement to the retailer for the price reduction, sales tax applies only to the net selling price of the product.
2. Manufacturers' coupons are different from store coupons. A manufacturers' coupon is issued by a product manufacturer and allows the customer a reduction in the purchase price of its product upon presentation of the coupon at the retailer. The retailer accepts the manufacturers' coupon as part of the payment for the item being sold. Because the retailer receives the full selling price for the product, part from the customer and the balance of payment from the manufacturer, sales tax applies to the full selling price before deduction for the coupon.

Retailers should be aware of the differences in how sales tax is applied to store coupons versus manufacturers' coupons. The taxable basis for the purchase of any taxable item, when a coupon is used, is the total value of money, credits, and property received, including any reimbursement from the manufacturer.

Coupons where a restaurant gives one meal or food item free with the purchase of one are treated as store coupons when the restaurant does NOT receive reimbursement for the coupon.

EXAMPLES:

1. Big A Motors advertises that its cars sell for \$8599 after the application of a \$500 rebate from the manufacturer. Sales tax is due on the full selling price of \$9099.
2. Stop Mart issues its own store coupon for soap. When the coupon is redeemed at the time of purchase, sales tax is charged on the net selling price (shelf price less coupon discount).
3. Smart Manufacturing issues a manufacturer's coupon that entitles the customer to receive a \$5 discount when the customer presents the coupon at the time of purchase of Smart's new product. The retailer reduces the price to the customer and receives reimbursement from Smart Manufacturing for the \$5 reduction in sales price. Sales tax is calculated on the full selling price before the \$5 is deducted.

The sale of a coupon book or card is usually not considered a retail sale and is not taxable when the book is sold to the general public. However, city sales or use tax is due from the publisher based upon the printing cost of the coupon book or card. **EXCEPTION:** If the seller of the coupon book or card is also the retailer selling the discounted product, or if the retailer receives any type of reimbursement or rebate from the sale of the coupon book or card, the sale of the coupon book or card is taxable.

GIVE-AWAY COUPONS:

If a coupon entitles the customer to a free item (e.g. buy one get one free; buy a sandwich, get a free drink; or present coupon for a free toy), tax applies to the transaction in the same manner as PROMOTIONS AND GIVE-AWAYS, following.

PROMOTIONS AND GIVE-AWAYS:

Generally, if a free item is included with the purchase of a **taxable** item (e.g. buy one, get one free; or buy a sandwich, get a free drink), sales tax is due only on the amount charged. No additional sales tax is due on the free item because it is considered to be “sold” along with the taxable item. However, if the retailer receives any rebate, reimbursement, or consideration of any kind for the free item from a franchisor, manufacturer, or other source, the sale is taxable on the full value received by the retailer (like a manufacturer’s coupon).

If an item of property is given away free with the purchase of a **non-taxable** item, it may be taxable or exempt. If the “free” item is normally sold as a non-taxable item, it remains nontaxable. If the “free” item is normally sold as a taxable item, use tax is due from the seller based on the cost of the taxable item given away free.

If any item is given away unconditionally as a promotion or prize without requirement of purchase, use tax is due from the seller based on the cost of the article given away free.

EXAMPLES:

1. Joe’s Burger Buster offers a “buy one, get one free” promotion. Since Joe’s second burger is “free” conditional upon purchasing the first burger, and since the sale of the first burger is taxed, no tax is due on the “free” burger.
2. A gas station gives a free key chain with the purchase of five gallons of gas. The key chains are subject to sales/use tax at the time of purchase by the gas station.
3. AAA Super Store takes an item off the shelf and gives it away free to celebrate its grand opening. Use tax is due from AAA Super Store on their cost of the free item.
4. Taco Heaven runs a promotional game and gives away scratch tickets, which entitle winners to a free soft drink. Since the free drink is offered as a prize and is awarded without the requirement of a purchase, Taco Heaven owes City use tax on their cost of drinks given away as prizes.

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City of Pueblo, Colorado

TAX GUIDE

Credit Cards from Governmental Organizations

The City of Pueblo Ordinance exempts from sales and lodgers tax all sales to the United States government, to the State, its departments and institutions, and the political subdivisions when purchased in their governmental capacities. In order for the governmental entity to take advantage of the tax exemption, the billing must be made directly to the governmental entity, and the payment must be received directly from the governmental entity. In some cases, the governmental organization utilizes a credit card to pay for the purchase.

If the credit card is directly billed to and directly paid by the governmental organization, the transaction is **exempt** from tax.

If the credit card is in the name of the governmental organization and the individual, with the individual being responsible for the payment of the credit card, the transaction is **not exempt** from tax. Purchases charged to a personal credit card by a governmental employee, even if they are reimbursed by the governmental organization, are **not exempt**.

The criteria to identify whether or not the government credit card is billed directly to a governmental organization (and therefore exempt) are described below.

FEDERAL CREDIT CARDS:

The federal government's credit card program is called "GSA SmartPay". This program uses a series of Voyager (prefix of 8699), VISA (prefix of 4486 or 4716), and MasterCard (prefix of 5568) credit cards. There are currently four different categories of these credit cards: Fleet cards, Purchase cards, Travel cards and Integrated cards.

Fleet Cards. Fleet cards may be either a Voyager or MasterCard and will have a background picture of two cars and a flag. These cards use the 8699 and 5568 prefixes. These cards are billed directly to the governmental agency, so purchases made using Fleet Cards are **exempt** from Pueblo tax.

Purchase Cards. Purchase cards may be either a VISA or MasterCard and will have a background picture of a column in the center of the card, without a flag. These cards use the 4486, 4716 and 5568 prefixes. These cards are billed directly to the governmental agency, so purchases made using Purchase Cards are **exempt** from Pueblo tax.

Travel Cards. Travel cards may be either a VISA or MasterCard and will have a background picture of a large jet on the ground in front of the U.S. Capitol. These cards use the 4486 and 5568 prefixes. For these cards, the 6th digit on the card must be examined.

If the 6th digit is a 0, 6, 7, 8, or 9, the card is billed directly to the governmental agency, so purchases made using these cards are **exempt** from Pueblo tax. If the 6th digit is a 1, 2, 3, or 4, the card is billed individually, so the purchases made using these cards are **not exempt** from Pueblo tax.

Integrated Cards. Integrated cards may be either a VISA or MasterCard and will have a background picture of a blue sky with clouds, U.S. Capitol, and a flag. There is also a picture of jet in flight in the middle. These cards use the 4486, 4716 and 5568 prefixes. These cards follow the same rules as Travel Cards with one exception: If the account number begins with 5568-16, purchases for office supplies and tangible goods are direct billed, so are **exempt** from Pueblo tax, while purchases for lodging and restaurant food are billed to individuals, so are **not exempt** from Pueblo tax. An exception to the exception relates to the Bureau of Reclamation. All Bureau of Reclamation cards begin with the 5568-16 prefix and are billed direct, so purchases made using these cards are **exempt** from Pueblo tax.

STATE OF COLORADO CREDIT CARDS:

The State of Colorado uses three different categories of credit cards:

Purchase Cards. Purchase cards display the words “State of Colorado” and “For Official State Business Use Only” along with the State seal. These cards show the agency’s tax exemption number that begins with “98”, followed by five digits. Purchases made on these cards are directly billed to the State agency, so are **exempt** from Pueblo tax.

Group Event System Cards. Group event system cards are primarily used for meetings. These cards display the words “State Tax Exempt” followed by the agency’s tax exemption number (“98” followed by five digits) and the employee’s name. These cards are billed directly to the State agency so purchases made using these cards are **exempt** from Pueblo tax.

Travel Cards. Travel cards display only the words “State of Colorado” and the employee’s name; there is no tax exemption number. Purchases made on these cards are billed to the individual, so are **not exempt** from Pueblo tax.

COLORADO LOCAL GOVERNMENT CREDIT CARDS:

Some local governments in Colorado issue credit cards in both the government employee and agency’s name. Purchase cards display the name of the government entity and the words “Purchasing Card.” Purchase cards are billed directly to the government entity, so purchases made using these cards are **exempt** from Pueblo tax. All other local government credit cards are billed to individuals, so are **not exempt** from Pueblo tax.

OUT OF STATE LOCAL AND STATE GOVERNMENT CREDIT CARDS:

Local and state governmental entities from outside the State of Colorado can not make purchases exempt from Pueblo tax under the same rules as Colorado local government entities.

FOREIGN AND DIPLOMATIC TAX EXEMPTION:

Purchases made by foreign diplomats and agents of foreign governments are exempt from Pueblo tax **if** they present special sales tax exemption cards. These cards, issued by the U.S. Department of State, use color-coding to indicate varying degrees of tax exemption. The cards bear the name and photograph of the authorized bearer and are nontransferable. Cards with a blue band across the bottom and the words “Exempt from all Sales Tax” exempt the authorized bearer from Pueblo tax. Cards with a yellow, green, red or red/green band across the bottom list all restrictions on tax exemption (i.e. “Tax Exemption not valid for: Sales under \$350; Hotels”). These cards should be examined carefully to insure that the purchase falls within the tax-exemption granted. Note – If the tax exemption card is a Mission tax exemption card (instead of a Personal tax exemption card), personal purchases are prohibited.

BURDEN OF PROOF:

Vendors must maintain documentation to verify whether a transaction is exempt. Typically this would be a copy of the credit card used and a copy of the diplomatic exemption card.

If the vendor and the purchaser disagree on the application of the tax, the vendor must collect the tax. The vendor should give the purchaser a receipt showing the taxes collected. The purchaser then has 60 days to file a claim for refund directly with the City for recovery of the tax.

RELATED TAX GUIDE TOPICS

Charitable, Religious, and Governmental Exemption
Exemption – Burden of Proof
Lodger's Tax

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City of Pueblo, Colorado

TAX GUIDE

CREDIT SALES, INSTALLMENT SALES AND CONDITIONAL SALES

Credit sales, installment sales and conditional sales are different types of credit or financing arrangements that are all included within the definition of "sale". Regardless of the type of financing involved, City sales tax must be charged by the seller on the total selling price of the property and must be reported and paid by the seller with the sales tax return for the month of the sale. If property is returned by the purchaser, and if the seller refunds the full sales price including City sales tax to the purchaser, the seller may deduct as "returned goods" the amount of the sale on a subsequent City sales tax report.

A bad check or an uncollectible account which is **not secured** by a conditional sales contract or other security interest, and which is found to be worthless, is an allowable bad debt deduction for the seller if sales tax was previously remitted to the City and the debt is properly written off for State income tax purposes.

A bad check or an uncollectible account which is **secured** by a conditional sales contract or other security interest, and which is found to be worthless, is not eligible to be taken as a bad debt deduction. If a bad debt arises from a conditional sales contract on which the vendor retains title to the property or possesses a chattel mortgage, no deduction from gross sales is allowed. The seller must collect the full amount of City sales tax from the purchaser at the time of the sale and remit the tax to the City. Since the purchaser is the one who pays the tax, the seller is not entitled to recovery.

EXAMPLES:

1. XYZ Beds of Pueblo sells Tom a waterbed on an installment basis. The bed is collateral for the installment contract. Tom and a friend pick up the bed at XYZ's store. XYZ must report the full amount of the sale in the month the contract was entered into and must remit the sales tax due on the entire sales amount. Two months later, Tom defaults on the payments and XYZ repossesses the waterbed. XYZ may not take a bad debt deduction on its sales tax return for the uncollectible amount of the installment sale nor is XYZ entitled to a refund or credit of the tax remitted. Three months later, XYZ sells the same bed to Bill. Bill had the bed delivered to his apartment in Pueblo. XYZ must collect sales tax on the full amount of the sale to Bill and no adjustment is allowed for the prior events related to the default and repossession.
2. ABC Cars is a used car dealership that provides financing for all its non-cash sales. On a financed sale, ABC retains title to the car until the selling price is paid in full. Because ABC retains a security interest on those vehicles, no bad debt deduction is allowed should the customer fail to make the required payments. This is true even if the vehicle is repossessed.
3. One of Acme Office Supply's customers, who had an open account, files bankruptcy. Acme may take a deduction for the amount of the bad debt representing taxable sales on which tax had been remitted. Acme subsequently files a claim with the bankruptcy court. Four years later, Acme recovers 5% of the amount due from the customer. The amount of the recovery which represents taxable sales previously deducted as bad debts must now be reported as taxable bad debts collected.

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City of Pueblo, Colorado

TAX GUIDE

DENTISTS AND DENTAL LABORATORIES

The sale of a custom-made dental prosthetic device by a dental laboratory to a licensed practitioner of dentistry for use by a specific individual is exempt from sales/use tax. A dental prosthetic device is a replacement for lost or missing natural parts or is the addition of a device to aid the dental bodily functions. Dental prosthetic devices include, but are not limited to, inlays, crowns, dentures, bridges, gold, silver or other restorative materials used for fillings and similar custom manufactured items.

The above exemption does not apply to equipment, tools, materials or supplies used by the dentist to provide care to his/her patients. These items include, but are not limited to, orthodontic supplies, bands and wires, dental equipment, furnishings, disposal gloves, cups, floss, impression material, x-ray film or any materials or supplies used by the dentist that do not become a component part of the prosthetic dental device.

Drugs such as novocaine and nitrous oxide purchased by a dental practice in bulk form and administered in individual doses to patients in connection with the rendering of services are NOT exempt as they are not sold by the supplier for the direct personal use of a specific individual patient but are consumed by the dentist in providing treatment.

Laboratories that manufacture dental prosthetic devices may purchase any materials exempt from tax that will become a component part of the prosthetic devices. However, the lab must pay tax on any materials and supplies used in the manufacturing process that do not become a component part.

EXAMPLES:

A dentist purchases dental molds, novocaine, toothbrushes, disposal face masks and a customized crown and bridge. The dentist must pay sales tax on all the above items with the exception of the customized crown and bridge. The other items are for use in providing care to his/her patient and therefore, taxable.

A dental lab purchases porcelain, gold and dental molds for manufacturing crowns and bridges. The porcelain and gold are tax exempt, but the molds are part of the manufacturing process and do not become a component part of the crowns and bridges. Therefore, they are taxable.

RELATED TAX GUIDES:

Drugs
Medical Exemptions
Use Tax

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City of Pueblo, Colorado

TAX GUIDE

DISCOUNTS

DISCOUNTS:

To determine the tax basis of a sale subject to a discount you must first determine if the discount stands without a future event or if the discount is determined by a future event. Discounts that are determined by future events are taxable at the full price, not the discounted prices; and discounts not determined by future events are taxable at the discounted amount.

TRADE OR QUANTITY DISCOUNT:

A trade discount or quantity discount is a reduction of the selling price, usually expressed as a percentage of a list price. It may be offered to customers making quantity purchases. It is not contingent upon any future event. Since a trade discount is a reduction in the selling price, it is not included in the taxable amount provided the discount appears on the invoice at the time of sale. The net selling price is the taxable amount.

EXAMPLE:

XYZ Distributors is a distributor of auto parts. They make retail sales to some large fleet customers and give those customers a trade discount of 20% off the list price. The net selling price, which is 80% of list price, is the taxable amount.

CASH DISCOUNT:

A cash discount is a reduction in the amount to be paid if the invoice is paid by a certain earlier date than the stated due date. It is a financing option, separate from the sale. A cash discount is contingent upon the future event of early payment of the invoice. It is not an allowable adjustment to the selling price in determining taxable sales. The possibility of a cash discount does not change the taxable selling price even if the option is exercised.

EXAMPLE:

XYZ Distributors offers normal payment terms of 30 days to its customers. It also offers a cash discount of 2% off invoice price if the invoice is paid within 10 days of the invoice date. The cash discount is not an allowable reduction in the selling price for sales tax purposes.

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City of Pueblo, Colorado

TAX GUIDE

DRUGS

A drug is a medicinal substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or other medical conditions. Drugs are classified as “prescription drugs” or “over-the-counter drugs.”

PRESCRIPTION & OTHER DIRECTIVE DRUGS:

PRESCRIPTION DRUGS are defined as substances that may **only** be obtained by a physician’s directive. They are also known as “legend” or “chart ordered” drugs.

Prescription ordered drugs are exempt from sales and use taxes when the sale and purchase is for the direct personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of the healing arts.

CHART ORDER DRUGS are drugs administered according to “chart orders.” A chart order is defined (C.R.S. 12-22-102) as an order for inpatient drugs and medications entered on a patient’s chart or medical record to be dispensed by a hospital pharmacy for administration by an authorized person during a patient’s stay in a hospital facility. Chart orders contain the name of the patient and the medicine ordered and such directions as the practitioner may prescribe concerning strength, dosage, frequency and route of administration.

Chart order drugs may be exempt from sales and use tax if both of the following conditions are met:

1. The drug may **only** be obtained by a physician’s directive.
2. Specific charges for the drugs administered must appear on the patient billing.

Drugs purchased in bulk quantities by licensed physicians, outpatient care centers, nursing homes or other medical facilities may be exempt from sales and use tax if all of the following conditions are met:

1. The drug may **only** be obtained by a physician’s directives.
2. The drug is to be administered to a specific patient under the direction of a licensed practitioner.
3. Specific charges for the drug appear on the patient billing.

OVER-THE-COUNTER DRUGS:

“Over-the-counter” drugs are medicinal substances, the sale of which does not require physician’s prescription. “Over-the-counter” drugs include items such as aspirin, pain relievers, cold remedies, cough syrups, anti-bacterial ointments, creams, petroleum jelly, etc. Sales or purchases of over-the-counter drugs are taxable unless sold to an exempt organization.

Hospitals, clinics, nursing homes or other medical facilities are service businesses that provide medical care. As such, purchases of over-the-counter drugs by these businesses are taxable. However, many hospitals qualify as tax-exempt organizations or are owned by governmental entities. Sales to tax-exempt organizations, for use in the conduct of their tax-exempt functions, and all direct sales to governmental entities, are exempt from tax.

EXAMPLES:

1. A doctor writes a prescription for an antibiotic for his patient and tells him to take aspirin and cough syrup every four hours. The patient goes to the pharmacy and purchases the antibiotic prescription, aspirin and cough syrup. The antibiotic is exempt from sales/use tax, but the aspirin and cough syrup are taxable because over-the-counter products were purchased. Note: The aspirin and cough syrup would be taxable even if a prescription was written.
2. Getwell Hospital operates as a for-profit medical care facility. The hospital pharmacy dispenses medications to patients only with the written or oral directive of a licensed physician. Purchases of prescription medications by the hospital are tax exempt. However, purchases of over-the counter-medications by the hospital, regardless of use, are subject to city sales or use tax.
3. A patient visits his physician because he stepped on a rusty nail. The physician administers novocaine, removes the nail, cleans up the wound and gives the patient a tetanus shot. The bill separately states the tetanus but not the novocaine. Therefore, the tetanus shot is exempt from sales/use tax. The physician must pay sales/use tax for the novocaine because it was consumed by the physician in providing medical services.
4. John makes an appointment to see his physician and requests and receives a flu shot. He also relates an incident in which he sustained a blow to his cheek resulting in a small laceration. His physician determines that suturing of the laceration is needed. As part of this procedure, he injects a solution to anesthetize the area. His physician also provides John 8 pain pills and directs him to take 2 tablets every 4 hours if needed for discomfort. A specific charge is made for the flu shot on his billing; however, a charge is not made for the anesthetic injection or the pills. The physician's purchase of medications which are not specifically billed to the patient are subject to sales or use tax.
5. While in the hospital, John develops a kidney stone. His physician orders an x-ray procedure know as an IVP. An injectable diagnosis contrast media is required to complete this procedure and is administered by x-ray personnel under the direction of the radiologist in charge. John's itemized billing from the hospital will include a separate charge for the diagnostic contract media. The purchase of the diagnostic contrast media (or drug) by the hospital and the sale to the patient are tax-exempt transactions.

RELATED TAX GUIDES:

Dentists & Dental Laboratories
Medical Exemptions

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City of Pueblo, Colorado

TAX GUIDE

EATING AND DRINKING ESTABLISHMENTS

The sale of meals and beverages are subject to the City of Pueblo Sales Tax rate of 3.7% of the total consideration paid thereon. Any person making such sale must acquire and maintain a City of Pueblo sales tax license. These types of establishments would include restaurants, cafes, lunch counters, cafeterias, hotels, drug stores, social clubs, nightclubs, cabarets, taverns, resorts, snack bars, caterers, carry-out shops and any other place at which prepared food or drink is sold, including push carts, motor vehicles and other mobile facilities. The sales tax must be charged whether the food is eaten at the establishment or off its premises.

The sales tax must be separately stated on the bill, with the exception of vending machines and retailers selling malt, vinous or spirituous liquors by the drink. In these cases the tax may be included in the selling price.

COVER CHARGES:

Cover charges or other fees charged for admission into nightclubs, cabarets, taverns, and clubs or like establishments are normally not subject to City of Pueblo Sales Tax. However, if the cover charge or fee entitles the customer to free or reduced drinks or food, then the total amount of the cover charge becomes taxable.

FUND RAISERS AND FUND RAISER MEALS:

Fund raising meals priced in excess of the regular selling price are subject to tax on the regular selling price.

All food and beverages served at a fundraiser are taxable if the final recipient reimburses the organization in any way. (SEE FUND RAISING)

TWO FOR ONE DINNERS, COUPONS, ETC:

When a customer purchases one dinner and receives another free or for half price, or receives free drink with the purchase of a meal, the tax is due on the total consideration received including any reimbursement received from a franchiser, supplier etc. (SEE COUPONS AND PROMOTINAL ITEMS)

EMPLOYEE MEALS:

Employee meals are taxable. If the employer charges or normally charges employees for meals and beverages the tax must be charged on the selling price charged or normally charged. If the employer does not charge employees for meals then the tax is due on the total cost of the preparation and serving of such meals. Tax shall be charged on meal tickets when they are purchased and not when meal is served.

SALES/USE TAX ON PURCHASES:

Eating and drinking establishments must pay sales or use tax on tangible personal property purchased for use in the operation of the business. These items would include, but are not limited to, equipment, fixtures, linens, silverware, china, glassware, table decorations, cleaning supplies and food preparation and storage supplies. Unless, the item is actually served to and used by the customer along with the meal or drink, the item is taxable.

Eating and drinking establishments may purchase all food items and ingredients used in the meals without being subject to Sales/Use Tax. Also, the purchase of disposable plastic and paper products served to and used by the customer along with the meal or drink are exempt from Sales/Use Tax. These disposable products include, but are not limited to, paper napkins, coasters, straws, disposable plates and cups, disposable knives, forks, spoons, to-go containers and other products furnished with the meal or refreshment for one-time use only.

(NOTE: The purchase of these types of disposable products are not tax exempt to nursing homes, dormitories or like facilities; see below.)

Food, drinks or other refreshments given away to their customers are subject to tax on the total prepared cost to the establishment. This would include, but not limited to, "Happy Hour", buffets, continental breakfasts, peanuts, pretzels and popcorn furnished to customers.

NURSING HOMES, HOSPITALS, DORMITORIES:

Nursing homes, hospitals, dormitories and other institutions that sell or furnish meals in combination with accommodations to persons who regularly reside there and not to the public, do not have to charge or pay on the meals furnished. To their residents, these would be exempt under food for home consumption. However, the tax would be due on any meals furnished or sold to employees or guests. Also, sales or use tax would be due on all non-food items purchased, used or consumed in furnishing meals, as discussed in the topic Food and Drink.

EXAMPLES:

1. XYZ Nightclub normally imposes a \$5.00 cover charge. During the periods they pay a band to perform. No drink or food specials are offered during these periods. The cover charges collected are not subject to City of Pueblo tax because the charges are entirely unrelated to the sale of food or drink.
2. ABC Nightclub normally does not impose a cover charge. However, on Mondays from 4:00 p.m. to 7:00 p.m. patrons pay a \$3.00 per person cover charge. During these hours, ABC provides a complimentary food buffet, which includes prime rib and shrimp. In addition, every Thursday night from 9:00 p.m. until closing ABC imposes a \$5.00 cover charge. Patrons are offered all domestic beer, wine and well drinks for \$1.00. These drinks usually are sold for \$3.00 each. These cover charges collected by ABC are subject to City of Pueblo tax.
3. From time to time, Bubba's Burger Barns have a buy-one-get-one free national promotion. Bubba will reimburse the franchisee \$.50 for each free promotional burger. Since the franchisee is reimbursed by Bubba for part of the cost of the free burgers, that reimbursement becomes part of the selling price of the promotional burgers and is taxable. The franchisee must charge sales tax to the customers on the selling price of one burger and on the \$.50 reimbursement received from Bubba for the second burger. If the franchisee does not charge sales tax to the customers on the \$.50 reimbursement, the franchisee is required to pay that sales tax out of pocket.
4. XX Manufacturing purchases meals from Joe's Diner for their employees who are required to work overtime. XX Manufacturing must pay Pueblo Sales/Use Tax on the total amounts paid for these meals.
5. A nursing home allows their employees to purchase their meals at the facility cafeteria for \$3.00 per meal. Also, their employees required to work a second shift, at overtime, are furnished meals at no cost. In addition, guests of the residents are charged \$3.00 for a meal. The \$3.00 fee collected for the meals from both the employees and guests are subject to City of Pueblo tax. Also, the free meals given to employees working overtime are subject to tax at the \$3.00 price.
6. A sandwich shop purchases reusable plastic baskets, plastic serving utensils, napkins and mints. The mints are for customers, which will be placed in a bowl by the exit door. The sandwich shop must pay sales/use tax on the plastic basket because it will not be used by the customer along with the meal. They are given away by the sandwich shop.

RELATED TAX GUIDES:

Coupons & Promotional Items
Franchises
Fund Raising

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CITY OF PUEBLO, COLORADO

TAX GUIDE

ENGAGED IN BUSINESS

It is unlawful for any person to engage in business within the City of Pueblo without first obtaining the appropriate City of Pueblo business license or licenses. This includes retail, wholesale and service businesses.

DEFINITION:

"Engaged in business in the city" means performing or providing taxable services in the city or selling, leasing, renting, delivering or installing tangible personal property for use, storage, or consumption within the city.

Engaged in business in the city includes, but is not limited to, any one of the following activities by a person:

1. Directly, indirectly, or by subsidiary maintains a building, store, office, salesroom, warehouse or other place of business within the taxing jurisdiction.
2. Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service or assist in the use of it's products, or for demonstration or other reasons.
3. Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction, including the owners.
4. Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction.
5. Makes more than one delivery, other than by common carrier, into the taxing jurisdiction within a twelve (12) month period.

Any retailer who is engaged in business in the city must be licensed and must collect sales tax on all taxable retail sales.

Retailers or other persons who are engaged in business within the city also have the responsibility of paying sales or use tax on the purchase of tangible personal property or taxable services if the items are used, stored, consumed or distributed within the city.

EXAMPLES:

1. ABC Draperies is located outside the city, but ABC employees are taking measurements, installing and delivering tangible personal property into the City of Pueblo. ABC Draperies is engaged in business within city and is required to obtain a city sales tax license and collect and remit City of Pueblo Sales Tax.
2. Lana's Boutique of Denver, an out-of-city mail order catalog business, sells women's apparel, and delivers nationwide by common carrier, including into the City of Pueblo. Lana's does not fit the definition of "engaged in business in the city" and therefore is not required to be licensed with the city. However, Lana's is planning to construct a showroom in City of Pueblo where customers can attend fashion shows and place orders. The merchandise will continue to be shipped from its Denver store. Once the showroom is built, Lana's will fit the definition of "engaged in business in the city" and must obtain a license and collect and remit city sales tax on their retail sales delivered into the City of Pueblo.

3. Alice's Appliances sells stoves, refrigerators and microwave ovens at its stores located in Colorado Springs. Alice uses its own trucks to deliver and retrieve merchandise sold to its Pueblo customers. Alice's Appliances is engaged in business in Pueblo and is required to collect the applicable Pueblo taxes from its customers and remit them to the city.
4. XYZ Construction Company is located outside the City of Pueblo but has received a construction project with the city. XYZ Construction is now engaged in business within Pueblo and is required to be licensed and remit City of Pueblo use tax.
5. Acme supply is located in Denver but has salesmen calling on businesses within the City of Pueblo. Acme Supply is engaged in business within Pueblo and is required to be licensed and to collect and remit Pueblo sales tax on all sales in the City of Pueblo.

RELATED TAX GUIDES:

Sales Tax
Use Tax

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City of Pueblo, Colorado

TAX GUIDE

EXEMPT PURCHASES CONVERTED TO TAXABLE USE

Consumer use tax is imposed on purchases of tangible personal property (not including inventory) that are used, stored, consumed or distributed within the City of Pueblo on which no sales tax was paid at time of purchase. If any item, which was originally purchased for resale, is later withdrawn from inventory for use by a business or an individual, the cost of the item withdrawn is subject to use tax.

Exempt entities using tangible personal property outside the normal course of their exempt activities are subject to Pueblo use tax.

EXAMPLE:

XYZ Office Furniture has an executive chair in inventory. The president of the firm needs a new chair for his office. Because XYZ is a dealer in office chairs, they purchase them for resale, and thus tax free. The taxable incident occurs when the chair is withdrawn from inventory for use by the business. Use tax then becomes due on the cost of the chair.

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City of Pueblo, Colorado

TAX GUIDE

EXEMPTION-BURDEN OF PROOF

The retail sale or purchase of articles of tangible personal property not specifically exempt is subject to sales or use tax. Exemptions in the Pueblo Municipal Code are clearly defined and very specific. The list of exempt commodities cannot be increased by implication or similarity. **In all cases, the burden of proof is upon the vendor to establish that a sale is tax exempt.**

The vendor is required to provide documentation to support the exempt status of a transaction. Such evidence may include:

- A. If the customer is engaged in business in the city, a copy of the customer's **current city sales tax license** or the vendor's own file of valid customer city sales tax license numbers is required. The customer must be engaged in the business of reselling like products as those being purchased.
- B. If the customer is not engaged in business in the city, a copy of the customer's State of Colorado or other state valid sales tax license or the vendor's own file of valid state sales tax license numbers. Again, the customer must be engaged in the business of reselling like products as those being purchased.
- C. Payment for the item or service must be made with the organization's check or credit card, and not via cash or an individual's check or credit card, and the organization will not be reimbursed by any person(s) for the use or consumption of the item or service.
- D. A copy of the purchaser's or general contractor's building permit showing use tax was properly paid to another municipality.
- E. Delivery receipts, bills of lading, or other evidence the sale was made to a non-resident and delivery was made by the vendor, common carrier or by mail to a location out of Pueblo for use outside the city. Delivery receipts must be contemporaneous, signed and dated by the purchaser attesting to the delivery address and supported by a delivery log or other written documentation.
- F. If the customer is a tax-exempt organization, a copy of the customer's current City of Pueblo tax exempt license or the vendor's own file of valid customer city exempt license numbers. These purchases are exempt only in the conduct of their regular religious or charitable functions and activities.
- G. A properly executed letter of exemption from City of Pueblo Sales Tax Division.
- H. If the purchase is made by a government agency, the purchase must be supported by a prescribed government form or purchase order and be paid for directly with governmental funds.

The exempt status of each transaction must be determined on its own merits. If the purchaser cannot or will not provide suitable evidence of exemption, the vendor is not allowed to sell tax free. If the vendor sells tax free without the necessary documentation, the vendor is liable for the tax not collected.

Should a dispute arise between the purchaser and seller as to whether or not any sale is exempt from taxation, the seller shall collect and the purchaser shall pay such tax. The purchaser may then apply for a refund of such tax directly from the city. The Director of Finance will then determine the question of taxation.

Verification of a Sales or Exempt License is available 24-hour, seven days a week by accessing the City of Pueblo's website at www.pueblo.us. Select City Departments then Sales Tax. There you will find a listing of all licensed businesses with the City of Pueblo to include such information as the type of license held. ST = Sales Tax; Exemp = Exempt and Use = Only Use Tax

EXAMPLE:

1. The Knotty Lumber Company sells a complete line of building materials and hardware. The Dovetail Furniture Company is a furniture manufacturer that sells only at wholesale. The city has issued a Resale Exemption Certificate to Dovetail. Dovetail gives a copy to Knotty. Dovetail may buy tax free those items that become part of the product it manufactures.
2. The owner of the Drive-In Motel comes into Knotty Lumber Company to buy a new window for one of the motel rooms. He gives Knotty their city sales tax registration number so that he can buy tax free. Knotty properly refuses to sell to Drive-In tax free because the window is not for resale by Drive-In.

RELATED TAX GUIDES:

Charitable, Religious & Governmental Exemptions
Wholesale Sales & Wholesale Dealers

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04/06

City of Pueblo, Colorado

TAX GUIDE

FEEDS AND SEEDS

FEED:

Sales and purchases of feed for consumption by livestock or poultry are exempt from Pueblo sales and use tax.

"Livestock" includes domestic animals raised for sale or profit which are kept on a farm. This definition includes, but is not limited to, horses, cattle, sheep, pigs, goats, poultry and fish.

The sale and purchase of dog, cat or other pet food is subject to City of Pueblo sales and use tax.

SEEDS:

All sales and purchases of seeds for use by farmers, ranchers, truck farmers, florists and horticulturists who sell or use the resulting crops as feed for livestock are exempt. Also exempt as feed are seeds sold to be grown and used as livestock feed.

Other sales and purchases of seeds are taxable, e.g., seeds which produce food for human consumption are taxable, unless they are purchased with food stamps.

EXAMPLE:

The Bar X Farm and Cattle Company purchases 100,000 lbs. of seed corn for planting this year's crop. They traditionally sell 95% of the harvest at the Farmer's Market and keep 5% of the crop as cattle feed. The Pueblo Municipal Code provides specific exemptions for both the purchase of seed when the resulting crop is to be resold and the purchase of feed for consumption by livestock. The acquisition of the seed corn by Bar X Farm and Cattle Company is not subject to tax.

RELATED TAX GUIDE:

Livestock, Livestock Bedding/Feed

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03/03

City of Pueblo, Colorado

TAX GUIDE

FILING PERIODS

SALES TAX RETURNS:

MONTHLY filing is required if any monthly tax liability in the preceding 12 months exceeds \$50. The return is due on the 20th day of the month following the period covered by the return.

QUARTERLY filing is allowed if the monthly tax liability for the preceding 12 months is \$50 or less for any one month. Due dates are April 20, July 20, October 20 and January 20.

ANNUAL filing is allowed if the annual tax liability for the preceding 12 months is \$50 or less. The return is due on the 20th day of January following the period covered by the return.

If the due date falls on a holiday or weekend, the return is due on the next business day.

If filing returns under the above rules create an unnecessary hardship because of the accounting method regularly employed (such as 13 periods per year, or a 4-4-5 week system), the taxpayer may apply, in writing, for permission to file on another basis.

Bars, liquor stores, restaurants, caterers, and street vendors are required to file monthly tax returns regardless of the average monthly tax liability.

SPECIAL EVENTS & TEMPORARY SALES:

All tax liability arising at a special event or temporary sales location is due within 10 days of the end of the event or the close of the temporary location.

At the discretion of the Director of Finance, certain events will require payment of all taxes due in cash or certified funds at the close of the event.

Also the Director of Finance may require a cash deposit of estimated taxes if in his/her opinion the tax will be in jeopardy.

USE TAX:

MONTHLY filing is required if any monthly tax liability for the previous 12 months exceeds \$300. The return is due on the 20th day of the month following the taxable month.

QUARTERLY filing is allowed if the monthly tax liability for the preceding 12 months is \$300 or less for any one month. Due dates are April 20, July 20, October 20 and January 20.

ANNUAL filing is allowed if the monthly tax liability for the preceding 12 months averages \$25 or less. The return is due on the 20th day of January following the taxable year.

If the due date falls on a holiday or weekend, the return will be considered due on the next business day.

All newly licensed businesses must file the returns on a monthly or quarterly basis as determined by the City of Pueblo Sales Tax Division.

It is the responsibility of the taxpayer to file all tax returns they have been issued and pay all taxes thereon by the due date. The return must be filed even if it reflects no tax due.

After a 12 month history has been established, the taxpayer may apply in writing to file on another basis.

If the Director finds that the collection of the tax will be jeopardized by delay, he/she may declare the tax period immediately terminated and demand payment immediately.

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City of Pueblo, Colorado

TAX GUIDE

FLORISTS

Sales at retail in Pueblo by a florist are taxable. This includes orders taken by florists within Pueblo, which are transmitted, to florists outside Pueblo for delivery. These types of orders are sometimes known by such names as *FTD*, *Telefloral*, and *AFS* orders. Conversely, when a florist within Pueblo receives a delivery order from a florist outside Pueblo, the sale is not subject to Pueblo tax. These orders are presumed to be taxed by the jurisdiction where the order originated.

(The treatment of wire orders as described is consistent with other states, notably California and New York, and other home-rule cities in Colorado.)

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03/03

City of Pueblo, Colorado

TAX GUIDE

FOOD AND DRINK

The City of Pueblo exempts food for home consumption from Sales/Use Tax. All other food and drink sales and purchases are subject to Pueblo Sales/Use Tax.

TAXABLE FOOD SALES:

1. Food and drink sales subject to the City of Pueblo sales tax include:
 - a. Food and drink served or furnished in or by restaurants, café, lunch counters, cafeterias, hotels, drugstores, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, boarding houses, carryout shops and other places at which prepared food or drink is regularly sold, including pushcarts, motor vehicles and other mobile facilities;
 - b. Food and drink sold through vending machines and “honor” boxes; the 3.7% tax, however is included in the vended price rather than being added separately; (SEE RELATED TAX GUIDE TOPIC – VENDING MACHINES)
 - c. Alcoholic beverages. However, such items as cooking wine, wine vinegar, non-alcoholic beer, non-alcoholic cocktail mixes when marketed and sold for domestic home consumption are exempt food items;
 - d. Food and drink sold by newsstands, gift shops, shops located in public transportation centers, other public or commercial buildings, entertainment and recreational facilities, as these locations typically do not sell food for home consumption. The sales at such establishments will be looked at on an individual basis, serving size and intent will be considered;
 - e. Food or drink items sold in or with items of tangible personal property, which would be taxable if sold separately. (i.e. baskets, plates, bowls, kitchen utensils, toys, etc.). Such items might include such items as gift baskets, Easter baskets, toys, candy-filled gift mugs etc.
 - f. Coffee or other food products sold or purchased for office or commercial establishment use, or as gift items;
 - g. All other food and beverage items that do not meet the exemption as described below in **EXEMPT FOOD SALES, ITEMS #1 AND #2**.
2. Items which are considered non-food items and thus are subject to Sales/Use Tax include:
 - a. Non-food items even if sold in grocery stores (i.e. hardware, clothing, cooking utensils, cleaning and paper products, soaps, toiletries and cosmetics);
 - b. Food preservation equipment and items (i.e. pressure cookers, canning jars and lids, paraffin, freezer containers and wrapping papers);
 - c. Items specifically labeled as being for use other than human consumption (i.e. decorative dye for hard cooked eggs);
 - d. Tobacco and tobacco products (except that cigarettes are specifically exempt under Section 14-4-76 of the Pueblo Municipal Code);

- e. Alcoholic beverages, but excluding cooking wine, wine vinegar, non-alcoholic cocktail mixes and non-alcoholic beer;
 - f. Therapeutic products and deficiency correctors such as vitamins and minerals. These products serve as supplements to food products rather than food and therefore are taxable;
 - g. Health aids such as patient medicines and other products used as health aids and therapeutic agents including aspirin, cough drops or syrups, cold remedies, antacids and other over-the-counter drugs are taxable.
3. Food items not marketed for human consumption are taxable. Examples are pet food, birdseed, and other animal food.
 4. Products that qualify as food under the Federal Food Stamp Program but do not qualify as food for purposes of the Sales/Use Tax exemption unless purchased with Federal Food Stamps or WIC vouchers or checks, as described below.
 - a. Carbonated water marketed in containers (i.e. sparkling or seltzer water);
 - b. Chewing gum;
 - c. Seeds and plants to grow food;
 - d. Prepared salads requiring refrigeration sold in any size or type of container, whether prepared by the retailer on site or at a warehouse or by a manufacturer for sale to and by a retailer. (i.e. egg salad, potato salad, fruit salad, pasta salad, gelatin salad, fish, meat or poultry salad);
 - e. Salad bars (i.e. cut-up fruits and vegetables sold in various sized servings along with accessory foods and condiments such as soup, rolls, crackers and salad dressings);
 - f. Cold sandwiches (other than frozen);
 - g. Deli trays;
 - h. All prepared food or food marketed for immediate consumption. All hot foods or foods marketed to be heated on the premises are considered to be prepared for immediate consumption and are subject to tax regardless of the nature of the business making such sale and regardless of whether immediately consumed.

TAX EXEMPT FOOD SALES:

The City of Pueblo Code provides an exemption for the sale and purchase of food for domestic home consumption. State of Colorado Regulation 39-26-102.4.5 "Rules Implementing the Exemption for Certain Food and Drink" provides further standards and definitions:

1. The term "food" includes food and drink.
2. Food for domestic home consumption is defined by the Federal Food Stamp Program as "The sale of food for domestic, home, or household use, which is advertised or marketed for human consumption and is sold in the same form, condition, quantities, and packaging as is commonly sold by grocers is exempt from sales and use tax." (7 USC Section 2012(g) as of October 1, 1987, or as thereafter amended)

The following is a list of food that is exempt from Sales/Use Tax:

1. Food for domestic home consumption. Examples include but are not limited to, meat, poultry, fish, bread and breadstuffs, cereals, vegetables, fruits, fruit and vegetable juices, dairy products, coffee, tea, cocoa, candy, breath mints, condiments, spices, soft drinks, cakes, cookies, potato chips, special dietary foods, enriched or fortified foods, health food items, infant formulas, and items incorporated into foods with other ingredients (i.e. pectin, lard and vegetable oils).

2. Water marketed in containers and ice, for human consumption is exempt from taxation, except for carbonated water.
3. Items which qualify as food under the Federal Food Stamp Program but do not qualify as food for purposes of the Sales/Use Tax exemption unless purchased with Federal Food Stamps or WIC vouchers or checks are:
 - a. Carbonated water marketed in containers (i.e. sparkling or seltzer water);
 - b. Chewing gum;
 - c. Seeds and plants to grow food;
 - d. Prepared salads requiring refrigeration sold in any size or type of container, whether prepared by the retailer on site or at a warehouse or by a manufacturer for sale to and by a retailer. (i.e. egg salad, potato salad, fruit salad, pasta salad, gelatin salad, fish, meat or poultry salad);
 - e. Salad bars (i.e. cut-up fruits and vegetables sold in various sized servings along with accessory foods and condiments such as soup, rolls, crackers and salad dressings);
 - f. Cold sandwiches (other than frozen);
 - g. Deli trays;
 - h. All prepared food or food marketed for immediate consumption. All hot foods or foods marketed to be heated on the premises are considered to be prepared for immediate consumption and is subject to tax regardless of the nature of the business making such sale and regardless of whether immediately consumed.

In determining whether food is considered for domestic home consumption or prepared food or food for immediate consumption, the following guidelines apply to the specialized establishment enumerated below:

1. Bakery and Pastry Shops
 - a. Sales by bakeries or pastry shops which do not have eating facilities are not subject to tax;
 - b. Sales by bakeries or pastry shops, which have eating facilities are taxable except for items sold on a take-out basis not to be consumed at the eating facilities provided by the retailer.
2. Ice Cream Shops
 - a. Sales of ice cream cones, cups, sundaes, individual ice cream bars, fudgecicles, Popsicles, and the like, marketed for immediate consumption are subject to tax.
 - b. Items marketed in containers or packages for domestic home consumption, such as ice cream, packages of ice cream bars, popsicles and fudgesicles, toppings sold in cans or jars, and cakes or pies are not taxable.

3. Caterers

Normally all food sold by a caterer is subject to tax. However, if such caterer operates a retail store selling food items marketed for domestic home consumption, the rules governing taxability of food as set forth above apply. Sales by caterers of food from motor vehicles and other mobile facilities are taxable.

4. Restaurants, Snack Bars, Carry Outs, Etc.

All food sold by restaurants and similar establishments are subject to tax. However, when such restaurants also operate a pastry, ice cream, or grocery type sales operation, the rules applicable to such establishments apply to sales made from such operations.

5. Liquor Stores

Food marketed for domestic home consumption by a liquor store is exempt. Alcoholic beverages, including spirituous, malt or vinous liquors, are taxable. However, cocktail mixes which do not contain alcohol, cooking wines, and wine vinegars are exempt.

6. Street Vendors

Street vendors (i.e. push carts, mobile food stands, and the like) will generally be subject to tax on all their sales. Sales of vegetables, fruit, and other groceries marketed for domestic home consumption by mobile markets or door-to-door vendors are exempt.

7. Vending Machines

All sales of food vended by or through machines are taxable.

RELATED TAX GUIDE:

Vending Machines

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City of Pueblo, Colorado

TAX GUIDE

FRANCHISES

A franchise agreement is a business relationship that grants a right or license to a franchisee to operate, using the name, process, territory, patent, copyright, trademark or other property, tangible or intangible, of a franchiser. In exchange, the franchiser charges a fee to the franchisee for the right to use the property. The franchiser may also impose various requirements or standards over the operation of the franchisee including distribution, sales, purchases, product presentation, quality, cleanliness or other controls as the franchise agreement specifies.

Sales or Use Tax applies to the sale or license to use taxable tangible personal property supplied under a franchise agreement. These might include, but not limited to, furniture, fixtures and equipment.

When both intangible rights and tangible personal property are furnished under a franchise agreement, and the charges are not separated, the Sales or Use Tax will apply to the entire franchise payment. If the charges are separated or can be determined from the franchise agreement, only the items otherwise taxable under the City of Pueblo Code are subject to Sales or Use Tax.

EXAMPLES:

1. A new Bubba's Burger Barn restaurant franchise is starting up in Pueblo. The facility is owned by the franchiser and leased to the franchisee. The franchisee pays a flat monthly fee for the facility rental. In addition, the franchisee pays a monthly franchise fee, based on a percentage of sales volume, as compensation to Bubba for services that he provides such as regular training and media advertising.

The amount of the lease payment attributable to the tangible personal property of the facility is subject to Pueblo tax. The franchise fee payment is not subject to tax since none of the services provided for in the franchise fee (regular training and media advertising) are taxable.

However, if the franchise fee also includes payment for tangible items, such as promotional banners and signs that are provided by Bubba, Sales or Use Tax is due on that part of the monthly franchise fee attributable to the price of the property.

2. The above franchisee also has an option to own the restaurant and operate under Bubba's name. As part of this agreement, the franchisee must buy all restaurant equipment and all logo supplies from Bubba. The purchase of all equipment and the purchase of any supplies that are not purchased for resale are taxable to the franchisee.
3. From time to time, Bubba's Burger Barns have a buy-on-get-one-free national promotion. As part of the franchise agreement, the franchisee must participate in the promotion. Bubba will reimburse the franchisee \$.50 for each free promotional burger. Since Bubba reimburses the franchisee for part of the cost of the free burgers, that reimbursement becomes part of the selling price of the promotional burgers and is taxable. The franchisee must charge Sales Tax to the customers on the selling price of one burger and on the \$.50 reimbursement received from Bubba for the second burger. If the franchisee does not charge Sales Tax to the customers on the \$.50 reimbursement, the franchisee is required to pay that Sales Tax out of pocket.

RELATED TAX GUIDES:

Coupons & Promotional Items
Use Tax

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City of Pueblo, Colorado

TAX GUIDE

FREIGHT, DELIVERY AND TRANSPORTATION

TAXABLE TRANSPORTION CHARGES:

Transportation charges paid to the vendor in a single transaction to acquire taxable tangible personal property are subject to Pueblo Sales and Use Tax. This includes transportation charges billed by the vendor to the purchaser. Freight, delivery, and transportation charges are a component of the total purchase price paid to the vendor. Therefore, transportation charges that appear on the vendor's invoice are generally subject to tax.

The City of Pueblo Municipal Code Section 14-4-21 (24)(F) defines "purchase price." The applicable part of this definition is as follows:

"Price" or "Purchase Price" means the price to the consumer, exclusive of any direct tax imposed by the federal government or by this article,

"Price" or "Purchase Price" includes: transportation and other charges to effect delivery of tangible personal property to the purchaser.

The term transportation and other charges to effect delivery includes: shipping, common carrier freight and transportation or delivery in the vehicle of the seller.

Freight charges are considered a part of the negotiated purchase price to the vendor. Therefore, freight charges appearing on a vendor's invoice on a taxable sale to a Pueblo customer are subject to Pueblo's Sales/Use Tax whenever the Pueblo customer makes a single transaction to acquire personal property inclusive of transportation charges.

Additional charges commingled with freight charges (i.e. installation, wheeling-in, and handling) are taxable. If installation and wheeling-in charges are separately stated, they are not subject to Sales/Use Tax.

NON-TAXABLE TRANSPORTATION CHARGES:

Transportation charges, which represent hiring someone to transport tangible personal property from point A to point B, are not subject to Pueblo Sales/Use Tax when a customer makes a separate transaction solely for transportation of that property.

A contract between a delivery company and the purchaser of tangible personal property would be exempt from Sales/Use Tax, provided that the purchaser pays the delivery company directly and the delivery charges do not appear on the seller's invoice. The freight charges would not be considered part of the negotiated purchase price. This would be considered a non-taxable service contract.

A vendor may act as an agent for its customer to obtain transportation when (a) the vendor and customer have executed a written document creating a principal-agent relationship and (b) the names of the vendor and customer both appear in the contract with the transportation company. This is an arrangement for a service which is separate from the sale of tangible personal property, and the seller assumes no responsibility for the merchandise once it leaves the seller's premises, charges to ship the purchaser's merchandise are exempt from City Sales or Use Tax. Since the seller assumes no risk for the merchandise during shipping, the customer must go to the shipping company to recover the cost of loss or damage during shipping.

If the purchaser arranges for transportation, shipping is an exempt service. The shipping company is an agent of the purchaser, and the charge for shipping is paid by the purchaser directly to the shipping company. Since the purchaser pays the shipping company, the cost of shipping is not part of the purchase price of the product.

Because stand-alone transportation is a service upon which the City of Pueblo does not impose sales or use tax, a stand-alone transaction solely for transportation is not taxable.

EXAMPLES:

1. Giggle Byte Computer Company sells computers through catalogs and over the internet. It is the policy of Giggle Byte to provide complete customer satisfaction. Rob purchased a computer from Giggle Byte, which was damaged in transit. Rob called the customer service center at Giggle Byte and told them of the damage. Giggle Byte sent another computer to Rob to replace the damaged one. The freight, which was charged to Rob on his computer purchase, is part of the selling price of the computer and is taxable.
2. John Johnson badly needs an auto repair part which the Pueblo car dealer does not have in stock. Since the dealer must special order the part, John has to pay the freight charge. The dealer orders the part. John picks up the part from the dealer and pays for the part and freight charge. The charge for the freight is taxable. It is part of the purchase price because the dealer incurred freight expense before the dealer sold the part to John.
3. ABC Sales Company takes phone and mail orders for exercise videotapes. ABC adds \$3 per order for shipping and handling to the \$35 list price. Even though the \$3 is shown as a separate charge for shipping and handling on the invoice, that charge is part of the selling price and is taxable.
4. Andy's Architectural, LLC hires Reliable Courier Service to deliver a set of building plans across town. The delivery charge is not combined with the sale of tangible personal property and is not taxable.
5. Woody's Lumber Yard uses their own truck to deliver to a construction site in Pueblo. A separate charge for delivery appears on Woody's invoice. The delivery charge is taxable.
6. XYZ Corporation is a manufacturing company, which purchases equipment repair parts from various vendors. XYZ has a contract with International Freight Carrier to pick up the parts from the vendors and deliver them to XYZ. International bills XYZ for collecting and delivering the parts. These charges from the freight company are not taxable because the shipping is a service arrangement between XYZ and International, and the parts vendors assume no risk of ownership during the shipping process.

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City of Pueblo, Colorado

TAX GUIDE

FUNDRAISING

Fundraising is an activity that is usually associated with a tax-exempt organization. Generally speaking, if an exempt organization is involved in the purchase or sale of tangible personal property for fundraising purposes, the purchase or sale of the property is taxable.

If prizes are donated to a tax-exempt organization for a fundraiser the donor is required to pay City Sales Tax on the cost to acquire the property.

PRIZES, PREMIUMS & GIFTS:

The purchase of tangible personal property by organizations involved in fundraising for use as prizes, premiums, or gifts is subject to City Sales or Use Tax on the total purchase price. If the organization is not charged City Sales Tax, City Use Tax is due on the purchase. Since the organization recovers the cost of the property through the fundraising activity, the property is not considered as being used in the conduct of the tax-exempt function of the organization. The tax-exempt status of the organization may not be used to purchase tax-free.

BANQUETS:

Food and beverages provided at fundraisers by tax-exempt organizations are subject to Sales Tax if the final recipient reimburses the organization in any way, such as direct payment, price per plate, the purchase of a ticket, payment of a registration fee or membership fee, or making an involuntary or suggested contribution to attend an event.

SALES:

An exempt organization that makes retail sales of tangible personal property, including for fundraising purposes, is required to be licensed and collect City Sales Tax on the selling price of the tangible personal property.

AUCTIONS:

Organizations holding fundraisers or auctions at which tangible personal property is sold to the highest bidder are required to collect Sales Tax on the selling price of auctioned items.

SALES TAX OPTIONS FOR EVENTS HELD BY TAX-EXEMPT ORGANIZATIONS:

Option 1:

Tax-exempt organizations that hold charitable functions and activities where food and beverage is provided must remit sales tax on the charge per attendee(s) for admission. If there is no break down of charges printed on the form charging the attendee(s) for admission then Sales Tax is due on total price charged.

Option 2:

If the charge per attendee(s) for food and beverage is separately stated on any form charging the attendee(s) for admission, then Sales Tax will be based on the identified charge representing food and beverage. The following calculation will apply:

$$\text{Printed Price} \times \text{Total \# of Sales} \times 3.7\% = \text{Sales Tax Due}$$

A copy of a ticket, registration or any other billing device will be required to be submitted along with the sales tax return used for remittance. A Sales Tax Return used for this type of event is attached and can be copied and used for all events.

Option 3:

The tax-exempt entity will also have the option to pay Sales Tax to the caterer of the event if the caterer's charge per person for the food and beverage is the exact same amount printed on any form charging the attendee(s) admission and for the exact same number of attendee(s) represented by total ticket sales.

The tax-exempt entity must submit to the Sales Tax Division the following information in lieu of a return when no tax is due which will fulfill the reporting requirement:

- Organization name and contact person holding the event
- Date and Name of Event
- Copy of ticket, registration or any other billing device to document the price for meal was printed and revealed to the customer
- Total # of tickets, per person, per plate sold
- Invoice from caterer supporting sales tax was paid

If documentation is not provided or available supporting sales tax was paid to the caterer, the tax-exempt organization will be assessed and responsible for the Sales Tax.

EXAMPLES:

1. Good Charity organizes a fundraiser for the purpose of helping children. As a way to increase participation in the fundraiser, Good Charity sells raffle tickets for door prizes. Sales/Use Tax is due from Good Charity on the purchase price it paid for each door prize.
2. Great Charity has recently arranged to hold a catered fundraising dinner at a local hotel. The public may attend this fundraiser by paying \$50 per plate. The hotel will charge Great Charity \$25 per plate and will not collect Sale Tax on the sale of meals to Great Charity. Great Charity must remit sales tax on the \$50 per plate charge.
3. The Nondenominational Church of Pueblo uses Thursday night bingo as a means of raising funds. Since participants pay to play, the Church recovers its expenses for bingo supplies from those attending. The purchase of bingo supplies by the Church is taxable. If the Church purchases any other supplies for which it is reimbursed by those attending, those purchases are also taxable. If the church sells any property, such as food and drink or bingo marking pens, the Church must collect City Sales Tax.

RELATED FYI:

Fundraising Events and Sales Tax – FYI at: <http://to be assigned>

RELATED TAX GUIDE:

Charitable, Religious & Governmental Exemption

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City of Pueblo, Colorado

TAX GUIDE

GASOLINE AND SPECIAL FUEL

Gasoline and special fuel are exempt from City of Pueblo sales or use tax if tax prescribed by the gasoline and special fuel tax Statutes of the State of Colorado, CRS 39-27-100 & 200, has been paid or accrued. If the State tax is not paid, or is refunded, gasoline and special fuel are taxable tangible personal property.

“Gasoline” means any flammable liquid, or any product blended with gasoline, used primarily as a fuel for the propulsion of motor vehicles, motor boats, or aircraft. Gasoline includes “aviation gasoline” but does not include “special fuel” or “aviation jet fuel”.

“Special fuel” means diesel engine fuel, kerosene, liquefied petroleum gases, and natural gas used for the generation of power to propel a motor vehicle on a highway. Special fuel is exempt from City sales or use tax when purchased by a railroad to provide railway transportation services. Special fuel does not include “gasoline” as defined in section 39-27-101(2).

Sales and purchases of “dyed diesel fuel”, as that term is defined in Section 39-27-101(8), C.R.S., for use in the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, dwellings, structures, roads, highways or other changes or improvements to real property is exempt.

With the exception of railway usage, the purchase or use of gasoline or special fuel that otherwise qualifies as exempt is subject to City sales or use tax if State of Colorado gasoline or special fuel tax is not included in the purchase price or is later refunded.

AVIATION FUEL

Aviation gasoline used in nonturbo-propeller on non-jet engine aircraft is subject to aviation fuel tax and is exempt from City sales or use tax.

Aviation jet fuel used in turbo-propeller or jet engine aircraft operated privately or by regularly scheduled air carriers or commuter airlines, is subject to City sales or use tax.

OTHER FUELS AND USES

Any fuel or liquefied petroleum product (e.g. propane, firewood, kerosene, coal) which is not gasoline, special fuel, aviation gas, dyed diesel fuel, or railway fuel is taxable under the general provision of the ordinances as personal property, when sold at retail.

EXAMPLES

1. Jerry's Construction Company purchases diesel fuel for off-road use in its construction equipment. The fuel is delivered to Jerry's fuel tank at a construction site in Pueblo. The fuel distributor does not charge State special fuel tax because the fuel is for off-road use. The purchase of the fuel is exempt from the City of Pueblo sales or use tax. Jerry also purchases kerosene for use in a heater in a construction trailer. The fuel is exempt from State special fuel tax because it also is for off-road use. The kerosene is subject to City sales or use tax.
2. XYZ Airline has its operations at the Pueblo Memorial airport. Purchases of aviation jet fuel used to propel its aircraft are taxable. XYZ Airline also has tractors that pull luggage carts to and from the aircraft. The diesel fuel used in the tractors is taxable because the tractors are not used on public highways.

3. Anywhere Trucking Company hauls freight on the public highways. The Company must pay special fuel tax on its purchases of diesel fuel, so no City sales or use tax is due on the purchases. Part of the fuel purchased is used to power refrigeration units on the trucks. If Anywhere applies for a refund of special fuel tax paid for fuel used by the refrigeration units, City use tax is due on the cost of that fuel.

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City of Pueblo, Colorado

TAX GUIDE

GIFT CERTIFICATES

The sale of a gift certificate is the sale of an intangible “right” to exchange the value of the certificate for goods or services. As the sale of an intangible, it is not subject to Sales or Use Tax.

A taxable transaction occurs when the certificate is used to acquire tangible personal property. Upon redemption or exchange of a gift certificate for tangible personal property, Sales or Use Tax is due on the total sale price of the tangible personal property.

The vendor selling gift certificates is liable for the Sales or Use Tax on the printing cost or purchase price of the actual certificates, as the physical certificates are tangible personal property not for resale.

EXAMPLE:

A person purchases a tie that costs \$25 by using a gift certificate worth \$15 and pays the balance in cash. Tax on the transaction is applied to the full \$25 sale price.

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City of Pueblo, Colorado

TAX GUIDE

GIFTS AND GIVEAWAYS

The City of Pueblo provides no exemption for the sale or purchase of tangible personal property to be used as gifts or giveaways. Sales or Use Tax must be paid by the purchaser on the purchase price of the item given away.

EXAMPLES:

1. ABC Office Supply buys calendars to be given away. ABC is subject to Use Tax on the purchase price of the calendars if Sales Tax was not paid at the time of purchase.
2. XYZ Appliance Company, in conjunction with a grand opening event, is giving away a refrigerator and a dishwasher. XYZ is liable for Use Tax on the cost basis of the two items removed from its inventory and used as giveaways.

RELATED TAX GUIDE:

Exempt Purchases Converted to Taxable Use

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City of Pueblo, Colorado

TAX GUIDE

GOVERNMENT FACILITIES

City of Pueblo sales and use taxes are generally applicable at all government facilities located within the city.

Some of the government facilities which are located within the City of Pueblo, include but are not limited to: Colorado State Fair, Colorado Mental Health Institute, San Carlos Correctional Facility, University of Southern Colorado, Pueblo Community College, Pueblo County Jail, Sangre De Cristo Arts Center, Runyon Field Complex.

Private concessionaires conducting business on or in government facilities located within Pueblo must collect Pueblo sales tax on retail sales unless the sales are specifically exempt under the Pueblo Municipal Code.

Construction contractors performing work on or within all government facilities in Pueblo are responsible for paying sales or use tax on building materials used in the job contract.

EXAMPLES:

1. ABC Supply, who temporarily operates at the Colorado State Fairgrounds, is required to collect Pueblo sales tax on its retail sales.
2. ZZZ Construction purchases building materials to be used in the performance of its construction contract at Pueblo Community College. The Pueblo sales/use tax must be paid by ZZZ on the building materials.

Purchases From Government Entities:

Retail purchases of tangible personal property from the federal, state or local governments that are stored, used, distributed or consumed within Pueblo are subject to Pueblo use tax.

Example:

XYZ Company located within Pueblo purchases publications from the U.S. Printing Office for use in its business operations in Pueblo. XYZ is liable for Pueblo sales/use tax on the purchase price of the publications.

RELATED TAX GUIDES:

Charitable, Religious & Government Exemptions
Construction Contracts

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City of Pueblo, Colorado

TAX GUIDE

GRAPHIC DESIGN AND COMPOSITION

The trade of typesetting has evolved from setting metal type to creating graphics using computer equipment. Today's services may include a wide range of graphic production such as halftones, typesetting, desktop publishing products and other labor-intensive products manufactured by graphic designers.

When tangible personal property is produced for sale, the taxable price includes the entire cost of labor or services. Also included in the taxable base of the sale-of-property transaction would be: minimum charges, rush charges, delivery or transportation charges, and service charges that involve elements or components of the product including such charges as for pre-press preparation, even if separately stated on the invoice.

Pure time charges for personal services, if **not** a component element of the charge for the product and if separately stated on the invoice, is not subject to tax. Such charges could include proofreading and file preparation.

Many of the products sold by graphic designers could fall under the category of pre-press preparation material, which, if certain conditions are met, may be exempt from sales/use tax. In order for the pre-press transaction to qualify for the exemption, the sale of pre-press materials must be directly related to the final printed product upon which sales tax will be collected. Pre-press materials sold to a purchaser for the purchaser's own use, are subject to tax. Such purchasers could include advertising agencies or retailers who might produce or purchase pre-press materials for their own advertising publications.

TAX TO BE PAID BY THE GRAPHIC DESIGNER:

Materials and supplies used or consumed in the process cannot be purchased tax-free for resale and are subject to sales/use tax to be paid by the graphic designer to the vendor or as consumer's use tax.

EXAMPLE:

Nuco, a new company, engages One-stop Graphics to help design and produce its self-promotion brochure. Nuco has submitted several pages of copy for the brochure and has some ideas regarding the design and photos (or illustrations) for the piece.

Mary, a One-stop employee, is assigned to the Nuco brochure. After meeting with her client and learning their wishes for the brochure, Mary begins to work on the piece. First, she opens the client's disk to review the copy that has been submitted, then she proofreads and edits the copy where necessary. This service is billed separately at an hourly rate.

Mary then enters the text into the appropriate software application, and works in the accompanying design elements. The client approves the body of the brochure, but decides that a unique illustration of the product should be made for the cover. Mary, the client, and One-Stop's illustrator discuss the concept. The illustrator makes several composites and submits them to Nuco for approval. The illustrator's work is also billed separately at an hourly rate. Mary then incorporates the illustration the client selects into the cover of the brochure; the charge for this is also billed separately at an hourly rate. The completed design is provided to Nuco on a computer disk that their printer will use to produce the finished brochures.

In the above example, all of the charges to Nuco are for labor billed on an hourly basis, and are not an element of tangible personal property transferred to the customer. As a result, no Pueblo sales tax would be due for the above labor charges.

If One-Stop also provided film outputs or composites to Nuco, sales tax should be charged on the total charges related to the tangible personal property sold, provided that the charges for labor are separately stated on the invoice. In the event that the charges are not segregated, sales tax should be charged on the entire invoice.

One-Stop should have paid sales tax on any supplies (software, disks, illustration materials, etc.) used to produce the design for Nuco. If no sales tax was paid to the vendor by One-Stop at the time of purchase, use tax should be remitted on their sales/use tax return.

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City of Pueblo, Colorado

TAX GUIDE

HORSES

The sales and purchases of horses are taxable unless they can be used for breeding purposes, or unless they are purchased for resale.

EXAMPLES:

1. Leisure Time Stables purchased 10 geldings and 10 mules for their clients to ride on guided tours. Geldings and mules cannot reproduce so they do not qualify for the breeding-purposes exemption. This transaction is subject to Sales or Use Tax.
2. Leisure Time Stables purchased one stallion and five mares for future breeding of their own stock. Since these horses will be used for breeding purposes, this transaction is specifically exempt from Sales or Use Tax.

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City of Pueblo, Colorado

TAX GUIDE

HOTELS AND MOTELS

The furnishing of rooms or accommodations for lodging is a service that is subject to City of Pueblo Sales Tax. The City also imposes a separate Lodger's Tax on lodging services at the rate of 4.3%.

The entire amount charged to a person for a room (defined as sleeping accommodations in a hotel, inn, bed and breakfast, apartment, apartment hotel, motel, guesthouse, guest ranch, trailer coach, resort, mobile home, etc. or any space in an auto camp, trailer court or park, campground or similar type of establishment) who is not a permanent resident and who has not entered into a written agreement for occupancy of a room or rooms or sleeping accommodations for a period of at least thirty (30) consecutive days is subject to the City Tax.

City Tax does not apply to meeting rooms, display rooms and banquet facilities where a specific charge is made for such facilities.

EXEMPTIONS:

1. The City of Pueblo provides an exemption from the imposition of tax for the sale of lodging to any person who enters into a written agreement for occupancy of a room or rooms for a period of at least thirty (30) days. The exemption applies to persons or organizations that contract with a lodging facility to rent one or more rooms for a period of 30 days or more even though the individuals using the facility or the rooms may not be the same each day, provided that the same room(s) is rented each day.
2. An exemption is also provided on sales to governmental, religious, and charitable organizations. In order for the exemption to apply, the following conditions must be met.
 - a. The sale must be made directly to the exempt entity and not to a representative of the organization. Evidence of this is billing made directly to the organization and not to an individual.
 - b. Payment must be received directly from the exempt entity. Evidence of this is payment by organization check, the issuance of a purchase order, or with a credit card which is billed directly to the organization and not an individual. Care should be exercised with the use of a government issued credit card. These cards are normally issued as a convenience to the employee with the employee being billed directly and the employee being responsible for the payment of the bill.
 - c. The exempt organization cannot receive any reimbursement for such purchase by any individual who receives a benefit from the purchase, such as payment of a registration fee by the registrant that includes lodging, ticket sales, involuntary contributions, etc.
 - d. Sales to religious and charitable organizations are exempt from taxation only if the purchase is of property or services to be used in the conduct of the organization's regular activities to foster its religious or charitable purpose.

NOTE: All not-for-profit organizations are **not** exempt from City of Pueblo Tax. If the organization is not licensed as a Tax Exempt entity by the City of Pueblo, the Hotel/Motel should direct it to contact the City of Pueblo Sales Tax Division to apply to be evaluated for such a license.

Any purchase that is paid for by an individual with cash, personal check, personal credit card or other means is taxable, even though the individual is reimbursed by an exempt organization.

TAXABLE SALES:

In addition to lodging services, a hotel, motel or similar business may also sell other taxable property or services. These might include, but not limited to the following:

1. Food and beverages including food served from an in-room refrigerator
2. Vending machine sales
3. In-room movie charges and video tape rentals
4. Local telephone charges and intrastate long distance charges. Access charges which is defined as a charge to customers for access to phone service is taxable. A charge for local calls or the additional amount charged by the hotel for long distance calls, whether inter or intra-state, is taxable.
5. Gift shop sales
6. Postcards, toiletries or incidentals sold from front desks or lobby

USE TAX:

A hotel, motel, or similar establishment is responsible for paying City Sales or Use Tax on all purchases of tangible personal property and taxable services, not for resale. If City Sales Tax is paid to a licensed vendor; no Use Tax is due. But, if purchases are made without paying City Sales Tax, the City Use Tax is due and is paid directly to the City by the purchaser. Examples of purchases that are taxable to the hotel include:

- All furniture, fixtures, and equipment in guest rooms and throughout the property including bars, restaurants, night clubs, administrative offices, and other facilities
- Guest supplies (soap, toilet tissue, shampoo, coffee, matches, shoe shine clothes, sewing kits, pillow mints, stationery, etc.)
- Operating supplies, repair parts, cleaning supplies, printed materials, office supplies, etc.
- Items withdrawn from resale inventory for company use
- Free food buffets, bar snacks, and other food or items given away to patrons
- Free employee meals
- Advertising and promotion materials, administrative and general supplies, or other promotional food and beverages

CANCELLATION, GUARANTEED ROOM, AND NO-SHOW CHARGES:

City Sales and Lodger's Taxes are imposed on the entire price charged on the transaction of furnishing lodging services. If a room rental charge is made to any person or group that has the right to use a room, even if they do not use the room, the charge is taxable. For example:

- If an individual guarantees a room reservation with a credit card and the individual fails to show up, a hotel will impose one night's lodging charge for reserving the room. That charge is subject to both the Sales and Lodger's Taxes.
- If a group guarantees the rental of a minimum number of rooms for a function at a hotel, and the group fails to occupy all the guaranteed rooms, the group is required to pay for all rooms whether or not they were used. The guaranteed room charge is taxable.

The only exception to taxing a no-show or guaranteed room charge is if the hotel imposes a cancellation charge that is billed on a flat-rate basis, without regard to a room rental rate, and it is represented as being for recovery of administrative expenses. The hotel will recognize those charges as administrative revenue rather than room revenue.

RELATED TAX GUIDES:

Lodger's Tax
Use Tax

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City of Pueblo, Colorado

TAX GUIDE

INFORMATION SERVICES

The City of Pueblo imposes Sales/Use Tax on the sale or purchase of informational services wherein the relay or transmission of electromagnetic waves is necessary for the service to be received. The end product of informational services received in a tangible form, such as on disk, paper, or tape, is tangible personal property and, as such, is also subject to Sales/Use Tax.

For purposes of administration of this section, information is considered to be a body of knowledge that is in existence. The tax is imposed on the purchase price or charge for access, use, or receipt of information from this body of knowledge. This equates to tax on books, publications, and reports that are taxable in hardcopy form. If the information is received electronically, rather than on hard copy, it is still taxable. Interactive systems on which the user updates as well as accesses the data are not informational services for purposes of this section.

EXAMPLES:

1. Metrodemographics is a firm that maintains a database of information about the population of the Pueblo area. They also perform special studies, marketing research, etc. A candidate for political office, a client of Metrodemographics, requests the following information:
 - a. A list on paper and mailing labels of the registered voters in the county who had contributed to a political campaign in the past.
 - b. Computer access, via modem, to the database so that he could search it and extract names by various criteria.
 - c. A political poll, updated weekly, with results reported to him on paper and also maintained on Metrodemographics' computer so that he could access and analyze the poll results.

Item A: The list and labels are taxable as tangible personal property.

Item B: Access via modem is taxable as informational service via electromagnetic waves

Item C: The political poll and its resulting database are not taxable. It was not a body of information that was in existence. This was a service performed by Metrodemographics. The resulting report provided to the client was not a sale of pre-existing information. Any subsequent sale, however, of the information obtained in the poll would be subject to the tax.

2. Attorneys Inc., a Pueblo law firm, has recently replaced its legal library with a subscription to a database that provides similar information with more capabilities. Attorneys Inc can call up and display on a terminal or print any of the information from various cases. This is a purchase of existing information and the fee for access and use of the information is taxable.

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City of Pueblo, Colorado

TAX GUIDE

INSURANCE COMPANIES AND AGENCIES

Insurance companies and agencies must pay Sales/Use Tax on tangible personal property purchased for use, storage, distribution or consumption in Pueblo. This includes tangible personal property purchased for the benefit of a third party in the satisfaction of a claim. Also included are the purchases of tangible personal property delivered into Pueblo for subsequent use outside Pueblo.

Insurance companies making retail sales to their local agencies or independent agents are required to collect and remit Sales Tax.

EXAMPLES:

1. The local agency of the XYZ Insurance Company orders forms and supplies through its home office, which is located out-of-state. The home office then purchases the forms and supplies from a vendor. Initial delivery and storage of the forms and supplies takes place in Pueblo. Even though some of the forms and supplies are intended for use at sales offices outside Pueblo, all are taxable to Pueblo because delivery and storage takes place in the City.
2. Mrs. Wells, a Pueblo resident, insured by the XYZ Insurance Company, purchases six, 5-piece place settings of sterling silverware from ABC Jewelry for \$5,000. Mrs. Wells' home is subsequently burglarized and the silverware is stolen. As the silverware is a specialty item and difficult to replace, the insurance company has the store handle the matter. ABC Jewelry delivers a replacement set to Mrs. Wells and bills XYZ Insurance Company for the replacement of the merchandise including Sales Tax. If ABC Jewelry were located outside Pueblo and did not collect the Sale Tax, XYZ Insurance Company must then self-remit the Use Tax to the City.

RELATED TAX GUIDE:

Use Tax

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TAX GUIDE

INTERMINGLED SALES AND SERVICE

Charges for labor or services used in installing, applying, remodeling, or repairing tangible personal property sold are allowable deductions from the taxable sale if the sale of tangible personal property and on-taxable services are billed separately on the invoice to the consumer. However, if no separation is made, the Sales Tax applies to the total amount of the sale.

Business enterprises, which perform service contracts (including some maintenance and construction contractors), are subject to Sales or Use Tax on tangible personal property used or consumed in Pueblo while performing their services.

EXAMPLES:

1. Joe's Garage performs oil changes and invoices their customers for \$19.95: \$11.95 for oil and the oil filter, and \$8.00 for labor. Joe's Garage is required to collect Sales Tax on \$11.95 from their customers.
2. Bob's Garage charges a flat \$19.95 for a standard car oil change. Bob's Garage must collect Sales Tax on \$19.95 from their customers.

RELATED TAX GUIDES:

Rentals & Service Charges Combined
Construction Contractors
Maintenance Contracts

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TAX GUIDE

LEASED DEPARTMENTS

A leased department is floor space within a store that is leased and generally run as a separate business from the company that owns or manages the store. When a store leases space or departments within the store to other persons or business for the retail sale of tangible personal property, each person or business is required to hold a City Sales and Use Tax License and collect and remit the tax to the City of Pueblo.

When a store leases space or departments within the store and accounts for the sales of the leased department and collects the money for the leased department, the store must include the sales of the leased departments on its own Sales and Use Tax return. If the lessor does not file proper Sales and Use Tax returns for the lessee or fails to remit the taxes due, the liability for any such taxes will remain the responsibility of the lessee.

EXAMPLES:

1. Universal Department Store leases its shoe department to Shoes To Fit. Universal accounts for the sales of Shoes To Fit and includes Shoes To Fit's portion of Sales and Use Tax on its return. Because Universal accounts for the sales of Shoes To Fit, it is responsible for remitting Sales and Use Tax for Shoes To Fit. However, if Universal fails to, or refuses to remit the Sales and Use Tax for Shoes to Fit, Shoes To Fit ultimately is responsible for filing its own Sales and Use Tax return and remitting the tax.
2. Super Store Company leases its cosmetic department to Makeover Cosmetics. Makeover Cosmetics keeps its set of books and is therefore responsible for filing its Sales and Use Tax return and remitting the tax.

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LEASES AND RENTALS (GENERAL)

When an entity has the right of possession or use of any article of tangible personal property or taxable service under an agreement of a lease, hire, rental contract, or grant of a license to use (including royalty agreements) the lease/rental payments, fees, or royalties paid are subject to Sales/Use Tax. The lessor is required to collect and remit the Sales Tax to Pueblo on all charges that are part of the agreement. If the lessor fails to collect the Sales Tax, the lessee is responsible for remitting the Use Tax on its Sales/Use Tax return.

If the rental item is picked up by the customer or its agent in another city, the first month's rent is paid to the city where the item was picked up. All remaining lease payments are subject to the City of Pueblo's Sales/Use Tax.

If the rental of equipment includes an operator to run the equipment, the charges for the operator are exempt from Sales/Use Tax, provided that the labor charge is separately stated on the invoice. If not separately stated, the entire charge is subject to Sales/Use Tax.

EXAMPLES:

1. Lease-O-Matic (lessor) leases a tractor to Good Food, Inc. (lessee) for \$100 a month. Lease-O-Matic fails to collect the Sales Tax on the monthly payment. Good Food, Inc. is required to include the Use Tax due on the \$100 monthly payment on the consumer Use Tax line of its Sales/Use Tax return.
2. XYZ, Inc. is leasing a computer system from Rent-From-Us for 36 months with a \$10 purchase option at the end of the lease. Rent-From-Us is responsible for collecting Sales Tax on the 36 monthly payments, and on the \$10 purchase option, if exercised. If Rent-From-Us fails to collect the Sales Tax on the monthly payments and the \$10 purchase option, XYZ, Inc. is required to include the Use Tax due on the consumer Use Tax line of its Sales/Use Tax return.
3. A Pueblo business picks up a piece of equipment in Colorado Springs that will be leased for six months. The lessor collects the first month's payment of \$150.00 and charges Colorado Springs Sales Tax when the equipment is picked up. The remaining 5 months of the lease would be subject to Pueblo Sales/Use Tax. If the lessor is licensed to collect Pueblo Tax, the lessee does not have to remit Use Tax, provided the proper Pueblo Sales Tax is charged on the invoice. If the lessor were not licensed in Pueblo, the lessee would have to remit Use Tax to Pueblo.
4. A Pueblo developer has an agreement with an aviation company to lease a helicopter to shuttle potential investors between the developer's sites. The helicopter includes the pilot, but the invoice and contract agreement states \$500.00 per hour for helicopter rental. The total \$500.00 would be subject to Pueblo Sales/Use Tax, because the labor was not separately stated.

RELATED TAX GUIDES:

Linen Services
Rentals & Service Charges Combined

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TAX GUIDE

LIENS, DISTRAINTS, AND ENFORCEMENT

Any unpaid Sales or Use Tax constitutes a first and prior lien to all other liens on all tangible personal property owned by a business. Further, any unpaid Sales or Use Tax constitutes a first and prior lien to all other liens on all tangible personal property **used** by a business. When necessary, business property may be seized under a distraint warrant issued by the Director of Finance and sold at auction to satisfy any unpaid tax, penalty, and interest due.

Leased property may be exempted from the lien created if within ten days the lessor provides the Director of Finance a recorded security agreement of the leased tangible personal property. This exemption may not apply where lessor and lessee are related.

The taxpayer or those who have possession of, or a security interest in, the property may request, in writing, an informal hearing before the Director of Finance regarding the jeopardy determination and the amount of the assessment, prior to sale of the property at public auction.

When necessary, the Director of Finance will file a lien with the Clerk and Recorder on any taxable real estate (building) where the builder failed to pay the applicable Sales or Use Tax on the materials used in its construction.

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TAX GUIDE

LINEN SERVICES

Businesses engaged in the renting of linens and other apparel to customers, under an agreement which includes a continuous service to be rendered in the periodic cleaning of such articles, are considered to be rental enterprises and, as such, must charge their customers Sales Tax upon the total rental fees charged. Charges for service such as cleaning and mending, if separately stated on the invoice or delivery ticket, are not subject to tax.

Because the linen service businesses collect Sales Tax on the articles which they rent to customers, the original acquisitions of those articles by the linen services are wholesale purchases and thus are not subject to taxation. In addition, replacement components, such as buttons and name patches, are wholesale purchases and are therefore not taxable purchases of the linen services.

If the linens are owned by the customer and the business is providing a cleaning service only, then the transaction would be a non-taxable service and would not be subject to tax.

Supply items used or consumed in the rendering of linen services are subject to Sales/Use Tax when purchased by the linen company. Examples of such linens include soaps and detergents, disinfectants, paper towels, and fabric softeners.

EXAMPLES:

1. ABC Mortuary contracts with Lint Free Linen Service to deliver 10 clean prep gowns to ABC twice each week. The delivery ticket shows separate charges for prep gown rental and for cleaning. Lint Free Linen Service is required to collect Sales Tax on the gown rental charge only.
2. Bill's Buffalo Burgers contracts with Bonnie's Uniform Rental for weekly rental and cleaning of 8 uniforms. Bonnie's Uniform Rental charges a flat fee of \$25. The invoice does not separate charges for rental and cleaning, therefore, the entire charge is taxable.

NOTE: Supplies consumed by Lint Free Linen Service and Bonnie's Uniform Rental during the cleaning process, such as soap, detergent, disinfectant, starch, and fabric softener are subject to Sales/Use Tax at the time of purchase.

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City of Pueblo, Colorado

TAX GUIDE

LIQUOR

DEFINITION:

Sales of fermented malt beverages, vinous or spirituous liquors in packages or by the drink are taxable.

Any retailer selling malt, vinous, or spirituous liquor by the drink may include Sales Tax in the sales price of the drink. This is an exception, specifically allowed by law, to the general requirement that Sales Tax be added to the selling price as a distinct amount.

Cooking wine, wine vinegar, and non-alcoholic cocktail mixes when purchased for domestic home consumption are exempt from taxation.

EXAMPLE:

Joe goes to the local liquor store and purchases the following: 2 six packs of beer, 3 bottles of tequila, 1 bottle of triple sec, 3 bottles of margarita mix, 2 limes, a bag of ice, and a six pack of pop. In accordance with the Tax Code, Joe would pay Sales Tax on the beer, tequila, and triple sec. The margarita mix, limes, and pop are not subject to tax. The ice, for human consumption, is not taxed.

RELATED TAX GUIDE:

Food & Drink

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City of Pueblo, Colorado

TAX GUIDE

LIVESTOCK, LIVESTOCK BEDDING/FEED

The sale or purchase of cattle, sheep, lambs, swine and goats and purchases of mares and stallions for breeding purposes are specifically exempt from taxation.

Sales or purchases of animals not specifically exempted above would otherwise qualify for exemption only when purchased for resale.

EXAMPLE:

Jim's Feedlot purchases 100 calves from Farmer Joe intending to feed the calves until maturity and then sell them. Jim's purchase of the calves meets the livestock exemption and the transaction is not subject to Sales or Use Tax. The same transaction also meets the wholesale exemption, as it is a purchase for resale.

LIVESTOCK AND POULTRY BEDDING/FEED:

Sales or purchases of straw and other bedding for use in the care of livestock and poultry are exempt from Sales or Use Tax. The sale or purchase of feed for livestock or poultry is also exempt from Sales or Use Tax.

EXAMPLE:

Circle X Cattle Ranch grows corn to feed its cattle. Circle X had a bumper crop and sold its excess corn to the Bar X Cattle Company. Because all feed for livestock is exempt from taxation, this transaction is not subject to tax. As an added note, the initial purchase of the seed used by Circle X to grow corn would also be exempt from tax.

RELATED TAX GUIDES:

Feeds & Seeds
Horses

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TAX GUIDE

LODGER'S

In addition to the City of Pueblo's Sales Tax on lodging services, the City Code imposes a 4.3% Lodger's Tax on the sale of lodging.

The Lodger's Tax is reported on the combined City Sales and Use Tax return and is required to be filed by the 20th day of the month following the reporting period.

Lodger's Tax is imposed on the entire amount charged for the furnishing of lodging services or campground space rental to any occupant of a hotel, inn, bed and breakfast, apartment hotel, motor hotel, guesthouse, guest ranch, resort, mobile home, auto, camp, trailer court or park, campground, or similar establishment for a period of less than thirty (30) consecutive days.

Lodger's Tax does not apply to a specifically stated charge for the use of meeting rooms, display rooms, banquet facilities or other facilities that do not contain sleeping accommodations.

EXCEPTION:

The City Code provides an exemption from the imposition of Lodger's Tax for the sale of lodging or campground space rental to any occupant who enters into a written agreement for occupancy of a room or rooms or campground space for a period of at least thirty (30) consecutive days. This exemption applies to persons or organizations that contract with a lodging facility to rent one or more rooms for a period of at least thirty (30) consecutive days, even though the individual(s) who actually occupies the room(s) may not be the same each day, provided that the same room(s) is rented each day.

The Lodger's Tax shall not apply to any lodging, which is exempt from City of Pueblo Sales Tax. The Lodger's Tax does not apply to that portion of the price paid or charged for lodging which was charged for the sale of any goods, or services other than rooms or accommodations.

RELATED TAX GUIDE:

Hotels & Motels

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Tax Guide

MAINTENANCE AGREEMENTS

Agreements or contracts to furnish labor, or parts and labor, to repair or maintain a specific piece of equipment beyond the manufacturer's original warranty are referred to as maintenance agreements, extended warranties or service contracts. For the purpose of determining City of Pueblo sales and use tax applicable, there are three types of maintenance agreements: mandatory, labor only and optional.

MANDATORY MAINTENANCE AGREEMENTS:

If the contract, agreement or warranty is a mandatory charge as a part of the original sale, lease or rental transaction, the charge would be subject to sales/use tax. Any parts furnished under the terms of the agreement are purchased and provided tax-free.

LABOR ONLY SERVICE CONTRACTS:

If the contract, agreement or warranty is optional and is for labor only and any parts will be billed to the customer separately, the contract, agreement or warranty would **not** be subject to sales/use tax. However, the charge for parts or materials is a retail sale and is subject to sales or use tax.

EXAMPLES:

1. A manufacturer of computer systems enters into a leasing agreement with its customer. A maintenance contract is required as part of the lease agreement. This mandatory charge is considered part of the lease agreement and is subject to sales or use tax. Parts that are furnished as part of the contract are purchased tax-free.
2. A city retailer of home appliances has a repair facility in connection with its retail business. At the time an appliance is sold, the retailer offers an optional parts-and-labor maintenance contract that extends beyond the manufacturer's warranty. When repairs are made under the contract, there is no charge to the customer. The retailer is responsible to report and pay use tax to the city based on the cost of the parts and materials used to perform the service.
3. A repair facility that represents several manufacturers of copy machines offers a preventive maintenance program for the copiers. This program includes periodic inspection, cleaning, and adjusting of the copiers. If any parts are needed, an additional charge is made. The repair facility must collect and remit city sales tax on the sale of the parts. There is no tax on the charge for the maintenance program.
4. The High Tech Company operates a manufacturing plant in Pueblo. The company owns specialty manufacturing equipment and purchases maintenance agreements for the equipment from We Fix It Corp located out of state. If any parts are needed to properly maintain the equipment, We Fix It provides them at no charge under the terms of the contract. We Fix It is responsible for paying city sales or use tax on the cost of parts used in Pueblo either on the actual cost of the parts or an established experience rate if they have prior written approval from the Director of Finance. If We Fix It furnishes parts without paying city sales or use tax or equivalent tax on the parts, liability for city tax on the cost of the parts becomes the responsibility of High Tech Company. High Tech Company must pay use tax on the total cost of the maintenance agreement unless High Tech Company has prior written approval from the Director of Finance to use We Fix It Corp's experience rating.

OPTIONAL MAINTENANCE AGREEMENTS:

Replacement parts, materials and supplies used, consumed or stored in the City of Pueblo in the fulfillment of this type of agreement are taxable. If the service provider has not paid City of Pueblo sales or use tax or equivalent tax on the parts furnished under the maintenance agreement, the tax becomes an obligation of the equipment owner. Since sales or use tax is due on the use or consumption of tangible personal property in Pueblo, the use or consumption of repair parts by the equipment owner extends the city tax liability to the owner. The tax liability is determined as follows:

1. If the cost of the parts furnished by the provider is known and can be verified by the city, sales or use tax is due on that cost by the contract provider or the equipment owner.
2. If the provider has an established experience rate for the cost of parts furnished in maintenance agreements and the provider has applied for and received advanced approval in writing from the City of Pueblo Director of Finance, the provider may pay use tax on this experience rate rather than the actual cost of the parts.
3. If the provider has not paid City of Pueblo tax on the parts furnished, the equipment owner may use a providers experience rating only if the equipment owner has received advanced written approval from the Director of Finance. In order to receive this approval, the City of Pueblo must be able to verify the experience rate and its computation.
4. If the provider has not paid City of Pueblo tax on the parts furnished and the experience rate is not known or cannot be verified, the equipment owner must pay use tax on the total cost of the maintenance agreement.
5. In lieu of paying tax on the cost of the parts used, the provider may elect to buy the retail parts tax-free and charge city sales tax to the equipment owner on the total sales price of the maintenance contract.

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Revised 12/05

City of Pueblo, Colorado

TAX GUIDE

MANUFACTURERS

MANUFACTURING:

Manufacturing is defined as “the operation of producing, in an industrial use, an item of tangible personal property different from and having a distinctive name, character, or use from raw or prepared materials and which is an integrated series of operations which place the tangible personal property in a form, composition, or character different from that in which it was acquired”. Slight changes in physical properties are not sufficient to be classified as manufacturing. Heating, slicing, separating into smaller units for sale, cooling or freezing are not manufacturing.

This definition would include, but not limited to: cabinets, furniture, draperies, apparel, pre-manufactured sheds, concrete and concrete products.

The sale of manufactured products is subject to the City of Pueblo Sales/Use Tax. The tax is computed on the total gross value of all materials used, labor and services performed, and all other charges and fees along with the profit thereon. ***There is no deduction for manufacturing labor.***

WHOLESALE PURCHASES:

Manufacturing Wholesale Purchases: Purchases of tangible personal property by a company engaged in the business of manufacturing or compounding are purchases at “wholesale” and therefore tax exempt ***if*** the manufactured item is for resale and ***all*** of the following conditions are met:

1. The tangible personal property is physically transformed by the process of manufacture; and
2. The tangible personal property becomes by the manufacturing or compounding process a necessary and recognized 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 ultimate consumer.

MANUFACTURING SUPPLIES:

Parts or ingredients, which are used in manufacturing but do not become, by the manufacturing process, a necessary and recognized ingredient, component and constituent part of the finished product are considered manufacturing aids and are therefore taxable.

Examples are:

- | | |
|-----------------------|----------------------------------|
| 1. Flux | 6. Phosphoric and sulfuric acid |
| 2. Cleaners | 7. Paint thinners |
| 3. Machine oils | 8. Solvents |
| 4. Abrasives | 9. Welding gases |
| 5. Patterns & drawing | 10. Saw and other cutting blades |

The State of Colorado has an exemption for the purchase of manufacturing equipment by manufacturers, but the City of Pueblo does not. Therefore, the purchase of manufacturing equipment is subject to Pueblo Sales/Use Tax.

EXAMPLES:

1. A manufacturer purchases the following items for use in manufacturing circuit boards: solder, welding gases, copper wire and latex gloves. The welding gases and the latex gloves are supplies used in the manufacturing process, not a necessary and recognizable ingredient and component of the finished product. Therefore, they are subject to Sales/Use Tax. The other items will become an ingredient and component of the finished product that will be resold. Therefore, the solder and copper wire are exempt from Sales/Use Tax.
2. A manufacturer purchases new manufacturing equipment. The equipment is subject to Pueblo Sales/Use Tax, but may be exempt from State sales tax. (See the State of Colorado FYI Manufacturing Equipment Exemption for more information)
3. A Pueblo tool and die maker's invoice lists the following charges: materials \$250 and labor \$500. The total invoice is subject to Sales/Use Tax, even though the charges are separately stated, because the labor is manufacturing labor.
4. XYZ Plumbing is a manufacturer-contractor that also sells plumbing supplies at wholesale. When XYZ Plumbing acts in the capacity of a contractor on Pueblo jobs, they must remit Sales/Use Tax on the basis of manufactured cost of the products they manufacture (i.e. the gross value of all materials, labor and services used and employed).

RELATED TAX GUIDE:

Construction Contractors

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City of Pueblo, Colorado

TAX GUIDE

MEDICAL EXEMPTIONS

The City of Pueblo provides an exemption for medical supplies such as drugs and prosthetic medical and dental appliances when sold for direct, personal use of a specific patient in accordance with a prescription or other written directive issued by a licensed practitioner of medicine, dentistry, podiatry or optometry. Prosthetic devices means any artificial limb, part, device or appliance for human use which aids or replaces a bodily function and is designed, manufactured, altered or adjusted to fit a particular individual and is prescribed by a licensed practitioner of the healing arts. The exemption also applies when the medical supplies are sold and administered by a licensed practitioner, provided they are separately stated and billed to the patient or health insurance provider and are clearly identified on the billing.

Examples of items qualifying for the medical exemption include but are not limited to:

- Arms, artificial,
- Beds, special, for patients with neuromuscular ailments
- Blood, human, whole,
- Blood plasma,
- Blood products & derivatives,
- Breast forms for mastectomy,
- Catheters, permanent,
- Colostomy bags,
- Colostomy sets,
- Colostomy supplies
- Contact lenses, corrective
- Crutches,
- Dentures and dental appliances designed for a specific individual,
- Drugs, prescription (SEE TAX GUIDE ON DRUGS)
- Eyeglasses, corrective,
- Eyes, artificial,
- Glucose, used for treatment of insulin reactions,
- Hands, artificial,
- Hearing aids & batteries,
- Insulin,
- Insulin injecting devices,
- Insulin measuring devices,
- Larynxes, artificial,
- Legs, artificial,
- Orthotics & inserts (But only if a prescription is mandatory for their purchase),
- Ostomy pouches,
- Ostomy tubes, disposable,
- Otology implants,
- Oxygen & hemodialysis, products for use by a medical patient,
- Pacemakers,
- Walkers,
- Wheelchairs

This exemption **excludes** items purchased for use by medical and dental practitioners or medical facilities in providing their services, even if the item is individually packaged for one time use by a patient.

The exemption applies only to items purchased for human consumption. Drugs and prosthetic appliances for animal use are taxable.

NOTE: Medical and/or therapeutic devices or equipment are not exempt even if sold with a doctor's prescription. Such items may include elastic knee braces, waterbeds, hot tubs, exercise bicycles, etc.

EXAMPLES:

1. Mary goes to her local drug store to purchase insulin measuring and injecting devices. This transaction is not subject to sales/use tax.
2. Dr. Johnson purchases penicillin in bulk to be administered in single doses to her patients and she itemizes and identifies each injection on her patient billings. The purchase of the penicillin by the doctor, even though purchased in bulk, is not subject to sales/use tax since the injections are specifically identified as sales to patients.
3. Dr. Johnson also purchases a case of tongue depressors for use in routine examinations. The tongue depressors are consumable supplies used in the ordinary course of Dr. Johnson's medical practice and are discarded immediately after use in the doctor's office. This transaction is subject to sales/use tax.
4. A dentist purchases dental molds, Novocain, toothbrushes, disposal facemasks and a customized crown and bridge. The dentist must pay sales tax on all of the above items with the exception of the customized crown and bridge. The other items are for use in providing care to his/her patient and, therefore, taxable.
5. A patient visits his physician because he stepped on a rusty nail. The physician administers Novocain, removes the nail, cleans up the wound and gives the patient a tetanus shot. The bill separately states the tetanus shot, but not the Novocain. Therefore, the tetanus shot is exempt from sales/use tax. The physician must pay sales/use tax for the Novocain because it was consumed by the physician in providing medical services.

RELATED TAX GUIDES:

Drugs
Dentists & Dental Labs

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City of Pueblo, Colorado

TAX GUIDE

NEWSPAPER INSERTS, SUPPLEMENTS AND PRE-PRINTS

Preprinted newspaper supplements are inserts, attachments or supplements circulated in newspapers that (1) are primarily devoted to advertising; and (2) the distribution, insertion or attachment of which is commonly paid for by the advertiser. Since preprinted newspaper supplements are excluded from the exemption for "newspapers", they are taxable as tangible personal property. The retail sale or purchase of newspaper inserts is taxed by the City of Pueblo if storage, use, distribution or consumption occurs in Pueblo or if newspaper inserts are delivered to or picked up from a Pueblo location.

If a newspaper serves only as a distribution device for advertising inserts, the newspaper is not responsible for tax on the cost of the inserts or the distribution charge. The advertiser or purchaser of newspaper inserts, who arranges for printing of the inserts and distribution of the inserts in a newspaper, is the consumer of the advertising materials and is liable for city sales or use tax on their purchase. The advertiser has taxable use of the inserts in Pueblo even though the advertiser may not take physical possession of the inserts.

EXAMPLE:

AAA Electronics, a national electronic products firm, contracts with XYZ Printers, a commercial printer located in New Jersey, to print newspaper inserts to meet AAA's requirements. XYZ prints the inserts and has them delivered to Pueblo for distribution in a local newspaper. XYZ bills AAA for printing the inserts. If XYZ is licensed to collect city sales tax, they are required to do so. If XYZ is not licensed or fails to collect city sales tax, AAA must remit use tax to the city. Sales or use tax is due on the purchase price of all inserts stored, used, distributed, or consumed in Pueblo.

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TAX GUIDE

NON-PROFIT ORGANIZATIONS

Most tax-exempt organizations **are not** exempt from City of Pueblo sales/use tax. A 501(c)(3) exemption from the IRS or an exempt certificate from the State of Colorado **does not** exempt the organization from City of Pueblo sales/use tax.

“Non-profit” describes a large group of organizations defined in the Internal Revenue Code and includes taxable as well as tax-exempt types. Generally, an organization must qualify as a religious or charitable to be exempt from City tax. Purchases made by these organizations are tax exempt only if they are made directly by the organization, the items purchased are used by the organization in its exempt function or activity and a tax exempt license from the City has been issued to the organization. In order to obtain a letter of exemption from the City, the organization must qualify under Section 501(c)(3) of the Internal Revenue Code, have a State of Colorado tax-exempt certificate (if the organization is located in Colorado), and meet the requirements of the definition of “Charitable” in the City Code.

Examples of non-profit organizations that are normally taxable include, but are not limited to, the following:

- Athletic Organizations
- Chambers of Commerce
- Clubs or Associations
- Cooperatives
- Country Clubs
- Fraternal Organizations
- Fraternities or Sororities
- Parent/Teacher Associations

Non-profit or tax-exempt organizations must charge and collect sales tax when taxable sales are made by them.

RELATED TAX GUIDES:

- Charitable, Religious & Governmental Exemption
- Exemption – Burden of Proof
- Fund Raising

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TAX GUIDE

PETS

The retail sale or purchase of animals is taxable like any other tangible personal property, unless the transaction is otherwise exempt. Specific exemptions are provided for cattle, sheep, lambs, swine and goats. In addition, horses used for breeding purposes are exempt.

The purchase of pet food and prescription drugs for animal use is subject to sales or use tax. The City of Pueblo exemptions for food and prescription drugs for human consumption do not extend to animals.

EXAMPLES:

1. Happy Hound Kennel sells five registered puppies to a licensed pet store. This transaction meets the definition of a wholesale sale and would not be subject to sales or use tax. However, when the pet store sells the puppies to individuals, each of the sales is subject to tax.
2. Doggie Drugs, a distributor of animal medications, makes a sale to Doggie Doctor, a veterinarian. In most cases, this transaction would be taxable because the veterinarian is considered the end user or ultimate consumer of all drugs used in providing his services. However, if the veterinarian is properly licensed for tax purposes, the purchase can be made for resale provided the veterinarian's bill to his/her customer itemizes the drugs and sales tax is collected from the customer and remitted by the veterinarian.

RELATED TAX GUIDES:

Livestock, Livestock Bedding/Feed
Horses

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TAX GUIDE

PHOTOGRAPHERS AND PHOTOSTAT PRODUCERS, PHOTO FINISHERS AND X-RAY LABS

The sale of photographs and Photostat copies, including computerized, digital or other like products, are subject to sales/use tax. This also includes the sale of prints by photo finishers. The rental of, or royalties paid for, the use of photographs is also subject to sales/use tax.

Tangible personal property that becomes an ingredient or component part of photographs or Photostat copies, when purchased by photographers or Photostat producers, are exempt from sales/use tax. This property includes, but is not limited to, mounts, frames and sensitized paper. Materials used in the process of making the photographs or Photostat copies, but which does not become a component part of the photograph or Photostat copy, are subject to sales/use tax. This property includes, but is not limited to, film, chemicals, trays, plates, proof paper and cameras.

Physicians, surgeons, dentists, hospitals, X-ray laboratories and others who purchase X-ray film and then expose it for the purpose of diagnosis are considered the consumers of the X-ray. Therefore, tax applies to the purchase of all materials and supplies used to expose and develop the finished X-ray film. These materials include, but are not limited to, film and chemicals.

EXAMPLES:

1. A Pueblo newspaper pays a royalty to a photographer for the right to use a photograph on its front page. The royalty charge is subject to sales/use tax.
2. A photographer purchases the following: sensitized paper, film, developer, proof paper and frames. The sensitized paper and the frames, provided that they are resold to customers, are exempt from sales/use tax. The other items are subject to sales/use tax, because they are used in the developing process and do not become a component part of the photograph being sold.

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TAX GUIDE

PRINTING INDUSTRY

Printers are primarily engaged in the business of selling tangible personal property in the form of printed matter. The full purchase price of the print job is subject to sales tax. The purchase price includes the gross value of all materials, labor or service, overhead, and profit included in the final charge to the consumer. High-speed copying is considered printing, therefore, the full purchase price is taxable as above. A job that is solely labor (e.g., layout) would not be taxable.

Any tangible personal property which is purchased by the printer and which: a) is transformed in the printing process, b) becomes a component, recognized part of the printed product and c) is essential to the use of the printed product, may be purchased tax-free for resale by the licensed printer.

All purchases, rentals or leases by printers of machinery and equipment are subject to City of Pueblo sales or use tax. All purchases of materials, supplies or other tangible personal property which do not become a component part of the manufactured product, or which do not qualify as pre-press materials, are subject to city sales or use tax. The purchase price or royalty paid for the use of the original artwork is taxable.

Certain materials, known as **pre-press materials**, are purchased by a printer to aid in or facilitate the manufacture of a printed product. These materials are purchased or created for a specific job and have no other use. The purchase of pre-press materials is taxable to the printer unless purchased by the printer for resale; i.e. pre-press materials must become property of the customer. The printer must collect city sales tax on the retail sale of pre-press materials to the printer's customer, unless the customer is tax-exempt.

If pre-press materials are purchased tax-free for resale by the printer, the sale of the pre-press materials by the printer must be taxed in one of two ways. If city sales tax is charged on the print job, pre-press materials are included within the selling price of the printed matter and are taxed as part of the sale. If the print job is exempt from sales tax (e.g. the printed matter is sold at wholesale or is shipped out of City), the printer still must charge City sales tax to the customer on the retail sale of pre-press materials.

The following items are examples of prepress preparation materials that may be exempt from taxation when the requirements for exemption are met:

PREPRESS PREPARATION MATERIALS:

AIRBRUSH COLOR PHOTOS
AUTOMASK
COLOR KEYS
COLOR SEPARATIONS
DIES
DUOTONE
ENGRAVINGS
FILM
HALF TONES
KODAK CONTACT PAPER
LASERTONES
LIGHT-SENSITIVE PAPER

MASKING MATERIALS
MYLAR
NEGATIVES/POSITIVES
PLATES
PROOFING MATERIAL
PROOF SHEETS
RUBYLITH
SCREENS
SLIDES
TAPE (if resold)
TRANSPARENCIES
VELOXES

Purchases of items, which are not considered prepress preparation materials and are consumed by a printer in the performance of print jobs, are subject to sales or use tax. Examples of such items include, but are not limited to, the following:

NON-PREPRESS PREPARATION MATERIALS:

BLANKET CONDITIONER	PLATE CLEANER
BLANKET SAVER	PLATE FINISHER
BLANKET WASH	PLATE PRESERVER
BLANKETS	PLATE SAVER
BLENDER SOLUTION	PRESS WASH
DEVELOPER*	PRESS WAX
FILM DEVELOPING	REPLENISHER
FINISHER	ROLLER WASH
FIXER	SCRATCH REMOVER
FLASH OIL	TAPE
GREASE	TONER
ISOPROPYL ALCOHOL	WATER DUCTOR
KODAK CONTROL STRIPS	
PAPER STOP	
PHOTOS/ARTWORK	

*THIS DOES NOT INCLUDE DEVELOPER USED IN THE XEROX COPY PROCESS

Printed matter, which is partially printed, invoiced to the customer, but held in stock for further imprinting, is taxable on the full price charged by the printer. Sales tax must be collected on the selling price of each part of the job.

For commercial printing of postal cards or stamped envelopes purchased from the United States Postal Service, the amount subject to tax does not include the amount of postage involved.

EXAMPLES:

1. ABC Print Shop, a printer in Pueblo, has a job to print 5,000 brochures for XYZ Bank in Pueblo. In order for ABC to complete the job, it must purchase the following supply items from DEF Supply House: lasertones, transparencies, toner, flash oil and plate finisher. Since ABC is properly licensed to collect and remit Pueblo sales tax, and since it is the policy of ABC to release title of all pre-press materials to its customers, its purchases from DEF Supply House of the lasertones and transparencies qualify for exemption as pre-press materials. ABC's purchases of toner, flash oil and plate finisher are taxable to ABC Print Shop.
3. A Pueblo printer contracts with a customer to design and print an advertising brochure. The printer itemized the following on the invoice: royalty paid for photo \$150.00, labor \$300.00 and materials \$200.00. The total invoice is taxable. Even if items are separately stated, the charges for materials, labor and royalties are subject to sales/use tax.
3. A Pueblo printer purchases the following to be used in his printing business: paper, assorted ink colors, plate cleaner, plate finisher and press wash. The printer must pay sales/use tax on all the items except the paper and ink, which will be resold to customers. All the other items are used by the printer in the printing process, but not resold to customers.
4. A Pueblo printer designed and printed business cards for a customer. The order was for 10,000 cards to be printed with the company logo, address and central phone number. The cards would be stored with the printer; and, as employees needed business cards, the printer would pull these cards from its stock and add names, direct phone numbers and e-mail addresses. The first invoice was for \$2,000.00. The charge for adding each employee's name, phone number and e-mail address is \$15.00 per 100 cards. Sales tax must be collected on the printing charge of \$2,000.00 on the first invoice. The charge for finishing the business cards is also subject to sales/use tax each time additional cards are sold.

RELATED TAX GUIDE:

Advertising Agencies

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TAX GUIDE

RENTALS AND SERVICE CHARGES COMBINED

When the right to possession or use of machinery or equipment is granted under a lease, hire or rental contract, the lessor is required to collect and remit sales or retailer's use tax on the fees charged. If, for any reason, the lessor does not collect the tax, the lessee must pay use tax directly to the City.

If the rental invoice itemizes a separate charge for the services of an equipment operator, only the equipment rental charge is subject to tax. However, if an equipment operator is provided, and a charge for the operator is not separately stated on the invoice, the total invoice amount is taxable.

Contractors, who contract their services, including the use of machinery or equipment, are required to pay only the sales or use tax upon their original cost of the equipment at the time of first use in Pueblo.

EXAMPLES:

1. Jerry's Crane Rental and Dean's Concrete Pumping are new vendors entering the Pueblo construction market. Both companies are offering periodic rentals of equipment and provide equipment operators. There is no separation of the charge for the equipment and for the operator. The entire amount is subject to sales/use tax.
2. We Dig It Construction, an excavation contractor, bid a sub-contract in Pueblo to move dirt at a new real estate development. Since the agreement is to perform a service rather than to rent equipment with the service of an operator, the contract is not a taxable rental. However, We Dig It Construction must pay the city sales or use tax, or equivalent city tax, on the equipment used in the city.

RELATED TAX GUIDES:

Leases & Rentals
Special Mobile Machinery & Equipment

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TAX GUIDE

REPAIR WORK

To repair means to put back in good condition after damage or decay, to mend, to renew or restore. This differs from fabrication in that fabrication/manufacturing creates an original product, while repair work fixes the product when damaged or in the need of repair. The labor involved in repair is not subject to Sales/Use Tax, but fabrication/manufacturing labor is taxable.

A person performing repair services must collect Sales Tax on any tangible personal property that he/she sells. If the repair includes material parts, they must be separately stated on the invoice and tax must be collected; if not separately stated, the entire cost of the repair is subject to Sales/Use Tax. If the repair is primarily labor and any materials used are insignificant to the repair and are not separately stated on the invoice, then the materials are taxable to the repairperson and not to the customer.

EXAMPLES:

1. A Pueblo bar contracts with a craftsperson to custom build a bar. The total amount charged for the bar would be subject to Sales/Use Tax, even if the labor were separately stated, because the labor is manufacturing.
2. A Pueblo appliance store repairs appliances and has a customer bring in a vacuum for repair. The repair consisted of a new beater brush for \$15, labor \$20 and some miscellaneous parts. The store must collect Sales Tax on the \$15 for the beater brush because it is significant to the repair, but the miscellaneous parts and the labor are not subject to tax.

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TAX GUIDE

REPRODUCTION SERVICES

Sales/Use Tax applies to the sale of reproductions or copies of tangible personal property. Tax applies even when the original property that was reproduced or copied is exempt from tax, such as tangible personal property incidental to the performance of a service. Tax must be separately stated on the invoice or receipt. The one exception is for coin-operated photocopy machines. The tax may be included in the price of the copy and the owner of the machine is responsible for separating the tax and remitting it to the City.

EXAMPLES:

1. A Pueblo company hires an architectural firm to design a new building. The architect presents the company with blue prints and a 3-D model of the new building. The company requests an additional 3-D model. The original 3-D model is not subject to Sales/Use Tax, because it was incidental to the performance of a service, but the second model (copy) is subject to Sales/Use Tax.
2. A Pueblo printing company sells photocopies. Less than 50 copies are made by self-service, using the company's coin-operated copy machine, and for quantities of 50 or more a company employee will make copies on a high-speed copier. The price of the coin operated machine copies may include the sales tax, which the printing company must separate and remit to the City; but the company must charge Sales Tax directly to the customer on the full price of the copies from the high-speed copier.

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TAX GUIDE

SALE AND PURCHASE OF A BUSINESS

Pueblo Sales/Use Tax is due on the purchase price paid for tangible personal property, such as furniture, fixtures, equipment, vehicles and supplies (other than inventory held for resale), which is included in the purchase or sale of a business. The tax is based on the amount paid or on the fair market value of the tangible personal property at the time of the sale. Evidence of the taxable purchase price includes a bill of sale, amounts allocated in the sale or purchase agreement, and amounts shown in the accounting records of the purchaser. When no determination of value of the personal property has been made by the purchaser, the current valuation of the property by the Assessor and independent appraisals may also be considered in determining the taxable amount.

Property, acquired by foreclosure or repossession ordinarily is not a sales/purchase transaction subject to the tax. However, prior tax may have attached to the assets.

When a business is acquired through the assumption of outstanding debts, tax due may be based on amounts reasonably reflecting fair market value.

When a business is purchased or acquired, the new owner takes the property subject to delinquent taxes owed by the former owner. All business licenses may be withheld until such delinquent taxes are paid or suitable arrangements are made for payment.

EXAMPLES:

1. ABC Company purchases the assets of XYZ Company for \$150,000. The sale and purchase agreement shows the following allocations: Resale inventory \$50,000; goodwill \$10,000; accounts receivable \$35,000; furniture and fixtures \$15,000; machinery and equipment \$40,000. The taxable base is \$55,000 and includes the furniture, fixtures, machinery, and equipment.
2. DEF Company purchases the assets of UVW Company for \$150,000 and no allocation is shown in the sale and purchase agreement. An appraisal determines the value of the furniture and fixtures is \$25,000 and the machinery and equipment is \$50,000. These amounts are entered in the fix asset ledger. The taxable base is \$75,000.
3. The Third National Bank forecloses on the XYZ Corporation. The business is closed until the bank can find a buyer. No tax is due on the bank's acquisition of the business assets through foreclosure as long as they are held for resale and the bank does not put the assets to taxable use.

In the example above, the bank operates the business while seeking a buyer, then the bank's acquisition of the business assets through foreclosure for use in the business operations may be subject to tax. The taxable base would be the amount of the debt, appraised value of the personal property or the amount recorded on the books of the bank, if the recorded amounts reasonably reflect fair market value.

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TAX GUIDE

SALES TAX

The City of Pueblo is a home rule city in the State of Colorado. As such, Pueblo collects and administers its own sales/use tax. The City of Pueblo's tax regulations differ from those imposed by the State of Colorado and other taxing jurisdictions within the State of Colorado. Tax due to the City of Pueblo should **NOT** be sent to the State of Colorado or any other taxing jurisdiction. Remitting City of Pueblo tax to the State of Colorado or any other taxing jurisdiction does not relieve the taxpayer of the responsibility of remitting the tax to Pueblo.

The City of Pueblo imposes a three and one-half percent (3.7%) sales tax on the purchase price paid or charged on retail sales, leases or rentals of tangible personal property, and on certain services. Taxable services include, but are not limited to, the sale or furnishing of telephone and certain telecommunication services, electricity, steam and natural gas for domestic or commercial consumption, informational and lodging services.

The purpose of the sales tax is to generate funds for the payment of expenses of operating and improving the City and its facilities and for the payment of principal and interest due on certain municipal bonds.

The purchase or sale of **ALL** tangible personal property and taxable services are subject to City of Pueblo sales tax *unless they are specifically exempted*. The accompanying tax guides address these exemptions. If you have any further questions, please contact the City of Pueblo Sales Tax Office at (719) 584-0860.

Any person making taxable retail sales in Pueblo is required to be licensed to collect and remit sales tax. Sales tax returns are required to be filed with remittance on or before the 20th day of the month following the close of the taxable period. Sales tax license applications may be obtained by contacting the City of Pueblo Sales Tax Division.

A retailer holds sales taxes in trust for the City. These taxes are public funds and the property of the City in the hands of the retailer until paid over to the City.

RELATED TAX GUIDES:

Filing Periods

Use Tax

Exemption – Burden of Proof

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TAX GUIDE

SERVICE ENTERPRISES

Businesses primarily engaged in providing a service, generally do not have to collect City of Pueblo Sales Tax on that service.

Businesses engaged in rendering a service, are generally consumers rather than sellers of tangible personal property. Tangible personal property, which is incidentally transferred with the service to the customer, is taxable to the service provider, not to the customer.

To determine if the transaction is a sale of tangible personal property or the transfer of tangible personal property incidental to the performance of a service, one must look to the true nature of the transaction. If the transaction is for advisory services, record keeping, payroll, architectural, tax and like services and the tangible personal property is forms, binders, blueprints, reports or other like property, the tangible personal property is incidental to the performance of the service and, therefore, taxable to the service provider, not the customer/client. If the purchaser's primary interest is in the physical property of the item purchased, the item is subject to Sales/Use Tax when sold.

Copies sold of the tangible personal property incidental to the performance of a service are subject to Sales/Use Tax. The transfer of the original manuscript by an author to the publisher for the purpose of publication is not subject to Sales/Use Tax. However, the sale of printed copies of the author's book would be subject to Sales/Use Tax.

Sales/Use Tax would apply to the sale of artistic expressions in the form of paintings, sculptures and similar artwork, even though the work of art may express an original idea. Generally custom-made items are subject to Sales/Use Tax, with the exception of prototypes. The purchaser's primary interest in these items is in the physical property of the item being purchased. Therefore, they are taxable when sold.

The development of information in a research and development contract is not a sale of tangible personal property in the form of a prototype, model, plan, design or like items. Rather it is a contract for information, which is an intangible service that cannot be conveyed orally and can only be conveyed via tangible personal property, which is incidental to the service. The materials used to make the prototypes, models, plans, design and like items are subject to Sales/Use Tax to be paid by the service provider. Any copies or additional prototypes and models would be subject to Sales/Use Tax when sold.

When the transaction is determined to be the sale of tangible personal property and not a service, Sales Tax would apply to the full sale price of the item. Deductions are not allowed for labor, management, thought, time or other separately stated items.

Service businesses that also sell tangible personal property or taxable services must collect Sales Tax on these sales. If the charge for service is not separately stated from the charge for tangible personal property, the entire amount is subject to Sales/Use Tax.

Charges for labor or services to install, apply, remodel or repair tangible personal property are not taxable, as long as the charge for the service is separately stated on the invoice to the consumer from any tangible personal property furnished as part of the service. If no separation is made, City Sales Tax applies to the total amount of the sale.

Businesses that render a service must pay Sales Tax or report Use Tax on purchases of tangible personal property used, stored, or consumed in Pueblo in the performance of their services.

EXAMPLES:

1. ABC Payroll & Tax Service provides forms and tax reports to its clients in the performance of its service. The tangible personal property transferred is incidental to the service and is therefore not subject to Sales/Use Tax. Instead, ABC must pay Sales or Use Tax at the time of its purchase of the blank forms and reports.
2. XYZ Beauty Salon uses tangible personal property such as shampoos, hair conditioners, and hair curlers in the performance of its services. In addition, XYZ sells these items by the bottle, jar, and package at retail. XYZ must pay Sales/Use Tax on those items used or consumed in rendering its service. XYZ must collect and remit Sales Tax on all retail sales.
3. An architectural design firm contracts with a land developer to design a subdivision. The architect transfers blueprints and a 3-D model of the development. The developer requests two additional sets of blueprints and two additional models for his two partners. The original set of blueprints and 3-D model are not taxable to the developer, because they are incidental to the service; but the materials used to make them are taxable to the architect. The additional two sets of blueprints and models are taxable to the developer because they are copies.
4. A law firm contracted with an artist to design and build a sculpture for the firm's lobby. The artist's invoice read: materials \$500, design work \$1,000 and labor \$2,000. The entire invoice is subject to Sales/Use Tax, even though it is separately stated. A deduction for labor and design is not allowed when the transaction is a sale of tangible personal property.
5. Joe's Garage performs oil changes and invoices their customers for \$29.95: \$11.95 for oil and the oil filter, and \$18.00 for labor. Joe's Garage is required to collect sales tax on \$11.95 from their customers.
6. Bob's Garage charges a flat \$29.95 for a standard oil change. Bob's Garage must collect Sales Tax on \$29.95 from their customers.

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SPECIAL MOBILE MACHINERY AND EQUIPMENT

Special mobile machinery (SMM) vehicles, a.k.a. special mobile equipment (SME), are of a design commonly used in the construction business. This equipment, self-propelled or otherwise, are not generally designed to transport persons or cargo over public highways.

Motor vehicles redesigned or modified with the attachment of special equipment or machinery weighing over 500 pounds, which becomes essential to the operation of the vehicle in accomplishing the purpose for which such vehicle is being used, are also classified as special mobile machinery.

Special mobile machinery (SMM) requires a special State of Colorado issued license plate on which the letters "SMM" appear. If special mobile machinery is attached to a vehicle, such as to the "bed" of a truck, the special mobile machinery is required to be licensed with the SMM plate and the truck itself is licensed in the normal fashion with a vehicle license plate.

Examples of equipment which qualify for the SMM plate include:

Air compressors, generators, welders, asphalt plant units, acoustic mixers, power brooms, towed tankers, tar pots, sweepers, concrete mixers, batchers and pavers, conveyors, crawler shovels, crawler backhoes, crawler cranes, truck cranes, hydraulic cranes, bottom dump and rear dump trailers, motor graders, loaders, straddle carriers, flood lighting units, roller/compactors, forklifts, motor scrapers, bulldozers, tractors, backhoes, trailers (storage, tool or office) and mobile hydraulic hammers/crawlers.

DIFFERENCES IN TAXING SMM AND MOTOR VEHICLES:

Motor vehicles are designed to convey persons or cargo over the public highways. They are titled with the State of Colorado and, if owned by a business, must be legally registered at the address from which they are principally operated and maintained. Sales or use taxes may be imposed only by the jurisdiction in which a motor vehicle is legally registered. SMM is required to be registered with the State of Colorado, but it is not classified as a motor vehicle. Unlike motor vehicles that are taxed at their point of registration, sales or use taxes are applied to SMM in the same manner as to any other tangible personal property---at the point of purchase or use. If SMM is purchased or used in the City of Pueblo, city sales or use taxes may apply.

SALES AND USE TAX:

The purchase, storage, use, or consumption of SMM in the City of Pueblo is a taxable event. City sales or use tax applies regardless of the address where the SMM is registered. However, if another city's sales or use tax has been previously paid on the purchase or use of the equipment, taxes previously paid may be allowed as a credit against any City of Pueblo taxes due.

NEW SPECIAL MOBILE MACHINERY:

All special mobile machinery purchased by a Pueblo business and stored in the city is subject to sales/use tax at 3.7%. This includes special mobile machinery used within Pueblo by a construction contractor domiciled outside of the city.

USED SPECIAL MOBILE MACHINERY:

Special mobile machinery, which has been used prior to being brought into Pueblo, is subject to the 3.7% use tax on the original purchase price of the equipment at the occasion of its first use in Pueblo. Credit is allowed for sales and use taxes previously paid to any municipality within the United States to the extent the tax paid does not exceed the Pueblo tax liability.

Note: The City of Pueblo provides for a proportional use tax for construction equipment (including special mobile machinery) located within Pueblo for a period of thirty (30) consecutive days or less, providing the taxpayer has complied with the provisions of C.R.S. 29-2-109.

RENTAL OF SPECIAL MOBILE MACHINERY:

Businesses engaged in renting special mobile machinery are allowed to register the special mobile machinery without paying the specific ownership tax. (The specific ownership tax is sometimes referred to as the "SMM Tax" or "SME Tax.") However, when special mobile machinery is rented, the rental vendor is required to collect SMM Tax or SME Tax at the rate of 2% of the rental charge. The 2% charged is not included in the taxable rental price for sales/use tax purposes. This SME Tax is not a sales tax, but an additional tax. Credit for this tax is not allowed in determining Pueblo sales or use tax due.

EXAMPLES:

1. Cindy's Construction Company brings a used grader into Pueblo for work on a new parking garage. The grader cost \$30,000 when Cindy's purchased it. Cindy's paid no other city taxes on this grader. In addition, a new backhoe is purchased for \$10,000 from a Pueblo vendor and is delivered to the Pueblo job site.
2. Cindy's Construction Company owes \$1,110.00 of Pueblo use tax on the grader ($\$30,000 \times 3.7\%$) and \$370.00 sales tax on the backhoe ($\$10,000 \times 3.7\%$).

Jerry's Construction Company is located in Pueblo. Jerry buys a new front-end loader from a Denver supplier for \$100,000.00 and has it delivered to his yard within the city. The Denver supplier charged state sales tax on the sale, but is not licensed to collect Pueblo sales tax. Pueblo use tax is due on the purchase price.

RELATED TAX GUIDE:

Construction Contractors

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STATUTE OF LIMITATIONS

Assessment of sales and use tax deficiencies by the Director of Finance must be made within three years after the sales or use tax return was payable or was filed by the taxpayer. However, in the case of a failure to file a return or the filing of a false or fraudulent return, sales and use taxes, penalty, and interest may be assessed at any time, with no statute of limitations.

The Director of Finance and the taxpayer may consent to the extension of the three-year limitation period. The consent is generally used at the beginning of an audit engagement or when the examination of a taxpayer's returns must be delayed for various reasons. The consent must be in writing and executed by the taxpayer and the Director of Finance. Signing the consent is not an admission of liability. The time period set forth in the consent agreement may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

EXAMPLES:

1. Dan's Tile Company has never filed a use tax return with the city. Dan's started business in Pueblo five years ago. When selected for audit, Dan's records may be examined back to the date he started business in the city. The Statute of Limitations will not protect Dan's since he failed to file a tax return.
2. XYZ Wool Distributing has been selected for an audit. When contacted by telephone, XYZ states that due to scheduling conflicts, they could not allow an auditor into their place of business for at least three months. To protect the audit period and to prevent the possible issuance of an estimated assessment, XYZ was requested to sign a consent extending the time period for assessing sales, use and occupational privilege taxes. Once properly executed, this form protects the audit period, and keeps the period open for the length of time which has been agreed upon by the parties.

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TAX GUIDE

TIPS AND GRATUITIES

Tips and/or gratuities are not subject to sales and use tax when the patron **voluntarily** leaves cash or adds an amount to the charge ticket for the benefit of the service provider.

However, **mandatory** service or service related charges, whether described as tips, gratuities or otherwise, that are included as part of the amount paid for food or drink, served by restaurants and at other places at which prepared food or drink is regularly sold, are taxable at the rate of 3.7%.

In order for a proprietor-determined service charge to not be subject to Pueblo sales tax, both of the following conditions must apply. First, the charge must be labeled on the customers' guest check as either "suggested" or "discretionary" and as a "tip" or a "gratuity." Second, the "total" line on the credit card receipt, where applicable, must be left blank, to enable the customer to decide what amount will actually be paid. Under these conditions, the gratuity is considered to be voluntary, and thus is not subject to Pueblo sales tax.

The difference between Pueblo and the state's treatment of gratuities is that if the gratuity is mandatory, it is subject to Pueblo tax, but may not be subject to state tax if distributed to the service person.

EXAMPLES

1. Edgar and Bea go out to a neighborhood restaurant for dinner. When they receive the bill Edgar voluntarily leaves a tip for the outstanding service they received. The tip is not subject to the imposition of sales tax.
2. Nine co-workers go to lunch at a restaurant. The restaurant imposes a mandatory 15% gratuity for parties of six or more. Such a statement appears on the menu and the customers' guest check. This gratuity is distributed directly to the waiter or waitress who actually rendered the service. The mandatory 15% gratuity is subject to Pueblo tax.
3. Twenty co-workers go to a retirement luncheon at a favorite restaurant. The restaurant, as is its practice for parties of six or more, prints a line on the guest check labeled "15% Suggested Gratuity" and includes the 15% in the total amount due on the quest check. However, on the credit card receipt, the total line is left blank to enable the patron to decide what amount will actually be paid. This suggested gratuity is considered voluntary and is thus not subject to the imposition of Pueblo tax.

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TRADE-INS

The amount allowed as a trade-in is a reduction from the taxable sales price when such traded-in property is to be resold in the usual course of the retailer's business. Sales/use tax is due on the net price paid by the purchaser, after reducing the taxable sales price by the amount of the trade-in.

Trade-ins not intended to be resold in the usual course of business cannot be excluded from the taxable selling price of the new item. Trade-ins sold by the retailer as "scrap" are considered to be sold in the usual course of the retailer's business activity.

EXAMPLES:

1. Eddie purchases a new computer for \$2,000.00 from an office supply store and receives a discount of \$150.00 for the trade-in of an old computer. The office supply store will clean and resell the old computer. The net taxable selling price of the new computer is \$1,850.00.
2. Farmer John trades in a cow for a car. The dealer will use the cow for his personal consumption. The trade-in allowed for the cow is **not** allowed as a reduction to the taxable selling price of the car, as the dealer is not reselling the cow in the usual course of business.

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TRAVEL AGENTS

Travel agencies provide a service and, as such, generally do not sell tangible personal property at retail. In general, travel agents place and confirm reservations for lodging, airlines, car rentals, and tour packages. They may also issue airline and Amtrak tickets. Travel agents derive their income through fees (commissions) for providing this service.

Travel agencies may subscribe to a service that provides continuously updated information regarding the availability status of a hotel, flight, rental car, etc. The purchase of this service is not subject to tax as it is a purchase of two-way communication. It is not a purchase of existing information from a database. If this service includes the lease or rental of tangible personal property however, such property is subject to sales or use tax.

Travel agencies are subject to sales or use tax on purchases of tangible personal property used or consumed in rendering their service, including items given away to customers, such as maps, brochures, and catalogs.

EXAMPLE:

ABC Travel sells an airline ticket to Dorothy for a weekend trip to Las Vegas. The sale of the airline ticket to Dorothy is exempt from sales tax. However, ABC is required to pay sales or use tax on the purchase of the tangible personal property used or consumed to provide this service (i.e., computers, blank ticket forms, printing equipment).

RELATED TAX GUIDE:

Use Tax

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TRUSTEES, RECEIVERS, EXECUTORS AND ADMINISTRATORS

When trustees, receivers, executors, or administrators, by virtue of their appointment (whether appointed by a state or federal court), continue to operate, manage, or control a company engaged in business in the City, they must collect and remit the sales tax. Any items subject to the use tax must also be reported and remitted to the City.

The taxes apply, notwithstanding that such trustees, receivers, executors, or administrators may be engaged in liquidating the assets of a bankrupt or insolvent firm. In addition, any personal representative, trustee, receiver or other person acting in a fiduciary capacity who distributes the estate or fund in his control without having first paid any taxes due the city, which taxes may be assessed within the Statute of Limitations, shall be personally liable to the extent of the value of the property distributed for any unpaid taxes due.

EXAMPLE:

Smith's Hardware Store has filed for reorganization under Chapter 11 of the Federal Bankruptcy Code. It will continue to operate under a court appointed trustee while it works out a settlement with its creditors. The trustee is responsible for properly reporting and remitting sales tax on all taxable sales even though Smith's Hardware Store is operating under protection of the bankruptcy court.

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USE TAX

The City of Pueblo Municipal Code imposes use tax upon the privilege of using, storing, distributing or consuming within the City, tangible personal property and certain services purchased at retail, when there has been no previous payment of a legally imposed sales or use tax equal to or greater than the Pueblo rate.

The purpose of the use tax is to raise funds for the payment of expenses of operating and improving the City and its facilities. Use tax is a complement to the sales tax and its goal is to equalize competition between in-city and out-of-city vendors and to eliminate the unfair advantage possessed by out-of-city vendors who do not charge city sales tax.

DEFINITION:

Use tax is the tax paid or required to be paid by a person for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City and which has not been subject to the City retail sales tax.

In the absence of not having paid sales tax to a licensed vendor, the use tax is levied directly upon the person who purchases the taxable property or services, either within or outside the city, and uses, stores, distributes or consumes the same in the city. The purchaser must make remittance of the tax directly to the City, together with returns showing the purchased articles that are subject to the tax.

Use tax is paid by the purchaser when sales tax has not been charged and collected by the seller for whatever reason. There are various reasons why sales tax would not have been collected. Some of the more common are:

The purchase was shipped into the City, via common carrier, having been sold by an unlicensed vendor located outside the City. In this case there should not be any City tax charged, but State of Colorado and County taxes may be charged or a combination of these taxes may be charged.

A City of Pueblo business purchased from a vendor located outside the City. The purchaser went to the vendor's location and picked up the purchase. In this case, depending on where the vendor is located, another city's tax may be charged, or if the vendor were located in an unincorporated area, there would not be any city tax charged.

A City of Pueblo business purchased items tax exempt for resale, but pulls some of the items from inventory to use in the operation of its own business.

In general, if an item is exempt from sales tax, it is exempt from use tax.

REDUCTION FOR TAX PAID ANOTHER CITY:

Use tax due to the City of Pueblo shall be reduced by the amount of sales or use tax legally paid to another Colorado municipality. This credit is not to exceed the amount of Pueblo's sales/use tax of 3.7%.

When a Pueblo business picks up a purchase in another city and pays the other city's sales tax, a credit is given for the amount of tax paid to the other city up to an amount equal to the Pueblo use tax amount of 3.7%. If the Pueblo tax rate is higher than the other city's tax rate, use tax is due on the difference.

Use tax due to the City of Pueblo shall also be reduced by the amount of sales or use tax legally paid to other states based on the following formula. The tax rate legally paid to another state is first reduced by the State of Colorado tax rate, then any additional state collected taxes subject to use tax and then by the City of Pueblo tax rate. Any remaining tax due is to the City of Pueblo not to exceed the City of Pueblo's tax rate of 3.7%.

If a vendor located outside the City of Pueblo ships purchased items into Pueblo and charges another city's sales tax, the Pueblo business should not pay the other city's sales tax. The Pueblo business should pay the invoice less the illegally charged city sales tax and remit use tax to the City of Pueblo. It is the responsibility of the Pueblo business to make sure that the proper tax is being paid and that the vendor collecting any Pueblo sales tax is properly licensed with the city. Another city's tax is legally collected only if the purchaser takes possession of the property within the legal boundaries of that city.

Any leased equipment or materials being used in the City of Pueblo are subject to Pueblo's sales/use tax. If the leased item is picked up outside the City of Pueblo, the first month's sales tax is due to the city where the item was picked up. All remaining months sales/use tax would be paid to Pueblo.

LICENSING & REMITTANCE:

All persons doing business in the City of Pueblo must be licensed; this includes all service type businesses. If retail sales are made, the business needs a sales/use tax license. If no retail sales are made the business is required to have a use tax license.

Periodic returns are due from every business including use tax returns from service businesses. These returns **must** be filed when due even if a "0" tax liability is reported.

Use tax is reported on Schedule B on the back of the Combined Sales/Use Tax Return, transferring the total taxable sales to Line 10 on front of the return and complete Line 10 thru Line 15.

EXAMPLES OF CONSUMER USE TAX:

1. Flux-Air Corporation purchases coffee at a grocery store, which did not collect any sales tax. The company is required to pay consumer use tax at the rate of 3.7%.
2. XYZ buys a new computer from an outlet in Chicago. The vendor does not collect any sales tax. XYZ must pay 3.7% use tax on the purchase of this item. If the vendor had properly collected a Chicago municipal tax of 2%, XYZ would be required to pay the 1.7% differential as measured by the City of Pueblo tax rate and the amount of tax imposed by the other municipality.
3. A Pueblo business purchases a piece of equipment from a Denver vendor. The vendor is not licensed to collect Pueblo sales tax. The equipment is shipped via a trucking line arranged and paid for by the Denver business. The tax charged on the invoice is the only state. The Pueblo business must remit use tax to the City of Pueblo.
4. An office supply store withdraws pens, copy paper and message pads from its inventory for use by its employees in the store. The supply store must remit use tax on the cost to the store of the supplies that it removes from inventory for its own use.

RELATED TAX GUIDE:

Sales Tax

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City of Pueblo, Colorado

TAX GUIDE

VENDING MACHINE SALES AND EQUIPMENT

VENDING MACHINE SALES:

Sales of tangible personal property, sold through vending machines, are subject to City of Pueblo sales tax. Honor box sales are treated the same as vending machine sales. Both food and non-food items are subject to the City tax of 3.7%.

Items sold through vending machines may include the sales tax in the sales price of the item vended. This is an exception, specifically allowed by law, to the general requirement that sales tax be explicitly added to the selling price as a distinct amount.

The vended price includes the 3.7% Pueblo sales tax plus the sales tax collected by the State of Colorado.

VENDING MACHINE OPERATORS:

The vending machine operator is required to be licensed to collect City of Pueblo sales tax.

The purchase of the items vended is a wholesale transaction and therefore is not subject to sales/use tax. However, the purchase of vending machines and any repair parts are subject to city tax based on the full purchase price paid. Credit will be allowed for any tax legally paid another municipality.

EXAMPLES:

1. ABC Arcade has two beverage vending machines selling canned soda and one candy vending machine. Total collections last month were \$1,000.00. ABC should calculate their taxable sales as follows:

GROSS SALES INCLUDING TAXES	\$1,000.00
DIVIDED BY PUEBLO TAX	<u>÷ 1.037</u>
PUEBLO TAXABLE SALES	\$964.32
MULTIPLIED BY PUEBLO TAX RATE ON FOOD AND BEVERAGE SOLD THROUGH VENDING MACHINES	<u>x .037</u>
PUEBLO SALES TAX DUE	\$35.68

Note: If the vending machines sold fountain-style soda, coffee or non-food items not exempt by the State of Colorado, the sales from those machines would be divided by 1.076 to derive the Pueblo Taxable Sales. The Pueblo taxable sales would then be multiplied by .037 to determine the Pueblo sales tax due

2. A vending company brings vending equipment purchased two months earlier into Pueblo for placement at client offices. The cost of the equipment was \$5,000.00. At the time of purchase, 2% (or \$100) sales tax was imposed and paid to Lakewood. The Pueblo tax due is calculated as follows:

COST OF EQUIPMENT	\$5,000.00
MULTIPLY BY PUEBLO TAX RATE	<u>x 3.7%</u>
PUEBLO TAX DUE	\$185.00
REDUCTION FOR TAX PAID TO ANOTHER MUNICIPALITY	<u>(100.00)</u>
USE TAX DUE TO PUEBLO	\$85.00

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City of Pueblo, Colorado

TAX GUIDE

WHOLESALE SALES AND WHOLESALE DEALERS

Generally, the retail sale or purchase of articles of tangible personal property, not otherwise exempt, is subject to sales or use tax. Wholesale sales, however, are not subject to sales/use tax.

WHOLESALE SALES INCLUDE:

Sales by wholesalers to licensed retail merchants, jobbers, dealers or other wholesalers for resale.

Note: Wholesale transactions are limited to items to be resold by a purchaser.

Sales to a purchaser engaged in the business of manufacturing or compounding for use, profit or sale tangible personal property, which meet all of the following conditions:

It is actually transformed by the manufacturing process;

It becomes, by the manufacturing or compounding process, a necessary and recognizable ingredient, component and constituent part of the finished product; and

Its physical presence in the finished product is essential to the use thereof in the hands of the ultimate consumer.

Sales for use as containers, labels and shipping cases which meet all of the following conditions:

It is used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to contain or label the finished product;

It is transferred by said purchaser along with and as a part of the finished product to the ultimate consumer; and

It is not returnable to said purchaser for reuse.

WHOLESALE SALES DO NOT INCLUDE:

A sale by wholesalers to users or consumers not for resale. This would include any merchandise sold to wholesalers for their own use. A purchaser who provides the vendor a copy of their sales tax license is not exempt on purchases not resold. Sales taxes must be paid on all purchases for business or personal use. Except for withdrawals from resale inventory, the buyer does not have the option of later paying consumer use tax on purchases for business or personal use.

The leasing, hiring, renting of, or granting of a license to use tangible personal property to a user or consumer thereof (including royalty agreements).

Sales of returnable containers to manufacturers, compounders, wholesalers, retailers, jobbers, packagers, distributors or bottlers.

Sales of materials and supplies, to a manufacturer, that do not become a constituent part of the final manufactured product.

BURDEN OF PROOF:

In order for a wholesale sale to be valid, the seller must exercise care and good faith to insure the product sold is of a type normally resold, leased, rented, or incorporated as an ingredient or component part of a product manufactured by the buyer and then resold in the usual course of business. It is the seller's responsibility to collect sales tax in any questionable situations. The purchaser can then apply to the City within 60 days for a refund of any taxes paid in error.

EXAMPLES:

1. AAA Distributors sells white T-shirts to Joe's T-Shirt Shop located in Pueblo. Joe's T-Shirt Shop then silk screens pictures on them and sells them to customers.

The transaction between AAA Distributors and Joe's T-Shirt Shop is a wholesale sale and is not taxable. The transaction of purchasing paint, which is used in the silkscreen process, is also a wholesale sale and is not taxable. The sale transactions between Joe's T-Shirt Shop and its customers are retail sales and Denver sales tax applies.

2. ABC Box Company sells specially designed clothing boxes to three Pueblo vendors: Major Department Store, XYZ Moving and Storage, and the Little Package Store. The boxes sold to Major Department Store are used to package the products they sell, are not returnable, and their costs are included in the selling price of items Major Department Store sells at retail. The boxes sold to XYZ Moving and Storage are used in performing the moving and storage services and are not separately invoiced to its customers. The boxes sold to the Little Package Store are resold to its customers. Both Major Department Store and the Little Package Store have Denver retail sales tax licenses.

ABC Box Company will not tax the sales to Major Department Store or the Little Package Store. These are wholesale sales because the Major Department Store uses the boxes to contain items it sold at retail and the cost is included in the selling price. The Little Package Store sells the boxes at retail and collects the sales tax from its customers. ABC Box Company would tax XYZ Moving and Storage since XYZ Moving and Storage does not have a retail sales tax license and does not subsequently make retail sales of the boxes.

3. Fast Freddie's Used Cars, which holds a resale license in Pueblo, goes to ABC Computer Sales and Service to purchase a desktop computer. Fast Freddie provides a copy of its resale license and states that it is "buying for resale".

Since Fast Freddie is in the used car business, ABC cannot in good faith make the determination that Fast Freddie will resell the computer. Therefore, Pueblo sales/use tax must be charged on the transaction. Fast Freddie may request a refund from the City if it believes the purchase is indeed for resale.

4. Sam's Supply sells parts, supplies, and tools to customers in the heating, ventilation, and air conditioning (HVAC) industry. Harry's Heating comes in and purchases a thermostatic control module, a bottle of leak detector fluid, and a wrench. As part of its credit approval process, Sam's Supply has a copy of Harry's Heating current sales tax license on file, and Harry's Heating has been a regular customer for some time and is known to be in the business of repairing heating systems.

Harry's Heating can purchase the thermostatic control module as a wholesale purchase, since it will resell this item in the normal course of its business. However, Harry's Heating must pay sales tax on the bottle of leak detector (a supply used in the business) and the wrench (a tool used in the business). The supplies used in the business would be taxable even if Harry's Heating bills a generic line item of "supplies" on its invoices to its end customers.

RELATED TAX GUIDES:

Container, Label & Shipping Cases
Exempt Purchases Converted to Taxable Use

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