
Tax Compliance Guide

Properly Exempted Purchases Converted to Taxable Use Topic 339

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When the ultimate disposition of a specific article cannot be known at the time of purchase, because such property would ordinarily comprise the buyer's inventory, the property may be properly purchased tax exempt at wholesale. The *Westminster Municipal Code* imposes a use tax on tangible personal property purchased at wholesale which is subsequently corrected to a purchase at retail by virtue of its use by the buyer either personally or in the buyer's business.

Retailers who purchase tangible personal property for inventory, including component parts for manufacturing, who remove such articles from inventory for business or personal use or consumption must report and pay a use tax on their cost. Retailer-contractors who remove construction materials from inventory to complete lump-sum contracts must report and pay use tax on their cost of the materials to the extent a use tax has not been pre-paid on a City building permit. Use tax is reported on line 8 of the periodic City sales/use tax return.

A buyer's obligation to remit use tax on goods removed from inventory does not relieve the seller's burden to show that sales were properly exempted. If the seller is audited, and exempted sales are disallowed, the seller will be required to show that the purchaser was properly licensed and the items purchased were resold. The seller, therefore, assumes some risk in exempting sales that the City later determines are not exempt, as the City will assess taxes, penalties and interest against the seller despite any indemnification by the buyer.

Examples

1. Office Products Business A, a licensed Westminster retailer, removes a box of pens from inventory for store use. Because these pens were purchased tax free for resale, Office Products Business A must report the cost of the pens and remit the use tax due on their next periodic City sales/use tax return (line 8).
2. Computer Manufacturer B buys various computer components in large quantity, which it assembles into completed personal computers for resale. Although Computer Manufacturer B occasionally uses completed computers in its offices, whether or not specific parts will ultimately end up in machines for resale cannot be known at the time of purchase. Most of the time, parts will end up in resold machines. Computer Manufacturer B may purchase all parts tax free at wholesale and remit use tax on the cost of those parts comprising a machine removed from inventory for use in its offices.

3. Retailer C is a licensed Westminster convenience store. Retailer C purchases most of its inventory and store supplies from Wholesaler X. Retailer C places an order for candy, soft drinks, office supplies, and cleaning supplies and asks Wholesaler X to exempt the entire sale from tax agreeing to pay use tax to the City on items it ultimately uses. Despite this agreement, Wholesaler X must collect tax on the office and cleaning supplies because they are not for resale.
4. Supplier D is a licensed Westminster retailer of plumbing parts and supplies. Supplier D also performs repairs and construction jobs. A customer contracts with Supplier D to complete a plumbing job that does not require a City building permit. Supplier D removes materials for the job from its retail inventory. Supplier D must report the cost of these materials on its next periodic City sales/use tax return (line 8).

Related Topics

Construction (various)
Employee Sales
Coupons, Discounts, and Promotional Items
Samples, Demonstrations, and Displays

Citations

Westminster Municipal Code

§ 4-1-2. Exemption; Burden of Proof
§ 4-1-5. Retailer Responsible for Collection and Payment of Tax
§ 4-2-3. Rate; Imposition and Collection; Distribution
§ 4-2-5. Transactions and Items Subject to Tax

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