

# City and County of Denver, Colorado

## TAX GUIDE

### *Topic No. 90*

# REDUCTION ALLOWED FOR PREVIOUSLY PAID SALES OR USE TAXES

Denver allows a reduction of the amount of consumer's use tax owed to it when sales or use taxes have been lawfully imposed by and paid to another municipality for the same transaction. The amount of use tax owed to Denver will also be reduced by the amount of taxes Denver is prohibited from collecting under the Constitution of the United States, federal law, or the Constitution of Colorado.

To determine any potential reduction from the Denver use tax, first determine the combined sales and use tax rate in Denver. This rate will typically be 7.62%, broken down as follows:

Denver <sup>1</sup>	3.62%
State of Colorado <sup>2</sup>	2.90
RTD	1.00
Cultural District	<u>0.10</u>
	7.62% <sup>5</sup>

Next, follow a two step calculation to determine if a use tax liability exists when taxable purchases are used, consumed, stored or distributed in Denver.

### **2-Step Formula to Calculate Your Denver Use Tax Liability**

This two step formula calculates the proper Denver use tax under most circumstances. The footnotes at the end of this section explain other factors to consider which might affect the tax due.

**Step 1:**      **If sales/use tax has previously been paid on the taxable purchase, determine the combined total sales/use tax rate paid.<sup>3</sup>**

Is this rate equal to or greater than 7.62%?

- If **YES**, stop here because no additional use tax is due or reduction allowed.
- If **NO**, additional use tax is likely due. Go to Step 2.

**Step 2: Subtract the combined total sales/use tax paid from 7.62%.**

Is this difference 3.62% or greater?

- If **YES**, the Denver use tax liability is 3.62% of the taxable purchase price.<sup>4</sup>  
If **NO**, the Denver use tax liability is the rate, determined in Step 2 above, multiplied by the taxable purchase price.<sup>4</sup>

**Note:** No refunds or credits are given for taxes previously paid in excess of 7.62%.

**EXAMPLES:**

1. ABC Co., located in Denver, purchases a desk for its own use from a retailer not located in Denver who is not licensed to collect Denver taxes. The unlicensed retailer properly collects only the State-administered taxes of 4.0%. The consumer's use tax due Denver is 3.62% (7.62% less 4.0%) of the purchase price.
2. Ace Co., headquartered in Indiana, purchased machinery for use in its operations and paid the State of Indiana sales tax of 2%. Ace transferred this machinery to its Denver operations one month later. Using the 2-step calculation, the consumer's use tax due Denver is 3.62% of the purchase price, because the difference between 7.62% and 2% is 3.62% or greater. The Commerce Clause of the U.S. Constitution requires that Ace Co. will pay no more tax than it would have paid by purchasing the machinery in Denver.
3. XYZ, Inc., headquartered in Los Angeles with a district office in Denver, purchases supplies and has them delivered to its home office in Los Angeles. XYZ paid California sales tax of 5%. Some of those supplies were subsequently delivered and used in its operations in Denver. The consumer's use tax due Denver is 2.62% of the purchase price of the supplies used in Denver, because the difference between 7.62% and 5% is 2.62%. The Commerce Clause of the U.S. Constitution requires that XYZ, Inc. will pay no more tax than it would have paid by purchasing the supplies in Denver.

**Footnote references**

<sup>1</sup> Denver's general sales/use tax rate is 3.62%. However, special rates apply to purchases of prepared food and beverage (4%); short-term vehicle rentals (7.25%); and aviation fuel (4¢ per gallon). Modify this calculation accordingly when these special rates apply.

<sup>2</sup> Effective January 1, 2001. Previously, the State of Colorado rate was 3.0%.

<sup>3</sup> Only legally imposed sales/use taxes previously paid can be included in this total. Denver does not recognize previously paid sales/use taxes that were not legally collected or paid. For example, if a Ft. Collins vendor shipped merchandise to a Denver customer, the taxable sale has occurred at the point of delivery – in Denver. If this vendor were to improperly collect Ft. Collins sales/use tax, Denver would not allow this improperly collected tax to reduce the use tax due Denver.

Also, this calculation should be modified in cases where the purchase is taxable for Denver but exempt from State of Colorado sales/use taxes. In Step 1, replace the 7.72% rate with 3.62%. The use tax due Denver, if any, would be the difference between Denver's rate of 3.62% and any sales/use taxes previously paid, multiplied by the taxable purchase price.

<sup>4</sup> The actual use tax due Denver may be further reduced or eliminated if the “municipal” component of the combined tax rate paid can be identified. When the municipal tax component can be identified, perform a second calculation by computing the difference between Denver’s rate of 3.62% and any previous “municipal” sales/use tax paid (if this results in zero or a negative, no use tax is due Denver or credit allowed). The Denver use tax due will be *the lesser of* the tax computed from this second calculation and the tax computed using the standard two step calculation.

<sup>5</sup> Effective January 1, 2012. Previously the Combined Rate was 7.72% before the expiration of the Football District Tax of .10%.

\* DRMC Section 53-92(c) and (d). Legislative intent for taxes previously paid – Use.

\* DRMC Section 53-96. Imposition of use tax - Use.

\* DRMC Section 53-98. Retailers to collect tax - Use.

\* Rules Regarding Previously Paid Sales Or Use Tax.

*The complete Denver Tax Guide, the Denver Revised Municipal Code (DRMC), tax forms, and other related information and forms are available on-line at [www.denvergov.org/treasury](http://www.denvergov.org/treasury).*

THE ABOVE INFORMATION IS A SUMMARY IN LAYMAN’S TERMS OF THE RELEVANT DENVER TAX LAW FOR THIS INDUSTRY OR BUSINESS SEGMENT. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE DRMC AND APPLICABLE RULES AND REGULATIONS.