
DIRECT SALES COMPANIES

The *Arvada Municipal Code* imposes a sales tax upon the purchase price paid for tangible personal property sold at retail within the City. Direct sales companies market goods through a network of independent distributors rather than through retail outlets. Generally, the direct sales company is a wholesaler and the distributor is the retailer of the product sold. As such, the distributor is required to collect sales tax based on the delivery location of the goods purchased. One common model is for the distributor, an independent contractor, to recruit a hostess (or host) to hold a party in her home. During the party the distributor solicits sales from attendees. Attendees place orders with the distributor, who delivers the goods directly to the attendees some time later.

GOOD SOLD BY DISTIBUTOR

Under this model, the distributor would be considered a retailer, and the company would be considered a wholesaler. If the distributor operates their business from a commercial or residential location in Arvada, they are required to obtain a City business license. Distributors who operate from another City, but solicit sales at parties in the City, or make deliveries to attendees in the City, will need to obtain City business license depending upon the frequency of their contacts in the City.

GOOD SOLD BY DIRECT SALES COMPANY

Some direct sales companies collect and remit tax on behalf of their distributors. These companies may obtain a City business license (or they may require their distributor's to license individually), but must ensure that Arvada sales tax is collected and remitted for any sales that are delivered within the jurisdiction of the City of Arvada.

HOSTESS GIFTS AND CREDITS

In exchange for holding a party, the hostess often receives "credits" toward the purchase of goods. In many cases, the value of the credits received is dependent upon the level of sales generated by the party. The goods given to, or purchased by the hostess based on the amount of "credits" earned, cannot be considered a bona fide gift, but rather, qualifies as a retail sale to the hostess on which City sales tax is due. The sales tax must be based upon the full retail price of the goods.

EXAMPLES

1 Distributor A sells home décor for the Company B, a direct sales company. Company B has permission from the City to remit tax on behalf of its Distributors. Distributor A operates from his home in Arvada, and holds an Arvada Business License – home-based business from the City. Distributor A makes arrangements with Hostess C to hold a demonstration party at her home in Arvada.

a. Distributor A buys snacks for the party at an Arvada grocery store. Distributor A must pay Arvada sales tax on the snacks and cannot use his tax license to avoid the sales tax.

b. At the party, Distributor A takes an order from Customer X for \$500 in merchandise. Customer X lives in Thornton where Distributor A will deliver the merchandise in 3 weeks. Because the merchandise will be delivered outside Arvada, Distributor A should not collect Arvada sales tax from Customer X.

c. Customer Y, an Arvada resident, also orders \$500 in merchandise. Because Distributor A will deliver the merchandise to Customer Y in Arvada, he must collect Arvada sales tax. Distributor A will remit the tax to Company B when he places the order and Company B will send it to the City on his behalf.

d. Because the party generated \$1,000 in sales, Hostess is entitled to take a 50% discount on one item in the catalogue. Hostess selects an item priced at \$100 (\$50 after her discount). Distributor must collect Arvada sales tax on the full \$100 price (not the discounted price).

ARVADA MUNICIPAL CODE – Chapter 98 – Taxation

Sec. 98-61. - Definitions.

Purchase or sale means the acquisition for any consideration by any person of tangible personal property, other taxable products or taxable services that are purchased, leased, rented, or sold. These terms include capital leases, installment and credit sales, and property and services acquired by:

- (1) Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property, other taxable products, or taxable services;
- (2) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property, other taxable products, or taxable services. The utilization of coin operated devices, except coin-operated telephones, which do not vend articles of tangible personal property shall be considered short term rentals of tangible personal property;
- (3) Performance of taxable services; or

Sec. 98-66. - Property and service taxed.

There is hereby levied and there shall be collected and paid a tax in the amount stated in section 98-66 as follows:

- (1) On all sales and services taxable, including, but not limited to the following:
 - a. On the purchase price paid or charged upon all sales and purchases of tangible personal property at retail within the city, except as the purchase price is reduced by an allowance for an exchange of tangible personal property, at fair market value, and which, is intended to be offered for resale.

THE ABOVE INFORMATION IS A SUMMARY IN LAYMAN'S TERMS OF THE RELEVANT ARVADA TAX LAW FOR THIS SUBJECT, INDUSTRY OR BUSINESS SEGMENT. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE ARVADA MUNICIPAL CODE. HOWEVER, THE TAX GUIDE SHALL BE

USED IN CONJUNCTION WITH THE ARVADA MUNICIPAL CODE (CHAPTER 98) IN DETERMINING TAX LIABILITY.