

Use Tax

Made Simple

What Is Use Tax?

- ▶ Use tax is a compensating tax levied by state and local taxing authorities for purchases on which not enough or no sales tax was paid.

Glossary - 1

There are some very specific terms used in tax:

- ▶ *Base or basis* - This is the amount on which tax is calculated.
- ▶ *Jurisdiction* - The legal geographic boundary in which a given set of tax laws apply.
- ▶ *Home-rule* - This means a jurisdiction is in charge of its own taxes instead of being under state control.
 - ▶ *Laws*
 - ▶ *Administration*
 - ▶ *Collection and enforcement*
 - ▶ *Wheat Ridge*

Glossary - 2

- ▶ *Nexus* - Denotes a business presence as established by law and by court cases. Generally, nexus for sales or use tax exists if any of these apply to the business:
 - ▶ Property in the jurisdiction.
 - ▶ Employees working in the jurisdiction.
 - ▶ Commissioned agents or subcontracted repairmen working in the jurisdiction.
 - ▶ Landmark case: *Quill v North Dakota*
 - ▶ Regular solicitation of business doesn't create nexus.
 - ▶ Colorado - ongoing solicitation of business in any manner equals "doing business" equals nexus.
 - ▶ Wheat Ridge law follows Colorado's
 - ▶ Practice: apply common sense and consider materiality.

Who Must Pay Use Tax?

- ▶ Businesses located in Wheat Ridge that buy goods and certain services to use in business operations are required to report and remit any unpaid or underpaid local tax to Wheat Ridge.
 - ▶ Items bought to resell are not subject to use tax, but you must provide your Wheat Ridge business license number to your supplier.
 - ▶ Items on which tax was charged may or may not be subject to use tax.

What Is the Use Tax Rate?

- ▶ In most places that have it, the use tax is the same rate as the sales tax, but not always.
- ▶ In Wheat Ridge, both the sales and use tax rates are the 3.5%.

How Do I Know I Owe Use Tax?

- ▶ If you paid tax on purchases of operating supplies and equipment that's less than 7.5%, use tax is likely owed to Wheat Ridge.
- ▶ If you paid no tax on the same kind of purchases, use tax is owed to the State and Wheat Ridge.
- ▶ If you paid more than 8.0% tax on these purchases, NO use tax is owed.
- ▶ The difference in rates is because of county sales tax which applies only if the vendor is in Jefferson County.

What Are All These Rates?

TOTAL RATE EFFECTIVE IN WHEAT RIDGE JANUARY 1, 2017						
Supplier's Location	City of Wheat Ridge	State of Colorado	Regional Transportation District	Cultural & Scientific District	Jefferson County Open Space	Combined Rate
In Wheat Ridge	3.5%	2.9%	1.0%	0.1%	0.5%	8.00%
Not in Wheat Ridge or Jeffco but has nexus	3.5%	2.9%	1.0%	0.1%		7.50%
Not in Wheat Ridge, in Jeffco		2.9%	1.0%	0.1%	0.5%	4.50%
Outside Jeffco		2.9%	1.0%	0.1%		4.00%

Nexus, for tax purposes, means a business presence in the form of employees, representatives or property (real or personal) for business purposes. Employees or representatives who live in the City, but do not conduct business such as sales, solicitation of sales, or fulfillment of sales orders or services do not create nexus. If a resident employee actively promotes the business (i.e., solicits sales) in the City, nexus exists and licensing and tax collection, on sales delivered or certain services rendered in the City, are required.

What Does Use Tax Apply To?

In Wheat Ridge use tax applies to the same goods and services as sales tax.

- Samples at cost
- Supplies
- Furniture
- Equipment and tools
- Food, employee meals
- Phone services
- Internet services
- Software
- Leases and rentals
- Shipping, delivery and handling

What If I Paid Sales Tax?

- ▶ It depends on where you made the purchase. In general if the purchase was:
 - ▶ *In* Wheat Ridge: no use tax is due because the seller collects it.
 - ▶ *Outside* Wheat Ridge: compare the total tax rate to the Wheat Ridge total tax rates - 8.0% or 7.5%
 - ▶ If LESS, you most likely owe the difference to Wheat Ridge, up to 3.5%.
 - ▶ If the SAME or MORE, you owe no use tax to Wheat Ridge.

Track On a Routine Basis

- ▶ Review each purchase invoice and receipt on a regular basis.
- ▶ Record invoices on which use tax is owed on a worksheet which can be saved in case of audit.
 - ▶ Wheat Ridge offers a template for getting started or create your own.
- ▶ Reasonable lag time because of your accounts payable cycle and procedures is acceptable.

The Wheat Ridge Tax Form



PO BOX 912758, DENVER, CO 80291-2758 (303)235-2820
 ONLINE - PAY WITH CARD: <https://salestax.ci.wheatridge.co.us/sts1>
 ONLINE - PAY WITH VIRTUAL CHECK: <https://secure.salestaxonline.com>

PERIOD COVERED
 DUE DATE
 ACCOUNT NUMBER

Line 10 is where the amount of purchases you are paying use tax on goes. Line 11 is where use tax is calculated and reported.

1	GROSS SALES AND SERVICES (all revenue)		5	CALCULATE CITY SALES TAX - LINE 4 x .035		.00
2A	ADD: BAD DEBTS COLLECTED	.00				.00
2B	TOTAL SALES ACTIVITY - ADD LINES 1 AND 2A	.00	6	ADD: EXCESS TAX COLLECTED		.00
3	A NON-TAXABLE SERVICES	.00	7	ADJUSTED TAX - ADD LINES 5 AND 6		.00
DEDUCTIONS	B SALES TO OTHER LICENSED DEALERS	.00	8	DEDUCT VENDOR FEE: LESSER OF 2% OR \$100		.00
	C SALES SHIPPED OUT OF CITY/STATE	.00	9	TOTAL SALES TAX - LINE 7 MINUS LINE 8		.00
	D BAD DEBTS CHARGED OFF, TAX PAID	.00	10	CITY USE TAXABLE AMOUNT		.00
	E TRADE-INS FOR TAXABLE RE SALE	.00	11	CITY USE TAX - LINE 10 x .035		.00
	F SALES OF GASOLINE/CIGARETTES	.00	12	TOTAL SALES AND USE TAX DUE - ADD LINES 9 AND 11		.00
	G SALES TO LICENSED EXEMPT, FEDERAL AND COLORADO GOVERNMENTS	.00	13A	LATE FILING CHARGES IF RETURN IS FILED AFTER DUE DATE ADD	PENALTY LARGER OF .10 X LINE 12 OR \$15	.00
	H RETURNED GOODS	.00	13B	INTEREST	.01 x MONTHS LATE x LINE 12	.00
	I PRESCRIPTION DRUGS, PROSTHETICS	.00	14	TOTAL TAX, PENALTY, AND INTEREST DUE - ADD LINES 12, 13A AND 13B		.00
	J FOOD STAMPS/SNAP/NC	.00	15	BUSINESS LICENSE RENEWAL FEE DUE BY JANUARY 31 TO AVOID LATE FEE		.00
	K OTHER EXEMPT:	.00	15A	PRIOR PERIOD ADJUSTMENTS	DEBIT ON ACCOUNT - ADD	
L OTHER EXEMPT:	.00	15B		CREDIT ON ACCOUNT - SUBTRACT		
3	TOTAL DEDUCTIONS - ADD LINES 3A THRU 3L	.00	17	TOTAL AMOUNT DUE		.00
4	TOTAL CITY NET TAXABLE LINE 2B MINUS LINE 3	.00	18	TOTAL AMOUNT PAID - PLEASE COMPLETE		.00

MESSAGES SECTION - TO OR FROM THE CITY
 FILE ONLINE FOR CONVENIENCE AND ACCURACY! ADDRESSES ARE AT THE TOP OF THE PAGE.

INFORMATION SECTION
 a) Please notify about changes using the online tools on the filing websites, a phone call, or email to WRTAX@ci.wheatridge.co.us
 b) City Hall walk-in or direct mail: 7500 W. 29TH AVENUE, WHEAT RIDGE, CO 80033-8001
 c) Website: WWW.CI.WHEATRIDGE.CO.US/TAXINFO
 d) Tax Division Phone: (303)235-2820

THIS IS A LEGAL DOCUMENT - A SIGNATURE IS REQUIRED
 I hereby certify under penalty of perjury that the statements made herein are true and correct to the best of my knowledge.

Signed:	Date:
Title:	Phone:
Company:	

Let's do some examples!

In the following examples, items that are taxable in Wheat Ridge are boxed in a heavy red line.

Example 1

- ▶ Internet purchase of equipment, no tax charged.



eStuff.com

INVOICE

"Stuff is us"

Example 1

123 Skidoo St.
Pumpkin Corners, KS 12345

DATE: 02/28/17
INVOICE # 100

Bill To: Accounts Payable
A Wheat Ridge Company
7500 W. 29th Ave.
Wheat Ridge, CO 80033

Ship To: Manager
A Wheat Ridge Company
7500 W. 29th Ave.
Wheat Ridge, CO 80033

Comments or Special Instructions: none

SALESPERSON	P.O. NUMBER	SHIP DATE	SHIP VIA	F.O.B. POINT	TERMS
Bea Hapi	12345	01/13/2017	Common	Destination	Net 30

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
10	Really neat computer gadget	\$ 70.00	\$ 700.00

Taxable amount	\$1,000.00
Multiply by tax rate	0.035
Use tax to pay	<u>\$ 35.00</u>

SUBTOTAL	\$ 700.00
internet sale TAX RATE	0.00%
SALES TAX	-
SHIPPING & HANDLING	300.00
TOTAL	\$ 1,000.00

Make all checks payable to **eStuff.com**
If you have any questions concerning this invoice, contact Bea Hapi, (123)456-7890
beahapi@estuff.com

THANK YOU FOR YOUR BUSINESS!

Example 2

- ▶ Purchase and pick up items outside Wheat Ridge where local tax is lower or non-existent or certain goods aren't taxed.



Lakewood Retailer

INVOICE

Example 2

456 Pickupstix Lane
Lakewood, CO 80226

DATE: 02/28/17
INVOICE # 100

Bill To: Accounting
An Office in Wheat Ridge
7500 W. 29th Ave.
Wheat Ridge, CO 80033

Ship To: counter sale

Comments or Special Instructions:

SALESPERSON	P.O. NUMBER	SHIP DATE	SHIP VIA	F.O.B. POINT	TERMS
Kidat Kownter	none	01/03/2017	pickup	origin	credit card

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1	Forms, carton	\$ 100.00	\$ 100.00
5	Executive pens	100.00	500.00
4	Double espresso latte, case 50	100.00	400.00

SUBTOTAL	\$ 1,000.00
TAX RATE	6.50%
SALES TAX	65.00
SHIPPING & HANDLING	-
TOTAL	\$ 1,065.00

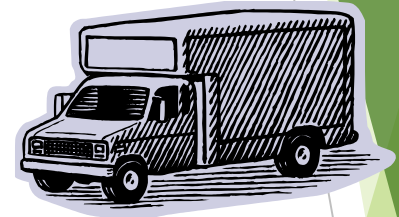
Total rate, Wheat Ridge	8.00%
Rate paid (minus)	6.50%
Catch up rate	1.50%
Times taxable subtotal	\$ 1,000.00
Use tax due to WR	\$ 15.00
How much to report as taxable	
Use tax due to WR	\$ 15.00
Divide by WR tax rate only	0.035
Taxable amount for line 10 of return	\$ 428.57

THANK YOU FOR YOUR BUSINESS!

Example 3

Purchase of delivered supplies,
only State collected taxes paid.

- Freight, shipping, delivery and handling are taxed by Wheat Ridge but not by the State.



Special Use Tax Issues

There are a few issues in use tax which demand special attention because of the more involved steps needed to determine use tax liability.

- ▶ Employee meals
- ▶ Telecommunications
- ▶ Samples
- ▶ Construction
- ▶ Medical equipment and supplies

Employee Meals

- ▶ If *sold* to employees at a discounted price, *sales tax* should be collected and remitted on the discounted price.
- ▶ If *given* to employees free of charge, *use tax* is due to the City of Wheat Ridge on the cost of the food.

Employee Meals Example

Chicken dinner menu price	\$10.00
Cost of goods (food), taxable, report on Schedule B	3.00
Use tax on cost (3.5%), recalculated on Line 10	.11

▶ Insignificant?

- ▶ If an employee eats something for 22 working days each month, that's \$2.42.
- ▶ If you have 10 employees doing the same, that's \$24.20 in a month, \$290.40 in a year.
 - ▶ In 2017 that equates to 5 hours of police patrol or nearly 26 hours of basic park maintenance!
- ▶ In an audit which discovered the meals three years after the tax was due, it'd cost about \$53 in interest and \$29 in penalty in addition to the tax or about \$372!

Telecommunications

- ▶ Unlike the State, the City of Wheat Ridge taxes all charges for phone and internet services except:
 - ▶ Taxes
 - ▶ 911 fees
- ▶ Telecommunications is one of the most commonly assessed items on City of Wheat Ridge audits because local tax on the bill is often based on what's taxed by the State and may be grouped with other taxes and fees.

Telecommunications Use Tax

Steps

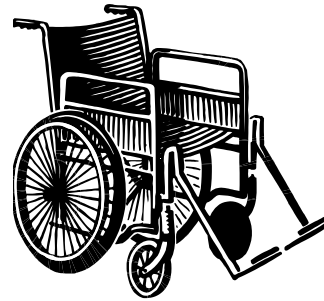
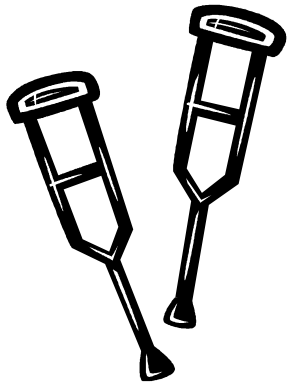
- ▶ Add all charges to determine the basis for Wheat Ridge tax:
 - ▶ basic service fees
 - ▶ all long distance charges
 - ▶ access fees except 911
 - ▶ special services charges such as voice mail
 - ▶ installation charges
 - ▶ DO NOT INCLUDE conferencing charges
- ▶ Multiply the result by the tax rate of 3%.
 - ▶ If the local *tax paid* on the bill is LESS than this amount, you owe the difference to the City of Wheat Ridge.
 - ▶ The difference owed/tax rate = taxable to report on Schedule B of the return; tax is recalculated on Line 10.

Samples

- ▶ Samples, whether given to a customer at your location in Wheat Ridge or shipped from your location in Wheat Ridge are a taxable use of product.
 - ▶ A company giving a free sample is *using* it to stimulate sales, establish good will, or reward patronage.
 - ▶ Use tax of 3% is owed to Wheat Ridge on the cost of the samples as reflected by cost of goods sold.

Medical Equipment and Supplies

- ▶ While the State exempts most medical equipment and supply items, the City of Wheat Ridge limits what is exempt.



Exempt Medical Items

- ▶ *Prescription* drugs, topical items and supplements for humans and animals
 - ▶ Controlled substances only.
 - ▶ If it can be bought over the counter, it's not exempt.
- ▶ Insulin, insulin pumps and glucose for treating insulin reactions
- ▶ Medical oxygen and equipment
- ▶ Medical supplies sold in combination with controlled substances
 - ▶ Medicated sutures
 - ▶ Pre-filled syringes

More Exempt Medical Items

▶ *Prosthetic devices*

- ▶ Items which replace or support bodily functions
- ▶ For humans and animals (Wheat Ridge peculiarity)
 - ▶ Prosthetic limbs and organs
 - ▶ Sutures, suture-preloaded needles
 - ▶ Custom orthotics and prescription shoes
 - ▶ Ostomy supplies
 - ▶ Corrective eyeglasses and contacts
 - ▶ Pacemakers and similar devices
 - ▶ Hearing aids and their batteries
 - ▶ Crutches, temporary braces, walkers and wheelchairs by prescription
 - ▶ More, see Regulation A-470 or ask for an opinion.
 - ▶ Written opinion provided upon request.

Taxable Medical Practice Supplies

- ▶ All other items used in rendering service and keeping records are taxable.
 - ▶ Gauze, tape, swabs, sponges, blades, syringes and similar
 - ▶ Testing kits
 - ▶ Non-prescription dietary supplements and all food
 - ▶ Medical equipment and supplies for it
 - ▶ Office supplies from paper clips to computers, furniture and fixtures
 - ▶ Anything primarily for cosmetic purposes or display
 - ▶ An invoice example follows

Contractors

Construction companies and other contractors are subject to use tax, too.

- ▶ Possible use tax items:
 - ▶ Office supplies
 - ▶ Tools
 - ▶ Rented equipment
 - ▶ Non-job related supplies
 - ▶ Inventory used in operations instead of sold

Constructive Advice

When you get a permit on a project you pay an estimated use tax on materials and supplies up front.

- ▶ Carry permit copies and give them to sellers of these items.
 - ▶ State law says sellers must honor the permit and exempt local tax. BUT another law says a seller may choose to not allow any exemption.
 - ▶ CRS 29-2-105

CRS 29-2-105

Source: Colorado Statutes : TITLE 29
GOVERNMENT - LOCAL : GENERAL PROVISIONS
: ARTICLE 2 COUNTY AND MUNICIPAL SALES OR
USE TAX : 29-2-105. Contents of sales tax
ordinances and proposals.

(2) No sales tax of any statutory or home rule city, town, city and county, or county shall apply to the sale of construction and building materials, as the term is used in section 29-2-109, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to such local government evidencing that a local use tax has been paid or is required to be paid.

Connect For Success!

- ▶ Other businesses in your line
- ▶ Tax officials - state and local
- ▶ Colorado Tax Audit Coalition of the CGFOA
 - ▶ Associate memberships available
 - ▶ Quarterly meetings (half-day for associates)
 - ▶ Low-cost dues
 - ▶ <http://cgfoa.org/CTAC.htm>

To Sum It Up

- ▶ Use tax is an often-overlooked part of state and local taxation.
- ▶ Use tax is often an expensive part of state and local audit assessments.
- ▶ Use tax can be managed:
 - ▶ Awareness
 - ▶ Asking questions
 - ▶ Routine review and accrual
 - ▶ Prompt payment in accordance with your sales and use tax filing schedule.

Resources

- ▶ Wheat Ridge: www.ci.wheatridge.co.us
WRTax@ci.wheatridge.co.us
- ▶ State of Colorado: www.taxcolorado.com
(303)238-7378
- ▶ Other localities and counties may be found in the phone book, via internet search or through the State's website.