



DENVER
THE MILE HIGH CITY

City and County of Denver

Construction Contractors Tax Tutorial

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Disclaimer regarding tax rates

The tax rates used during this presentation were valid and correct at time of recording.

Rates may have changed since the recording, please visit

www.denvergov.org/treasury

for Denver's tax rates and

www.colorado.gov/tax

for current state wide tax rates.

Sales or Use Tax as it Applies to Construction Contractors

- ❖ Contractors *are not retailers*
- ❖ Contractors are the final consumer or end-user
- ❖ The lump-sum price charged by contractors to customers for work performed includes all cost, such as materials, labor, overhead, profit **and the sales/use tax paid by the contractor on materials, supplies, equipment, rentals etc.**

Construction Contractors (continued)

Construction contractors include general contractors, subcontractors, and others engaged in the construction, repair, reconstruction, or wrecking of any physical structure that is part of real estate

- ❖ Examples: Electricians, plumbers, carpenters, HVAC, building constructors, highway/road contractors, excavators, demolition companies, etc.

Businesses that provide completed units of personal property to be affixed to, installed in or used in conjunction with a structure will be regarded as retailers, not contractors if the property can be removed without substantial damage to the structure and without altering the functional use of the structure

- ❖ Examples of completed units include appliances, windows, cabinets, fencing, carpet, etc.
- ❖ Examples of completed units for road and highway contractors include traffic lights and signals and any type of signage included in the contract

- ❖ Contractors pay sales tax directly to the retailer
 - ❖ Provided the retailer is licensed with the City of Denver
 - ❖ Sales tax is not optional

- ❖ Contractors pay use tax directly to Denver when the retailer is unlicensed or fails to charge them sales tax
 - ❖ Accrue and remit use tax directly to Denver
 - ❖ Use tax registration is required
 - ❖ Returns filed on monthly or quarterly basis

Currently The City and County of Denver does not collect use tax on building permits

- ❖ Materials picked up at a Denver retailer's location to be used in Denver or delivered to a job site in Denver are subject to Denver's sales tax
- ❖ Materials picked up in Denver to be used outside of Denver are subject to Denver's sales tax unless a use tax has been paid upfront on a building permit to a municipality in which the materials are to be used
- ❖ There is no exemption in the sales tax ordinance for temporary storage of construction materials in Denver - Sales tax must be collected by licensed Denver retailers
- ❖ Materials delivered and used outside of Denver are not subject to Denver sales tax



Construction Materials – Use Tax

Materials purchased outside Denver and brought into Denver are subject to Denver use tax

- ❖ Unless a legally imposed sales/use tax was properly paid to another jurisdiction
- ❖ Credit for the sales tax paid can not exceed the Colorado and Denver combined rate of 8.31%

Construction Use Tax – Temporary Storage Exemption

Construction use tax temporary storage exemption

- ❖ Applies to building materials only
- ❖ Materials for use outside of Denver which are brought into Denver for temporary storage are exempt from Denver use tax
- ❖ Stored materials which are subsequently used on a Denver job would be subject to Denver use tax
 - ❖ Remember: There is no temporary storage exemption in the Denver sales tax ordinance

- ❖ Contractors are required to pay Denver sales or use tax on all supplies purchased in Denver or used on a Denver job
 - ❖ Denver gives a credit for any properly imposed sales tax paid to another municipality, county and/or state
 - ❖ Examples: safety supplies, first aid supplies, scaffolding, barricades, job site office supplies, small tools, work clothes, etc.

- ❖ Contractors are required to pay sales or use tax on all equipment leases and rentals used on a Denver job
 - ❖ For equipment leased in another city/county, sales/use tax is due to Denver after the initial 30 day rental period
 - ❖ Charges for the operators of leased equipment must be separately stated or the entire rental charge is subject to Denver sales/use tax

Tax Rule #5 ¶6

Off Road Construction Equipment

- ❖ Equipment one year old or less
 - ❖ Sales/Use tax based on the full purchase price at time of first use in Denver
 - ❖ Credit for legally imposed sales/use tax up to 8.31%
- ❖ Equipment over one year old
 - ❖ Sales/Use tax based on the fair market value at time of first use in Denver
 - ❖ Credit, on a dollar for dollar basis, for legally imposed sales/use tax up to 8.31%

❖ Example

❖ Purchase price at 1/1/95	100,000
❖ Sales tax paid at 1/1/95 @ 5%	5,000
❖ FMV at first use in Denver on 1/1/2015	50,000
❖ 8.31% combined rate on FMV on 1/1/2015	4,155
❖ Less: Dollar for dollar credit for sales tax paid	<u>(5,000)</u>
❖ Tax due Denver	-0-

DRMC 53-106(2)

Tax Rule #5 ¶5

Off Road Construction Equipment (continued)

- ❖ Equipment located in Denver for 30 days or less
 - ❖ Tax proration: 1/12th of tax due for each 30 day period or less
 - ❖ Declaration must be made prior to the equipment being brought into Denver
 - ❖ Multiple declarations may be filed but not for consecutive 30 day periods

- ❖ SME Registration
 - ❖ Required by the State of Colorado, plates or tags issued by county
 - ❖ Registration required in the county where equipment is primarily operated, maintained and stored
 - ❖ Specific ownership tax is collected for annual registration
 - ❖ SME registration fees are not a sales or use tax and credit cannot be given

- ❖ Any fuel (except gasoline) used to power off-road equipment is subject to sales or use tax
 - ❖ Examples: Diesel fuel, propane, kerosene, etc.
- ❖ No exemption from Denver sales/use tax for energy (natural gas, electricity, etc.) used in construction

- ❖ Contractors that manufacture tangible personal property are required to pay sales or use tax on the full manufactured cost including:
 - ❖ Labor, overhead, and materials
 - ❖ Installation labor is not subject to tax
 - ❖ Examples include metal handrails, staircases, platforms, door, window coverings, etc.

- ❖ Road and highway contractors that produce their own aggregate, concrete, or asphalt are required to pay sales or use tax on the full manufactured cost of the product including:
 - ❖ Batch plant labor, batch plant overhead, materials, and material hauling charges to batch plant
 - ❖ Denver sales/use tax due on batch plant – same rules as for off-road equipment

- ❖ Subcontractors that meet the definition of a construction contractor are generally responsible for their own taxes to the same extent as the general contractor
 - ❖ General contractors should ensure that their subcontractors are in compliance with the Denver tax requirements
- ❖ Contractors that write “subcontracts” for material purchases which state “tax is included” should ensure the retailer is licensed to collect and remit the tax to Denver
 - ❖ If the retailer does not collect sales tax, use tax is still due to Denver regardless of what the contract says

- ❖ Denver does not exempt contractors who perform work on tax-exempt entities
 - ❖ Schools, churches, government office buildings, highway and road projects

Denver sales or use tax is always due on construction materials, supplies, and equipment used on Denver projects

- ❖ No exemption certificate issued by the Colorado DOR, nor any other taxing authority, will be recognized as a basis for exemption from the Denver sales or use tax
 - ❖ The State of Colorado exemption is for building materials *only* which are used on jobs for tax-exempt entities and is for Colorado state tax only
- ❖ A contractor cannot avoid paying sales or use tax on materials by having the exempt entity use its exemption to purchase the materials

**THIS CONCLUDES OUR PRESENTATION ON
CONSTRUCTION CONTRACTORS**



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