
USE TAX

The *Arvada Municipal Code* imposes use tax upon the privilege of using, storing, distributing, or otherwise consuming tangible personal property in the City. If Arvada 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. Credit may be taken against Arvada use tax for legally-imposed sales or use taxes paid to other municipalities. Such credit may not exceed the Arvada use tax due.

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 Arvada taxpayers must pay sales or use tax on purchases of tangible personal property that are not purchased for resale. Service businesses will likely have a use tax liability even if they do not sell anything. For online reporting, the Amount Subject to Use Tax is reported on Line 8, which calculated use will tax on Line 8a. For filing a paper return, the Amount Subject to Use Tax is reported on Schedule B of the combined sales/use tax return and is carried forward to line 10.

Use Tax is Transactional

When tangible personal property is first used, consumed, stored, or distributed in the City by the present owner, a use tax may be due. While credit is allowed for legally-imposed sales/use tax previously paid, this credit only applies to taxes paid by the current owner. A previous owner's payment of sales/use tax does not apply. For businesses that were based outside the City who relocate to Arvada, an exemption exists for tangible personal property, other than construction materials and construction equipment, which was used outside the City for its intended purposes prior to being relocated in the City. This exemption does not apply to taxpayers with multiple locations who transfer equipment from a location outside the City to an existing location within the City.

Identifying Use Tax Liabilities

If a purchase of tangible personal property does not include a charge for municipal sales tax, then a use tax is due. Many vendors, being licensed with the Colorado Department of Revenue and other taxing authorities in the State, will collect some tax on a taxable purchase. Also, Colorado is a "point of delivery" sourcing state. This means that the point where delivery of the property occurs is the point of taxability. Some retailers erroneously collect the wrong tax, either because they are unsure of which jurisdiction an address resides in, or because they are incorrectly collect tax based upon the point of sale. For this reason, special attention should be given to the *rate* of tax collected because the payment of some sales tax may not eliminate or even reduce the Arvada use tax liability. Each purchase should be carefully examined to ensure that a sufficient, legally-imposed sales or use tax has been paid.

Use tax is levied upon not only the privilege of use or consumption, but of storage or distribution in the City as well. If a taxpayer exercises dominion or control over property for any length of time in the City, a taxable event has occurred. This distinction is important for taxpayers located in multiple jurisdictions that receive their purchases in Arvada and subsequently distribute them to other locations.

Retail business may have a use tax liability resulting from removal of inventory which 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 lump-sum jobs.

Initial Use Tax Return

Because a significant amount of use tax generally results from the startup, purchase, or relocation of a business in the City, an *Initial Use Tax Form* is required whenever a business is purchased or established in the City. New or relocated businesses will have 30 days to file the business start date.

Storage means any keeping or retention of, or exercise dominion or control over, or possession of, for any length of time, tangible personal property not while in transit but on a stand still basis for future use when leased, rented or purchased at retail from sources either within or without the city from any person or vendor.

Use means the exercise, for any length of time by any person within the city of any right, power or dominion over tangible personal property or services when rented, leased or purchased at retail from sources either within or without the city from any person or vendor or used in the performance of a contract in the city whether such tangible personal property is owned or not owned by the taxpayer. Use also includes the withdrawal of items from inventory for consumption.

Consumer means any person in the city who purchases, uses, stores, distributes or otherwise consumes tangible personal property or taxable services, purchased from sources inside or outside the city.

EXAMPLES

1. Flux-Air Corporation purchases office supplies from an out of state vendor which does not collect any sales tax. The company is required to pay use tax at the rate of 3.46% on the purchase price and any shipping and handling charges.
2. XYZ buys a new computer from an outlet located in Lakewood. The vendor collects Lakewood sales tax which is 3.00%. XYZ Company is required to pay use tax on the purchase price of the computer of the incremental difference in the sale tax rates at .46% (3.46% - 3.00%).
3. The Breezy Apartment complex was recently sold to a new owner. The complex consisted of 70 apartments and sold for \$800,000.00. The purchase agreement did not allocate any amount for tangible personal property that were included in the sale/purchase agreement, however, the appliances (refrigerators, range and range hoods, microwaves, dishwashers, garbage disposal, and air conditioners) and window coverings that are located in each apartment unit are all subject to use tax at their fair market value. In addition, the washers and dryers located in the on-site laundry facility, the clubhouse furniture and game room equipment, as well as office equipment and furniture are also subject to use tax.
4. Sally's Chocolates located in Olde Town Arvada provides complimentary samples of chocolates to customers that visit the shop. Since the ingredients for the chocolates are purchased for resale, the chocolates that are used for sample would be subject to use tax when taken out of inventory. Use tax is due on the cost of the ingredients.

ARVADA MUNICIPAL CODE – Chapter 98 – Taxation

**ARTICLE III.
SALES AND USE TAX*
Sec. 98-61. Definitions.**

Consumer means any person in the city who purchases, uses, stores, distributes or otherwise consumes tangible personal property or taxable services, purchased from sources inside or outside the city.

Storage means the keeping or retention of, or exercise of dominion or control over, or possession, for any length of time, of tangible personal property under lease or purchase at retail within or without the city from a vendor.

Use means the exercise, for any length of time by any person within the city of any right, power or dominion over tangible personal property or services when rented, leased or purchased at retail from sources either within or without the city from any person or vendor or used in the performance of a contract in the city whether such tangible personal property is owned or not owned by the taxpayer. Use also includes the withdrawal of items from inventory for consumption.

Use tax means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the city.

Sec. 98-77. Tax on use, storage, distribution, consumption; intent.

*It is hereby declared to be the legislative intent of the city council that for the purposes of this article every person who stores, uses, distributes or consumes within the city any article of tangible personal property purchased at retail, and not stored or distributed in normal function of wholesaling, is exercising a taxable privilege. It is hereby declared that every resident of the city or any person doing business within the city who purchases or leases tangible personal property for use, storage or consumption within the city from sources outside the city and taxable hereunder, and who has not paid the tax imposed by this article, shall make a return and pay the tax to the finance director. The use, storage or consumption of tangible personal property includes for the purpose of this article, materials, commodities and items of tangible personal property affixed to or made a part of facilities and structures on real property owned or leased situated within the city.
(Code 1981, § 31-51; Ord. No. 3783, § 2, 12-16-2002)*

RELATED TOPICS
PREVIOUSLY TAXED PROPERTY

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.