

City and County of Denver, Colorado

TAX GUIDE

Topic No. 77

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 4%.

In order for a proprietor-determined service charge to not be subject to Denver 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 Denver sales tax.

The difference between Denver's and the State's treatment of gratuities is that if the gratuity is mandatory, it is subject to Denver 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 Denver 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 guest 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 Denver tax.

RELATED TAX GUIDE TOPIC

Mandatory Service Charges

* DRMC Section 53-25(5). Imposition of tax.

* State of Colorado Special Regulation - Eating and Drinking Establishments

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.