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## RESTOCKING FEES

The *Arvada Municipal Code* imposes a sales tax upon the purchase price paid for tangible personal property and certain taxable services purchases at retail in the City. Sales tax is imposed upon the purchase. Retailers are responsible to collect this tax on behalf of the City and remit it periodically on City sales/use tax returns.

The Code permits retailers to deduct from gross sales the price of tangible personal property or taxable services returned by the purchaser provided that **both** of the following apply:

1. The price of the property returned was included in gross sales on the current return or a return filed within the past 36 months; and
2. The price and the tax collected thereon are refunded to the purchase in cash or by credit.

Retailers who refund only a portion of the price may not deduct the full price from gross sales and should not refund the full amount of sales tax charged to the purchaser.

Some automated sales systems refund the full price and the tax thereon while simultaneously charging a "restocking fee". Because this fee represents an amount of the price not refunded to the purchaser, this amount may not be deducted from gross sales. In these cases, retailers will accomplish this by charging tax on the restocking fee in lieu of refunding tax on the net refunded price.

The tax character of restocking fees is not dependent upon whether the fee is netted against the purchase price and shown as a single refund amount, stated separately on the invoice or receipt, or collected in a separate transaction from the refund.

### EXAMPLES

In February, a licensed Arvada retailer sells a cell phone to a purchaser for \$100 and collects Arvada sales tax on the price. The retailer reports this sale on the February sales/use tax return. In March, the purchaser returns the phone and the retailer refunds \$90.00. The retailer may deduct \$90.00 from gross sales reported on the March sales/use tax return.

In February, a licensed Arvada retailer sells a cell phone to a purchaser for \$100 and collects Arvada sales tax on the price. The retailer reports this sale on the February sales/use tax return. In March, the purchaser returns the phone and the retailer refunds \$100, the Arvada sales tax thereon, and charged \$10 restocking fee. The retailer should collect tax on the \$10 restocking fee because the retailer may only deduct \$90 (\$100 less the \$10 restocking fee) on the March sales/use tax return.

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

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

**Price or purchase price** means the aggregate value measured in currency paid or delivered or promised to be paid or delivered in consummation of a sale, without any discount from the price on account of the cost of materials used, labor or service cost, and exclusive of any direct tax imposed by the federal government or by this article, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if:

- (1) Such exchanged property is to be sold thereafter in the usual course of the retailer's business, or
- (2) Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this state, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft, and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

"Price" or "purchase price" includes:

- (1) The amount of money received or due in cash and credits.
- (2) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
- (3) Any consideration valued in money, whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.
- (4) The total price charged on credit sales including finance charges which are not separately stated at the time of sale. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated at the time of sale is not part of the purchase price.
- (5) Installation, applying, remodeling or repairing the property, delivery and wheeling-in charges included in the purchase price and not separately stated.
- (6) Transportation and other charges to effect delivery of tangible personal property to the purchaser.
- (7) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.
- (8) The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

"Price" or "purchase price" shall not include:

- (1) Any sales or use tax imposed by the state or by any political subdivision thereof.
- (2) The fair market value of property exchanged if such property is to be sold thereafter in the retailers' usual course of business. This is not limited to exchanges in the state. Out-of-state trade-ins are an allowable adjustment to the purchase price.
- (3) Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser, and the seller is not reimbursed for the discount by the manufacturer or someone else. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

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.