

City and County of Denver, Colorado

TAX GUIDE

Topic No. 21

DRUGS

A drug is a substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or other conditions. Drugs are classified as substances obtainable by physician directive (prescription and/or chart ordered drugs) or as "over the counter" preparations available to the general public (nonprescription drugs).

TAXABLE DRUGS

An "over the counter" drug is a medical substance which may be sold without a prescription and which is prepackaged for use by the consumer, properly labeled and is unadulterated ("in pure form") in accordance with the requirements of the Colorado Food and Drug Act (CRS 25-5-402) and the Federal Food, Drug, and Cosmetic Act (Title 21 U.S.C. 301 et seq.).

"Over the counter" drugs such as aspirin, pain relievers, cold capsules, cough syrups, anti-bacterial ointments, creams, petroleum jelly, etc., are taxable when purchased by individuals without a written prescription.

Sales of drugs of any sort for other-than-human use are taxable (e.g. animal prescriptions given by veterinarians).

TAX-EXEMPT DRUGS

Prescription or Other Written Directive

Prescription ordered drugs are exempt from sales and use taxes when the sale and purchase is for the direct personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine, dentistry, or podiatry.

A prescription order is defined (CRS 12-42.5-102) as an order authorizing the dispensing of drugs by a licensed pharmacist according to written or other transmitted directive from a licensed practitioner and includes the name or identification of the patient, the date, and sufficient information for its preparation, dispensing and labeling.

Drugs administered according to "chart orders" are also exempt from sales and use taxes. A chart order is an order for inpatient drugs and medications entered on a patient's chart or medical record to be dispensed by a licensed pharmacy or administered by an authorized person during a patient's stay in a medical facility. Chart orders contain the name of the patient, the type of medicine ordered and such directions as the practitioner may prescribe concerning strength, dosage, frequency, and route of administration. The individual charge for drugs administered must be itemized for billing purposes.

Drugs purchased in bulk quantities by a medical facility, to be administered to a specific patient under the directive of a licensed practitioner, showing itemized charges on the patient billing, are exempt from sales and use tax. Drugs consumed by the practice in providing its medical service, where there is not a billing to a specific patient, are taxable to the practice.

EXAMPLES

1. John receives a written prescription for penicillin from his physician which he delivers to the neighborhood pharmacy. The pharmacy dispenses the drug according to the instructions detailed in the prescription which specify the name and address of the person for whom the medicine or drug is ordered, the name of the drug and directions for use. Neither the purchase of the drug by the pharmacy nor the sale of the medication to John is subject to sales or use tax.
2. John is admitted to the hospital. On his hospital record, the physician orders the following:
IV solution - 1000cc with 20mg of potassium @ 100cc per hour. Penicillin - 250mg tablets every 6 hours. Cough Syrup - 10cc every 4 hours as needed for cough. Aspirin - 650mg every 4 hours as needed for fever. Inhalant - 5cc every 4 hours.

The hospital pharmacy dispenses the above medications and substances to the hospital unit where nursing personnel will administer these items to John as ordered. Charges will appear on John's account for all of the medications listed above. The purchase of the medications by the hospital and the subsequent sale to the patient, because it is under the written directive of a licensed practitioner, are tax-exempt transactions.

3. While in the hospital, John develops a kidney stone. His physician orders an x-ray procedure known as an IVP. An injectable diagnostic contrast media is required to complete this procedure and is administered by x-ray personnel under the direction of the radiologist in charge. John's itemized billing from the hospital will include a separate charge for the diagnostic contrast media. The purchase of the diagnostic contrast media (or drug) by the hospital and the sale to the patient are tax-exempt transactions.
4. John makes an appointment to see his physician and requests and receives a flu shot. He also relates an incident in which he sustained a blow to his cheek resulting in a small laceration. His physician determines that suturing of the laceration is needed. As part of this procedure, he injects a solution to anesthetize the area. His physician also provides John 8 pain pills and directs him to take 2 tablets every 4 hours if needed for discomfort. A specific charge is made for the flu shot on his billing; however, a charge is not made for the anesthetic injection or the pills. The physician's purchase of medications which are not specifically billed to the patient are subject to sales or use tax.
5. Betty calls her physician complaining of cold symptoms. He tells her to take aspirin and cough syrup. Betty goes to the drug store to buy these items per her conversation with her physician. The items are taxable because there is no written prescription.

RELATED TAX GUIDE TOPIC - Medical Exemptions

- * DRMC Section 53-53(a)(17) & (20). Definitions.
- * DRMC Section 53-55(a)(7). Exemptions.
- * DRMC Section 53-103(a)(18) & (22). Definitions.
- * DRMC Section 53-105(a)(7). Exemptions.
- * CRS 12-42.5-102(13),(21).Definitions.
- * CRS 25-5-402. Definitions.
- * Title 21 U.S.C. 301 et seq.

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.