



Use Tax

The Lakewood Municipal Code imposes a use tax of 3% for the privilege of using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City. **If Lakewood sales tax is not paid to a vendor licensed and authorized to collect the same at the time of purchase, then a use tax must be remitted directly to the City.** With the exception of construction materials, credit may be taken against Lakewood use tax for legally imposed sales or use taxes paid to other municipalities. Such credit shall not exceed the Lakewood use tax due.

One purpose of use tax is to equalize competition between in-city and out-of-city vendors, including lessors of tangible personal property and services, and to eliminate incentives to purchase or lease such goods and services outside of the City. Use tax is complimentary to sales tax, but is paid directly to the City rather than to a vendor collecting on behalf of the City. All Lakewood businesses must pay sales or use tax on purchases of tangible personal property or taxable services that are not purchased for resale. Service businesses will likely have a use tax liability even if they do not make taxable sales. Use tax is reported on Schedule A/Line 8 of the City sales/use tax return.

Use Tax is Transactional

Sales and use tax are transactional taxes, meaning that each time an item is used, or sold or transferred to a different owner, the item is subject to either sales or use tax.

The City will not give credit for taxes paid by a previous owner. The new owner must pay sales or use tax on its purchase price.

Identifying Use Tax Liabilities

Colorado is a “point of delivery” sourcing state, meaning that the point where delivery of the property or services occurs is the point of taxability. Each purchase should be carefully examined to ensure that a sufficient, legally imposed sales or use tax has been paid.

There are various reasons Lakewood sales tax might not be collected, resulting in a use tax liability for the purchaser. Use tax is due as follows:

- ❖ If a purchase of tangible personal property or taxable services does not include a charge for municipal sales tax.
- ❖ If a vendor erroneously collected the wrong tax, either because it is unsure of the jurisdiction in which an address resides or because it is incorrectly collecting tax based upon the point of sale rather than the point of delivery.
- ❖ If an item is purchased and picked up from a vendor outside of the City of Lakewood and the other municipality’s sales tax that is assessed is less than that of the City of Lakewood. The amount due would be equal to the differential between the sales tax rates.

Use tax is levied not only upon the privilege of use and consumption of tangible personal property, but upon storage and distribution in the City as well. A taxable event occurs when a taxpayer exercises dominion or control over property for any length of time in the City. This distinction is important for taxpayers located in multiple jurisdictions who receive their purchases in Lakewood and subsequently distribute those purchases to other locations.

Retail businesses may have a use tax liability resulting from the removal of inventory that was originally purchased for resale. This can result from the removal of supplies or equipment for internal use, giveaway or complimentary items or meals or the use of construction materials in a lump-sum job.

Automotive Vehicles

See *Tax Compliance Guide – Automotive Vehicles*

Construction Equipment

See *Tax Compliance Guide – Construction Equipment*

Construction Materials

For construction materials, use tax may be due to the City of Lakewood even if a legally imposed sales tax was assessed and paid to another jurisdiction.

Non-Permitted Jobs

Construction materials purchased for a job that does not require the issuance of a building permit are subject to the sales tax of the local municipality in which the materials are purchased. In the event the

legally imposed tax of that municipality is less than the 3% City of Lakewood tax, the difference must be remitted as use tax to the City of Lakewood.

Permitted Jobs

For construction jobs requiring a City permit, a use tax deposit must be paid to the City upon issuance of the permit. The amount of the deposit is computed on the basis of three percent (3%) of the estimated material cost at the time the building permit is obtained, where the estimated material cost equals fifty percent (50%) of the estimated general contract costs or fifty percent (50%) of the estimated mechanical contract costs.

Contractors should present a copy of the permit to the seller when making purchases for the specified job. The seller should verify that the purchases are within the scope of the work and exempt those items only from the local municipality's sales tax.

If construction materials are purchased outside the City of Lakewood and the permit is not presented at the time of sale, sales tax may be imposed for that jurisdiction. Credit will not be given for any legally imposed tax paid to another jurisdiction. Use tax (3%) will be due to the City of Lakewood and will be captured as such on the Construction Use Tax Reconciliation.

Any person who builds, constructs or improves any building, dwelling or other structure or improvement to realty must keep and preserve all invoices and statements from both the general contractor and the subcontractors along with a summary sheet showing such purchases.

A reconciliation of the use tax deposit and actual cost of materials should be provided to the City within three (3) years from the date of issuance of the certificate of occupancy for the project or the date of the final inspection by the City of the project.

For permitted jobs, please refer to *Tax Compliance Guide – Construction Use Tax Reconciliation*.

Sale of a Business

See *Tax Compliance Guide – Sale of a Business*

Exemptions

The storage, use, or consumption of certain items are exempt from use tax as described in §3.01.230.

Exemptions are not expanded by implication or similarity.

Filing of Use Tax Returns

Use tax returns and payments shall be made monthly before the twentieth (20th) day of the following month. Service-only businesses may request to file annually. Returns must be submitted, even if there is no liability (*i.e.*, a “zero return”).

Use tax shall be reported on Schedule A/Line 8 of the City sales/use tax return.

Return forms will not be mailed out by the City. Returns can be accessed online through Lakewood Business Pro with an established user account.

Examples

1. Business A, with an office in Lakewood, purchases computers from an internet distributor based out of the state. The distributor does not collect any sales tax. Business A must remit City of Lakewood use tax on the full purchase price, including shipping and handling charges.
2. Business B, with an office in Lakewood, purchases office materials at a store located in Centennial, CO. Because Business B picked up the materials in Centennial, the retailer properly collects Centennial sales tax of 2.5%. Business B must report and pay a use tax of 0.5% on the purchase price, which is the difference between the 3% Lakewood sales tax rate and that of Centennial.
3. Contractor C applies for a building permit for a remodeling job valued at \$7,000. As part of the permitting process, Contractor C pays a use tax deposit of \$105, which is calculated by taking 50% of the estimated material cost (\$7,000 x 0.50) and multiplying that by the Lakewood use tax rate of 3%. Contractor C purchases construction materials at a store located in Centennial, CO, and forgets to present the permit. The retailer charges the local municipality's sales tax rate (2.5%) on the purchase price. Contractor C must include this purchase as part of its reconciliation that will be submitted to the City (within three (3) years from the date of issuance of the certificate of occupancy). Credit will not be given for the amount of Centennial tax paid. Contractor C

should contact the store where the purchase took place and request a refund of the Centennial tax.

4. Business D, a Lakewood business, orders office chairs from a business located in Denver. Sales tax was not assessed on the transaction. The materials are shipped directly to the office of Business C. Business C must remit City of Lakewood use tax of 3% on the purchase.

Related Topics

Automotive Vehicles
 Construction Building Permit Handout
 Construction Equipment
 Construction Use Tax Reconciliation
 Contractors and Construction Materials
 Sale of a Business

Citations

Lakewood Municipal Code

- § 3.01.020 Definitions – Use Tax, Construction Materials
- § 3.01.210 Property and services taxed (use tax)
- § 3.01.220 Collections of use tax
- § 3.01.230 Exemptions
- § 3.01.240 Proration of use tax for certain construction equipment
- § 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
- § 3.01.210 Use tax
- § 3.01.220(1) Use tax reporting
- § 3.01.220(2) Use tax for retailers not maintaining a location in the city
- § 3.01.230(1) Imposition of a use tax
- § 3.01.230(2) Use tax as a complement to sales tax
- § 3.01.270 Sales of business by owner

Special Regulations

Automobile Dealers and Demonstration Vehicles
 Contractors
 Gifts, Premiums and Prizes
 Hotels and Motels
 Initial Use of Property
 Newspapers, Magazines, and Other Publications

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.

Contact Us

For additional assistance, please contact us:

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