

Colorado use tax is a complement to sales tax and is imposed primarily to ensure that tax is paid by taxpayers in Colorado on purchases made from out-of-state sellers that do not collect Colorado sales tax. Individuals, businesses, and other legal entities owe use tax when they store, use, or consume in Colorado any taxable item for which they did not pay sales tax. Under certain circumstances, an out-of-state retailer will collect use tax at the time of the sale. Use tax collected by out-of-state retailers is known as “retailer’s use tax” and is discussed in greater length in FYI Sales 5. If the seller does not collect either sales tax or retailer’s use tax, the buyer must generally remit use tax directly to the Department Revenue, unless the purchase qualifies for an exemption. Use tax paid directly to the Department is called “consumer use tax.”

The information in this FYI does not apply to home-rule cities that administer their own sales and use taxes. Please contact the appropriate home-rule city for information about the sales and use taxes they impose. See Department publication DR 1002, “Colorado Sales/Use Tax Rates,” available online at Colorado.gov/Tax, for contact information for home-rule cities.

WHO MUST PAY CONSUMER USE TAX?

Anyone who stores, uses, or consumes taxable property in Colorado, and who does not qualify for exemption, will owe use tax if sales or use tax was not paid at the time of acquisition. In general, it is the purchaser who will owe the use tax. However, if the taxable property is stored, used, or consumed by someone other than the buyer, the individual or business that stores, uses, or consumes the taxable item will owe the tax.

Exempt entities

Certain entities and organizations are exempt from both sales and use taxes. Exempt organizations and entities include:

- the United States government, Colorado government, and any city, county, or local governments in Colorado, provided the otherwise taxable property is used in an official government capacity;
- charitable organizations, provided the otherwise taxable property is used in the conduct of the organization’s regular charitable functions and activities (see FYI Sales 2);
- certain affordable housing projects (see FYI Sales 95).

PROPERTY SUBJECT TO CONSUMER USE TAX

Property subject to use tax generally includes all tangible personal property, except where a specific exemption is allowed by law. Consumer use tax is due if any person, business, or other legal entity stores, uses, or consumes in Colorado any taxable property without having paid sales tax or retailer’s use tax at the time of acquisition. This most commonly occurs when a purchase is made from an out-of-state seller, either over the internet or by a Colorado resident traveling in another state.

Purchases made over the internet

Tangible personal property purchased over the internet and delivered into Colorado is not exempt from taxation simply because it was purchased online. However, if the seller does not have a store, warehouse, or other physical location in Colorado, the seller might not collect the applicable sales tax or retailer’s use tax at the time of the purchase. If a person, business, or other legal entity purchases tangible personal property online for use in Colorado, and pays no tax to the seller at the time of purchase, that purchaser will owe consumer use tax on the purchased property.

Beginning July 1, 2017, if you purchase taxable property over the internet from an out-of-state retailer that does not collect Colorado tax, the retailer must:

- present you with a notice at the time of the sale advising of your obligation to pay consumer use tax directly to the Department;
- send you an annual summary in January listing the purchases you made during the prior year; and
- report the total dollar amount of the purchases you made to the Department.

The annual summary you receive will assist you in reporting and paying consumer use tax. See “How to Report and Pay Consumer Use Tax” below for information about reporting and paying consumer use tax.

Purchases made outside of Colorado

If a person, business, or other legal entity purchases taxable property outside of Colorado and brings that property into Colorado for use in this state, the property will be subject to consumer use tax. However, if the purchaser paid sales tax

to the other state at the time of purchase, the purchaser will be allowed a credit in the amount of the sales tax paid against the use tax due.

Construction and building materials

Special rules apply to the taxation of construction and building materials purchased by contractors and subcontractors. See FYI Sales 6 for additional information regarding the taxation of construction and building materials.

Exemptions from the tax

Colorado law exempts several types of property from use tax. Some of the more common types of exempt property are:

- Property for which the purchaser paid the applicable Colorado sales tax at the time of purchase;
- Property for which the purchaser paid, at the time of purchase, sales tax to another state in an amount equal to or greater than the use tax due;
- Food for home consumption (see FYI Sales 4);
- Machinery and machine tools used in manufacturing (see FYI Sales 10);
- Property purchased and held for resale in the regular course of business, either in its original form or as an ingredient or a constituent part of a manufactured or compounded product;
- Property held by a nonresident and brought into Colorado either temporarily or when the nonresident acquires residency in Colorado;
- Property purchased for \$100 or less by Colorado residents while outside of Colorado.

See Part 7 of Article 26 of Title 39 of the Colorado Revised Statutes for information about other types of property that are exempt from use tax.

When sales tax, rather than use tax is due

In certain situations a purchaser must remit sales tax, rather than use tax, directly to the Department. Some of the most common of these situations are described below.

Items withdrawn from inventory for company use

A retailer purchasing goods for resale may buy the goods without paying sales tax at the time of purchase. However, if the retailer withdraws an item purchased tax-free from inventory for the retailer's own use, the retailer will owe all applicable state, local, and special district sales tax, as opposed to use tax, on that item. The retailer must report the price of the item and the tax due thereon on line 10 of the retailer's Colorado Retail Sales Tax Return (DR 0100).

A retailer must pay sales tax at the time of purchase for any item the retailer purchases expressly for its own use (such as office supplies, furniture, or display racks).

Furniture, fixtures, and equipment acquired in business or real estate sales

The sale of real property or a business is not normally subject to sales or use tax. However, when the sale includes any tangible personal property (such as furniture, fixtures and equipment) that is not permanently attached to real property, the tangible personal property included in the sale is subject to sales tax. Often the seller or real estate agent does not collect sales tax on the taxable personal property at the time of the transaction. In such cases, the purchaser is responsible for remitting the sales tax, not use tax, to the state. The purchaser must remit this tax on the Retail Sales Tax Return for Occasional Sales (DR 0100A). The return and tax payment are due 20 days after the purchase date.

HOW TO CALCULATE CONSUMER USE TAX

Colorado use tax is calculated at the same 2.9% rate as the state sales tax. Some cities, counties, and special districts in Colorado also impose a use tax. The Department administers use tax for certain special districts, but does not administer use tax for any city or county. Instead, any use tax imposed by a city or county in Colorado is remitted directly to the applicable city or county. See Department publication DR 1002, "Colorado Sales/Use Tax Rates," available online at Colorado.gov/Tax, for information about use taxes, exemptions, rates, and remittance information for cities, counties, and special districts in Colorado.

HOW TO REPORT AND PAY CONSUMER USE TAX

The reporting and payment requirements for consumer use tax differ depending on whether the taxpayer is an individual, business, or other legal entity. Additionally, any consumer use tax due for a motor vehicle will generally be paid to the applicable county motor vehicle office at the time of titling and registration.

Individuals

Consumer use tax for individuals is due April 15th. Individuals can report and pay consumer use tax in one of two ways, either of which can be filed electronically at [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline):

- with the Consumer Use Tax Reporting Schedule (DR 104US) as an attachment to their Colorado individual income tax return (DR 104); or
- with the Consumer Use Tax Return (DR 0252).

The schedule or return must include tax for any tangible personal property the individual stored, used, or consumed during the income tax year and for which sales or use tax was not previously paid. If an individual files his or her income tax return under extension, penalty and interest will be due for any consumer use tax not paid prior to the April 15th due date.

Businesses and other legal entities

The due date for businesses and other legal entities that owe consumer use tax depends upon the amount of use tax owed. If the business or other legal entity accrues less than \$300 of total consumer use tax over the course of the year, the business or other legal entity must file an annual use tax return, due January 20th of the following year, to report and pay the tax due. If the cumulative tax due at the end of any month is in excess of \$300, the business or legal entity must file a return by the 20th day of the following month. The business or other legal entity can either file electronically at [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline) or by completing and submitting a Consumer Use Tax Return (DR 0252).

Motor vehicles

In most cases, a motor vehicle dealer will collect all applicable sales taxes at the time of the sale. However, if the vehicle is purchased outside of the state or in a different local taxing jurisdiction that the purchaser's resides or if the vehicle is purchased from a private party without a sales tax license, some or all of the applicable taxes may not be collected at the time of the sale. If this is the case, the county motor vehicle office will collect all applicable unpaid taxes, including any state tax due, at the time the vehicle is registered.

Penalties and interest

If a taxpayer does not file any pay any consumer use tax due by the applicable due date, penalty and interest will be due. See FYI General 11 for additional information about penalties and interest.

ADDITIONAL RESOURCES

- **Colorado statutes and regulations**
 - § 39-26-201, et seq., C.R.S. (imposing the tax, penalty, and interest and prescribing filing)
 - § 39-26-701, et seq., C.R.S. (establishing sales and use tax exemptions, generally)
 - § 39-26-713(2), C.R.S. (establishing exemptions specific to use tax)
 - Dept. Reg. 1 CCR 201-4, 39-26-202. (regarding use tax)
 - Dept. Regs. 1 CCR 201-4, 39-26-713.2(a), et seq. (regarding use tax exemptions)
- **Colorado court cases**
 - *Matthews v. Dept. of Rev.*, 193 Colo. 44, 562 P.2d 415 (1977). (purpose and nature of use tax)
 - *CF&I Steel Corp. v. Charnes*, 637 P.2d 324 (Colo. 1981). (multiple taxation is to be avoided; only tangible personal property purchased at retail subject to use tax)
 - *Int'l. Bus. Machs. Corp. v. Charnes*, 198 Colo. 374, 601 P.2d 622 (1979). (use tax no greater than necessary to compensate for earlier avoided sales tax)
 - *Tri-State Generation & Transmission Ass'n v. Dept. of Rev.*, 636 P.2d 1335 (Colo. App. 1981); *AF Prop. v. Dept. of Rev.*, 852 P.2d 1267 (Colo. App. 1992). (use tax liability depends on use, not ownership)
- **Colorado forms, publications, and other guidance**
 - Consumer Use Tax Reporting Schedule (DR 104US)
 - Consumer Use Tax Return (DR 0252)
 - FYI Sales 4 (exemption for food for home consumption)
 - FYI Sales 10 (exemption for machinery and machine tools used in manufacturing)
 - FYI Sales 2 (exemption for charitable organizations)
 - FYI Sales 6 (construction and building materials)
 - FYI General 11 (penalties and interest)
 - FYI Sales 95 (exemption for affordable housing projects)