

City and County of Denver, Colorado

TAX GUIDE

Topic No. 56

MANUFACTURERS

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

BASIS FOR REPORTING TAX

Organizations engaged in the manufacturing of tangible personal property which also perform construction contracts (i.e., permanently affixing personal property to real property) for which there exists also a retail market for the manufactured product, are subject to Denver tax on the gross value of all the materials, labor and services used and employed in the manufacture of the product.

Where a retail market does not exist for the manufactured product, tax is to be reported only on the actual cost of materials used in the product.

Purchases of tangible personal property by a company engaged in the business of manufacturing or compounding are purchases at "wholesale" if the manufactured item is for resale and all of the following conditions are met:

- A. The tangible personal property is physically transformed by the process of the manufacturer;
- B. The tangible personal property becomes by the manufacturing or compounding process a necessary and recognizable ingredient, component and constituent part of the finished product; and
- C. The tangible personal property's physical presence in the finished product is essential to the use of the ultimate consumer.

EXAMPLES

1. AAA Plumbing is a manufacturer-contractor that also sells plumbing supplies at wholesale. AAA makes no retail sales, although a retail market clearly exists for plumbing supplies. When AAA acts in the capacity of a contractor on Denver 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) because of the existence of a retail market for those products they manufacture.
2. ABC is an asphalt contractor/manufacturer. ABC contracts with general contractors to lay the asphalt required for parking lots. ABC acquires the various ingredients to make the asphalt and combines, mixes, and heats them to create the asphalt. Since a retail market exists, ABC must remit sales/use tax on the basis of manufactured cost (i.e., the gross value of all materials, labor and services used and employed).

- * DRMC Section 53-24(16) Definitions – Manufacturing
- * DRMC Section 53-24(21) Definitions – Purchase Price
- * DRMC Section 53-24(40) Definitions – Wholesale Sale
- * DRMC Section 53-24(41). Definitions - Wholesaler
- * DRMC Section 53-37. Application to manufacturers of tangible personal property.
- * DRMC Section 53-95(18) Definitions – Manufacturing
- * DRMC Section 53-95(24) Definitions – Purchase Price
- * DRMC Section 53-95(46) Definitions – Wholesale Sale
- * DRMC Section 53-95(47) Definitions - Wholesaler
- * DRMC Section 53-106. Application to manufacturers of tangible personal property.
- * DRMC Section 53-106.2(a),(b),(d). Application to certain construction equipment.
- * Treasury Tax Rule 005 Regarding The Assessment And Collection Of Sales And Use Taxes On Sales And Use Of Tangible Personal Property Acquired By Construction Companies.

The complete Denver Tax Guide, the Denver Revised Municipal Code (DRMC), tax forms, and other related information and forms are available on-line at www.denvergov.org/treasury.

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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