



Tax Compliance Guide

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Construction – Use Tax Reconciliation Topic 325

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Note: This topic is applicable only to projects requiring a City building or direct payment permit.

The *Westminster Municipal Code* requires that use tax must be paid directly to the City on all construction materials used in making public and private improvements, and for projects requiring a City building permit. Use tax is due whether such materials are acquired from sources within or outside the City. To avoid tax overpayments, contractors and sub-contractors must present the building permit, or the direct payment permit, if applicable, when purchasing construction materials in order to qualify for an exemption from city sales tax.

The person responsible for obtaining the permit is liable for use tax on all materials used on the project. This includes materials used by sub-contractors, or furnished by the property owner. The general contractor should provide copies of the building permit to sub-contractors working on the project so they too may purchase construction materials without payment of sales tax.

In most cases, a use tax estimate is computed and collected when the permit is issued. The general contractor must reconcile the actual use tax liability with the estimated pre-payment at the conclusion of the project. In the event of an under-payment, the general contractor must complete a *Project Cost Report* form and submit it to the Sales Tax Division. For building projects, the *Project Cost Report* is due within 30 days of final inspection, or the issuance of the Certificate of Occupancy, whichever occurs later. For public and private improvements, the *Project Cost Report* is due within 30 days of written acceptance of the improvements by the City. This form is available in the *Tax/License Toolbox* section of the City website or by contacting the Sales Tax Division.

If the actual use tax due is greater than the estimated pre-payment (under-payment), the difference must be remitted with the *Project Cost Report*, as described above. The general contractor will be allowed to remit this difference without penalties or interest provided it is remitted within said 30 day period. If the actual use tax due is less than the estimated pre-payment (over-payment), the general contractor may submit the *Project Cost Report* form as a claim for refund, along with supporting documentation. Credit for sales taxes paid on materials to Westminster or other municipalities cannot be taken against the use tax due. Any overpayment will be refunded to the general contractor.

It is important to note that the use tax paid when the permit is issued is strictly an estimate. This method does not alter the fact that the actual cost of materials is the proper basis for determining use tax due. The general contractor is responsible for computing the actual cost of construction materials used in the project, including those used by sub-contractors or furnished by the property owner. If the general contractor fails to file a *Project Cost Report*, and a subsequent audit discloses a deficiency, the general contractor will be assessed for all such tax and applicable penalties and interest which may include estimates to the extent this information is not readily furnished by sub-contractors during the audit. The general contractor may not avoid payment by virtue of any provisions in its contract with the owner. Note that failure to file required returns, such as the *Project Cost Report*, is a criminal offense punishable by fines, imprisonment, or both.

Related Topics

- Construction – Building Permit Handout
- Construction – Public & Private Improvements
- Construction Equipment

Citations

- Westminster Municipal Code*
- § 4-1-7. Returns Required; Time for Filing and Paying Total Tax Liability
 - § 4-1-35. Violations; Summons and Complaint; Penalty
 - § 4-2-9. Provisions Relative to Construction Materials

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.