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## Sales Tax

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The Lakewood Municipal Code (“LMC”) imposes a sales tax upon the purchase price paid for tangible personal property and certain taxable services purchased at retail in the City. Retailers are responsible to collect this tax on behalf of the City and to remit the tax to the City on Sales/Use Tax returns according to the filing frequency established by the City. Retailers without a commercial establishment in the City may still be engaged in business in the City and therefore responsible for the collection and payment of tax.

As a home-rule City, Lakewood administers its own taxing rules, regulations, policies and practices independent of the State of Colorado and other Colorado home-rule municipalities and as such may impose taxes on various transactions, goods or services differently than the State and other jurisdictions. The following is a list of some of the items that are taxed by the City which may not be taxed by other jurisdictions:

- ❖ Telecommunications services, including carrier access services
- ❖ Candy, soft drinks and food not defined as “food for domestic home consumption”
- ❖ Food and drink served or furnished by restaurants, night clubs, snack bars and other like places of business
- ❖ Room or accommodation services
- ❖ Pay television
- ❖ Security system services
- ❖ Sound system services
- ❖ Linen services
- ❖ Warranty and maintenance services
- ❖ Modified or customized computer program services
- ❖ Admissions to a movie
- ❖ Admissions to an establishment licensed to serve alcohol
- ❖ Shipping and handling

The City’s Finance Department has posted online ([www.lakewood.org](http://www.lakewood.org)) a map or location guide showing the boundaries of the City, as well as an electronic database to look up addresses. No penalty is imposed against a vendor who, in good faith, complies with the most recent map or location guide available to such vendor.

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### Sales Tax Rates

With the exception of the Belmar Business area, the sales tax for Lakewood is 3%. The Belmar Business area’s tax rate is 1%.

Note that in some retail areas of the City, a Public Improvement Fee (“PIF”) may be charged to reimburse the developer for on-site improvements. The PIF is **not** a City tax, but rather a fee the developer/property owner requires its tenants to collect. Most fees, including PIF, are taxable as part of the purchase price of taxable goods and services.

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### Sales Tax Added to the Price

Retailers must add the tax due to the taxable purchase price and show it as a separate and distinct item. The only two exceptions are the sales of liquor by the drink and items sold through coin-operated vending machines for which the tax may be included as part of the purchase price.

Retailers may not advertise, state, or otherwise hold out, directly or indirectly, to the public or to any consumer that tax will be assumed or absorbed by the retailer or that it is otherwise included in the price, will not be added to the price, or will be refunded.

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### Sales Tax is Transactional

Sales and use tax are transactional taxes. Each time an item is sold or transferred to a different user, consumer or owner, or subject to a similar transaction, the item is subject to tax.

Example:

When a new refrigerator is purchased from a retailer for \$1,000, the retailer must charge the purchaser sales tax on the \$1,000.

Two years later, the purchaser sells the refrigerator to a used appliance dealer for \$300. The purchase by the used appliance dealer is a wholesale purchase for resale and no tax is due.

When the used appliance dealer sells the used refrigerator to a machine shop for \$700, it must charge and collect sales tax on the \$700.

The machine shop goes out of business and all the assets of the business are put up for sale at auction. The auction company sells the refrigerator

for \$250 to the highest bidder. The auction company must charge and collect sales tax on the \$250.

Keeping the above example in mind, the City will not give credit to a new owner for sales/use taxes paid by the original owner/purchaser of an item or goods. The new owner must pay sales or use tax on the purchase price.

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### **Tax-Exempt Sales**

Consistent with Colorado Revised Statutes (C.R.S. § 39-26-104), there is a strong presumption that taxation is the rule and exemption is the exception. However, sales of certain goods and services are exempt from sales tax, as explicitly described in LMC § 3.01.180. Exemptions cannot be expanded by implication or similarity.

The burden of proving that any transaction or item is exempt from City sales tax is on the retailer, which will be held liable for any tax due as a result of the City's disallowance of an exemption claimed by the retailer for a transaction or item. Improper exemption may also result in penalties and interest in addition to payment of the resulting tax deficiency.

The City of Lakewood has partnered with the State of Colorado, local municipalities and the Colorado Municipal League to develop a standardized affidavit form to record supporting information for any transaction for which an exemption from tax is claimed. Items purchased tax-exempt must be used for the official business of the purchasing organization or agency. Instructions (located on the back of the form) are specific to the jurisdiction in which the purchase is made. Qualifying for an exemption may be different for each jurisdiction, and the instructions are not intended to set forth the requirements of any jurisdiction other than the one indicated. For organizations exempt at both the local and state level, only one form will need to be completed.

Should a dispute arise between a retailer and a purchaser as to whether a transaction or item is subject to tax, the retailer is required to collect the tax and issue a receipt. The purchaser may apply for a refund directly from the City within 60 days of the date of the purchase. The refund request must be supported by the affidavit of the purchaser (referenced above) and the original receipt.

See *Tax Compliance Guide – Tax Exempt Entities*

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### **Trust Status of Taxes Collected and Excess Tax**

Sales tax is collected by retailers on behalf of the City and remains the property of the City at all times. Retailers are required to hold these taxes in trust for the sole use and benefit of the City until paid to the City. Retailers are never permitted to use the City's trust tax personally or in the operation of their businesses. Retailers are encouraged to deposit

taxes into a separate account to ensure taxes collected are segregated from other business funds.

All City sales tax collected by a retailer must be remitted to the City. Should a retailer collect tax in excess of the computed tax due, such tax must be reported as excess tax (line 7) and paid to the City.

Remittance to the Colorado Department of Revenue or any other taxing authority does not relieve a retailer of its liability to the City.

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### **Deductions & Credits**

The LMC does allow a retailer to take certain deductions on its City tax return. Deductions may be taken only when the gross sales and service amount (line 1) includes the purchase price being deducted. These deductions are covered in detail in separate publications of this Tax Compliance Guide. Please refer to the following publications for additional information:

- ❖ Non-taxable service sales
- ❖ Sales to other licensed dealers for resale
- ❖ Sales of goods shipped or delivered outside of City
- ❖ Bad debts charged off
- ❖ Trade-ins for taxable resale
- ❖ Sales of gasoline and cigarettes
- ❖ Sales to governmental and charitable organizations
- ❖ Returned goods
- ❖ Prescription drugs
- ❖ Other non-taxable

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### **Filing of Sales Tax Returns**

Sales tax returns and payments shall be made monthly before the twentieth (20<sup>th</sup>) day of the following month. The Finance Director may permit businesses whose monthly collected tax is less than three hundred dollars (\$300) to make returns and payments on a quarterly basis.

Returns can be accessed online at Lakewood Business Pro with an established user account. The City does not mail out return forms.

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### **Related Topics**

Business Registration & Licensing  
Engaged in Business in the City  
Sale of a Business  
Tax Exempt Entities  
Taxable Services  
Use Tax  
Warranty & Maintenance Services

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### **Citations**

*Lakewood Municipal Code*  
§ 3.01.020 Definitions  
§ 3.01.120 Property and services taxed (sales tax)

- § 3.01.130 Collection of sales tax
- § 3.01.140 Sales tax base – Schedule of sales tax (303) 987-7630
- § 3.01.150 Retailer – Multiple locations
- § 3.01.160 Credit sales www.lakewood.org
- § 3.01.170 Bad debt charge-offs
- § 3.01.180 Exemptions
- § 3.01.200 Map or location guide of city boundaries
- § 3.01.205 Electronic database
- § 3.01.250 Refunds
- § 3.01.260 Recovery of taxes, penalty and interest
- § 3.01.270 Tax lien – Exemption from lien
- § 3.01.280 Tax deficiency
- § 3.01.290 Interest rate on delinquent taxes
- § 3.01.300 Interest on underpayment, overpayment,  
nonpayment or extensions of time  
for payment of tax
- § 3.01.310 Penalty interest on unpaid use tax
- § 3.01.320 Other remedies
- § 3.01.330 Hearings by Finance Director
- § 3.01.340 Review by District Court
- § 3.01.350 Alternate review by Department of  
Revenue

#### *Regulations*

- § 3.01 Sales and Use Tax Rules and Regulations  
and Special Regulations

THIS GUIDANCE IS A SUMMARY IN LAYMEN'S TERMS OF THE RELEVANT LAKEWOOD TAX LAW FOR THIS TOPIC, INDUSTRY, OR BUSINESS SEGMENT. IT IS PROVIDED FOR THE CONVENIENCE OF TAXPAYERS AND IS NOT BINDING UPON THE CITY. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE LAKEWOOD MUNICIPAL CODE AND APPLICABLE RULES AND REGULATIONS. THIS GUIDE DOES NOT CONSTITUTE A CITY TAX POLICY.

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#### **Contact Us**

For additional assistance, please contact us:

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