
Tax Compliance Guide

Professional Services Topic 322

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Professional service businesses that are engaged in business in the City must obtain a Westminster sales/use tax license even if they do not sell any tangible personal property or taxable services. Although service businesses may not have a sales tax liability, they will usually have a use tax liability. This liability must be reported and paid on the periodic City sales/use tax return. Every licensed business must file a return at least annually even if no tax is due.

Use Tax

The *Westminster Municipal Code* imposes a use tax upon the privilege of using, storing, distributing, or otherwise consuming tangible personal property and certain taxable services in the City. If Westminster 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 Westminster use tax for legally imposed sales or use taxes paid to other municipalities. Such credit may not exceed the Westminster use tax due.

Taxation of Services

Generally speaking, professional services are not subject to Westminster sales/use tax. There are a few services explicitly taxed by the *Westminster Municipal Code* such as telecommunication services and pay television services. The purchase of professional services, such as accounting services, legal services, consulting services, and planning and design services, are not subject to tax even though some tangible personal property may be incidentally conveyed to the purchaser in the performance of the service.

An important distinction must be made, however, between the commission, hire, or purchase of professional services and services or labor used in manufacturing tangible personal property. Manufacturing or fabrication labor or services expended in the creation, assembly, production or

configuration of tangible personal property is part of the taxable purchase price even when the cost or charges for such labor or services may be segregated from the cost or charges for materials. Charges for freight, delivery, and transportation are also subject to Westminster sales/use tax.

In determining whether a transaction involves the sale of tangible personal property, or the performance of a service with a transfer of tangible personal property only occurring incidental to the performance of the service, the City will examine the transaction from the purchaser's perspective. If the essence of the transaction is, from the purchaser's perspective, the acquisition of service, as such, the transaction or the subsequent use is not taxable even though some tangible personal property is incidentally transferred with the performance of the service. However, if a service is performed in the production of tangible personal property, and if the object of the transaction, from the purchaser's perspective, is the acquisition of the tangible personal property, the transaction, or use after sale, is taxable.

Businesses who sell tangible personal property along with the service of installing, affixing, or repairing such property, such as automotive repair shops, must collect sales tax on the purchase price of the property sold. The service or labor charges may be excluded from the taxable total if separately stated.

Examples

1. CPA has a small Westminster tax practice where she prepares tax returns for her clients. CPA charges a flat fee for the preparation of each return. CPA must pay Westminster sales or use tax on all of her supplies including the forms and materials that she transmits to her clients. CPA should not collect sales tax on the preparation fee.

2. Carpenter is a furniture builder with a small shop in Westminster. He builds custom furniture for his clients, purchasing his materials and tracking his time on a job-by-job basis. Carpenter charges his customers for the actual cost of the materials, a per-hour labor charge, and a delivery fee. Because the furniture is the object of the transaction from the purchaser's perspective, Carpenter must collect Westminster sales tax on all of these charges.
3. Customer takes her vehicle to Shop, a licensed repair shop, to have her oil changed. Shop charges her for an oil filter, 4 quarts of oil, half an hour of labor, EPA waste fee, and shop supplies (10% of the labor charge). Each charge was separately stated. Shop should collect tax on all of the charges except the half hour of labor.

Related Topics

Automotive Service & Repair
 Filing Frequencies & Due Dates
 Licensing
 Linen Rental & Service
 Manufacturing & Fabrication
 Previously Paid Sales/Use Tax

Citations

Westminster Municipal Code

§ 4-1-5. Retailer Responsible for Collection & Payment of Tax
 § 4-1-7. Filing Returns; Due Date
 § 4-2-2. Definitions
 § 4-2-3. Rate; Imposition and Collection; Distribution
 § 4-2-5. Transactions & Items Subject to Tax
 § 5-2-2. License Required
 § 5-3-2. License Required
 § 5-4-2. License Required

THIS GUIDANCE IS A SUMMARY IN LAYMEN'S TERMS OF THE RELEVANT WESTMINSTER 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 WESTMINSTER 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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 From the Business menu, choose Westminster Taxes