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## DRUGS

A drug is a substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or other conditions. Drugs are classified as substances obtainable only by physician directive (prescription and/or chart ordered drugs) or as "over the counter" preparations available to the general public (non-prescription drugs).

### **TAXABLE DRUGS**

An "over the counter" drug is a medical substance which may be sold without a prescription and which is prepackaged for use by the consumer, properly labeled and is unadulterated ("in pure form") in accordance with the requirements of the Colorado Food and Drug Act (CRS 25-5-402) and the Federal Food, Drug, and Cosmetic Act (Title 21 U.S.C. 301 et seq., 52 Stat. 1040 et seq.).

"Over the counter" drugs such as aspirin, pain relievers, cold capsules, cough syrups, anti-bacterial ointments, creams, petroleum jelly, etc., are taxable when purchased by individuals without a written prescription.

### **TAX-EXEMPT DRUGS**

#### Prescription or Other Written / Electronic Directive

A prescription drug means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect. 301, et. seq., as amended, to state at a minimum the symbol "Rx Only", and is dispensed in accordance with any written or electronic order dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and any required information of the patient for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

A license to practice chiropractic does not grant the right to prescribe or administer drugs or to administer anesthetics - See *CRS 12-33-118*.

Sales of prescription drugs of any sort for other-than-human use are exempt (e.g. animal prescriptions) when prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect. 301, et. seq., as amended, to state at a minimum the symbol "Rx Only", and is dispensed in accordance with any order in writing, dated and signed by a licensed veterinarian specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

## EXAMPLES

1. John receives a written prescription for penicillin from his physician, which he delivers to the neighborhood pharmacy. The pharmacy dispenses the drug according to the instructions detailed in the prescription which specify the name and address of the person for whom the medicine or drug is ordered, the name of the drug and directions for use. Neither the purchase of the drug by the pharmacy nor the sale of the medication to John is subject to sales or use tax.
2. John makes an appointment to see his physician and requests and receives a flu shot. He also relates an incident in which he sustained a blow to his cheek resulting in a small laceration. His physician determines that suturing of the laceration is needed. As part of this procedure, he injects a solution to anesthetize the area. His physician also provides John 8 pain pills and directs him to take 2 tablets every 4 hours if needed for discomfort. A specific charge is made for the flu shot on his billing; however, a charge is not made for the anesthetic injection or the pills. The physician's purchases of medications furnished by a doctor, which are not specifically billed to the patient, are also exempt from sales or use tax.
3. Betty calls her physician complaining of cold symptoms. He tells her to take aspirin and cough syrup. Betty goes to the drug store to buy these items per her conversation with her physician. The items are taxable because there is no written prescription and are purchased as "over the counter".

### **ARVADA MUNICIPAL CODE – Chapter 98 - Taxation**

#### **Sec. 98-61. - Definitions.**

**Prescription drugs for animals** means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect. 301, et. seq., as amended, to state at a minimum the symbol "Rx Only", and is dispensed in accordance with any order in writing, dated and signed by a licensed veterinarian specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

**Prescription drugs for humans** means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect. 301, et. seq., as amended, to state at a minimum the symbol "Rx Only", and is dispensed in accordance with any written or electronic order dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and any required information of the patient for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

#### **Sec. 98-70. - Exempt sales.**

There shall be exempt from taxation under the provisions of this article the items of sales and services including, but not limited to the following:

- m. All sales of prescription drugs for humans.
- n. All sales of prescription drugs for animals.

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**CRS 12-33-118. Chiropractic Practice Act - Use of title.**

*A license to practice chiropractic entitles the holder to use the title Doctor or Dr. when accompanied by the word Chiropractor or the letters D.C and to use the title of Doctor of Chiropractic. Such license shall not confer upon the licensee the right to practice surgery or obstetrics or to prescribe, compound, or administer drugs, or to administer anesthetics.....*

**RELATED TOPICS**

DENTISTS AND DENTAL LABORATORIES  
MEDICAL EXEMPTIONS

*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.*