

City and County of Denver, Colorado

TAX GUIDE

Topic No. 25

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 Denver 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 If any item which was originally purchased for resale is later withdrawn from inventory for use by a business or an individual, the cost of the item withdrawn is subject to use tax. If the item is withdrawn from inventory more than one year after its purchase date, the taxable amount is the item's fair market value.

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

An exemption exists for tangible personal property which was originally purchased at wholesale and which is removed from inventory or taken out of a manufacturing or compounding process and is donated without consideration to the United States government, to the state, its departments and institutions and political subdivisions or to any organization which has been certified as a not-for-profit organization under Section 501(c)(3) of the Internal Revenue Code and which is also operated as a Colorado nonprofit corporation.

EXAMPLES

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 The taxable incident occurs when the chair is withdrawn from inventory for use by the business.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 or fair market value if the chair was converted to business use more than one year after the purchase date.

XYZ Office Furniture decides to donate several desks to a Colorado nonprofit corporation, which is certified as a 501(c)(3). Because the donation is done without consideration and is made to certified 501(c)(3) organization, which is also operated as a Colorado nonprofit corporation, no use tax is due, either from XYZ Office Furniture or the Colorado nonprofit corporation.

* DRMC Section 53-96(1). Imposition of Tax.

*DRMC Section 53-97(22). Exemptions

THE ABOVE INFORMATION IS A SUMMARY IN LAYMAN'S TERMS OF THE RELEVANT DENVER TAX LAW FOR THIS INDUSTRY OR BUSINESS SEGMENT. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE DRMC AND APPLICABLE RULES AND REGULATIONS.

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Topic No. 26

FACILITIES DEVELOPMENT ADMISSION (FDA) TAX

Article VII of the DRMC imposes a ten percent (10%) Facilities Development Admissions (FDA) tax upon the purchase price of each admission to any entertainment, amusement, or athletic event or other production or assembly staged, produced, convened or held at or on any facility or property owned or leased by the City and County of Denver (hereafter the "City"). This includes, but is not limited to, the following facilities:

Boettcher Concert Hall
City and County of Denver Streets and Right of Ways
Colorado Convention Center
Denver Botanic Gardens
Denver Coliseum
Denver Parks and Facilities
Denver Performing Arts Complex
Ellie Caulkins Opera House
Grant Chambers Gallery
Helen Bonfils Theatre Complex
McNichols Civic Center Building
National Western Stock Show Facilities (All)
Quigg Newton Denver Municipal Auditorium
Red Rocks Amphitheater and Visitor Center
Temple Hoyne Buell Theatre

The tax does not apply to sales by the City, such as regular admission fees to the Denver Zoo, museums owned by the City, the IMAX Theatre, or the Botanic Gardens.

Section 53-347(1) provides exemption on "admissions to events in which the persons participating or performing in the event are not paid or do not compete for money...;" e.g., an amateur boxing tournament or a high school basketball game.

Complimentary tickets used for an event at a City facility are not subject to FDA tax since there is no consideration that would constitute a purchase price. Conversely, any tickets traded or exchanged for services or tangible personal property are subject to FDA tax based on the value of the property or services received.

The tax must be stated as a separate item on the ticket, and returns are required to be submitted to the Manager of Finance by the 15th day of the calendar month following the month of the sale.

Conferences and Conventions

FDA tax does not apply to the registration/attendance purchase price of a Conference or Convention, if the following conditions exist:

- The Conference or Convention is a closed event (it is neither open to or advertised to the general public).
- The registration/attendance purchase price is inclusive of all events (**i.e. there are no separately ticketed events** (such as a concert, special speakers, trade show, special activities, etc.).

If a Conference or Convention offers attendees separately ticketed events/activities, then **FDA tax does apply** to the purchase price of the separately ticketed event(s).

For more information about FDA tax please visit www.denvergov.org/treasury or call the Taxpayer Service Unit of the Treasury Division at 720-913-9400.

EXAMPLES

1. Tickets are sold to the AAAA high school state basketball championship game. The participants in this event are not being paid for their performance; therefore, tickets purchased for this event are not subject to the FDA tax.
2. A local concert promoter gives a group of tickets to a radio station to be awarded as prizes in contests. These are complimentary tickets and as such are not subject to FDA tax. If the tickets had been traded to the radio station for commercial air time, FDA tax would be due based on the price of the admission or the value of the air time, whichever is less, received in exchange for the tickets.
3. The same concert promoter trades 100 tickets to a local computer dealer for a laptop computer. FDA tax is due based on the value of the computer received in exchange for the tickets or the price of all of the tickets, whichever is less. This same transaction would also subject the computer dealer to a use tax liability based on the cost of the computer withdrawn from inventory. These types of transactions are referred to as "trade-outs."
4. The Machine Tool Manufacturer's Association of America has chosen to hold their annual convention in Denver at the Colorado Convention Center. The event is open only to members of the Association. The registration/attendance fee is \$350; attendees are also however, offered the option, for an additional \$75, to purchase admission to a special concert at Red Rocks Amphitheatre. This concert is a **separately ticketed** event and is subject to FDA tax. Therefore, the Convention organizer would charge FDA tax on the \$75 concert purchase price, **but not on the \$350** general registration/attendance purchase price.
5. A Conference, being held at a City owned facility, has a registration/attendance purchase price of \$400, which is inclusive of all activities, including a concert by a country-western star. Since there are no separately ticketed events (the registration/attendance purchase price is inclusive of all events) no portion of the registration/attendance purchase price is subject to FDA tax.

- * DRMC Section 53-345. Definitions.
- * DRMC Section 53-346. Imposition of the tax.
- * DRMC Section 53-347(1). Exemptions.
- * DRMC Section 53-348. Collection of tax by vendor; liability.

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Facilities Development Admissions Tax

Quick Reference Flow Chart

Please Follow the Steps Below to Determine if Your Event is Subject to FDA Tax
(As You Follow the Steps - If Any One Step Leads You to "Not Subject to FDA Tax" - You Need Go No Further)

