

# City and County of Denver, Colorado

## TAX GUIDE

### *Topic No. 24*

## EXEMPTION-BURDEN OF PROOF

The retail sale of tangible personal property, products, or services not otherwise exempt is subject to sales or use tax. Exemptions in the Denver Revised Municipal Code (DRMC) are clearly defined and very specific. The list of exempt purchases cannot be increased by implication or similarity. In all cases, the burden of proof is upon the vendor to establish that a sale is exempt from tax.

The vendor is required to retain evidence to support the exempt status of a transaction. This may be requested by the City when a vendor is engaged in an audit. Such evidence may include:

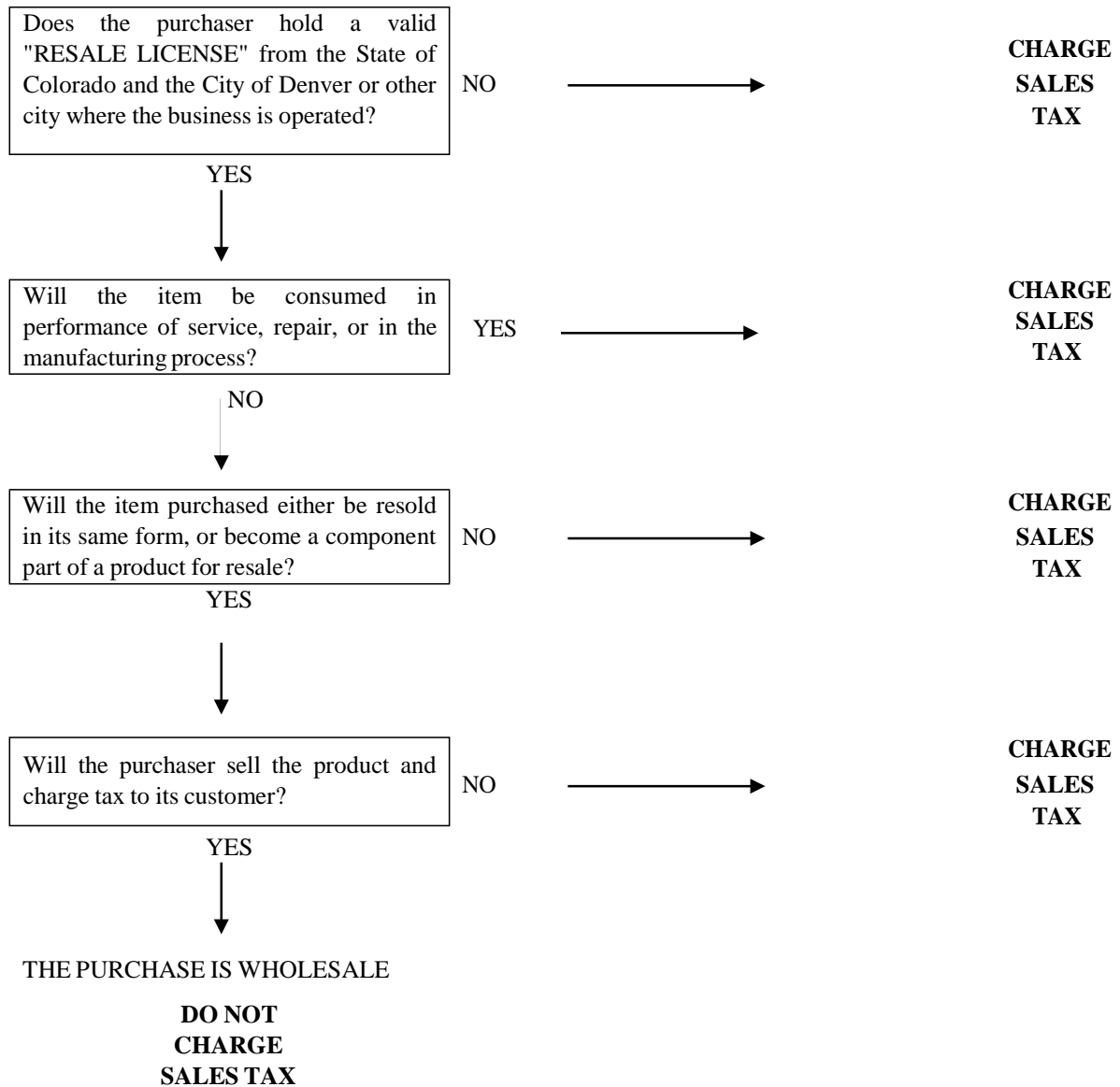
- A. A copy of the customer's current resale certificate or the vendor's own file of valid customer resale numbers, providing the purchaser is substantially engaged in reselling like products as those being purchased;
- B. A copy of the purchaser's or general contractor's building permit showing use tax was properly paid to another municipality;
- C. Delivery receipts, bills of lading, or other evidence the sale was made to a non-resident and delivery was made by the vendor, common carrier, or by mail to a location out of Denver;
- D. A letter of exemption issued by the Treasury Division, Department of Finance, City and County of Denver (a list of exemptions granted is on file in the Treasury Division);
- E. A properly executed "[Affidavit of Exempt Sale](#);" or
- F. A properly executed "[Affidavit of Exempt Event](#)." This form is designed for single-event exempt status at hotels and restaurants.

Forms may be obtained by clicking the hyperlinks above, online at [www.denvergov.org/treasury](http://www.denvergov.org/treasury) or from the Taxpayer Service Unit of the Treasury Division at 720-913-9400.

The above represent some of the types of evidence the Manager of Finance may accept as indicators of an exempt transaction. However, the exempt status of each transaction must be determined on its own merits with the ultimate responsibility for the burden of proving the exemption upon the vendor. Therefore, the vendor should know the nature of his/her customer's business before allowing any form of exemption.

The flow chart on the following page can be used to help vendors making retail sales determine when a transaction is properly exempt from collection of Denver's sales and use taxes.

**Does the sale qualify to be purchased tax free for resale?**



## EXAMPLES

1. ABC Distributors is currently being audited. ABC has deductions from gross sales for resale, and sales to charitable organizations. Evidence must be provided supporting the validity of these deductions. "Resale" sales should be documented by providing valid sales tax account numbers and the customer must be reselling the products purchased. Sales to exempt/charitable groups should be supported with a letter from the Treasury Division granting an exemption to the customer and the purchase must be used in the regular charitable activities of the exempt entity (see related Tax Guide topics – Charitable Exemption; Governmental Exemption).
2. John Doe Construction has pulled a building permit to perform some work in the City of Aurora. The permit shows proper use tax was paid to Aurora on the materials portion of the contract. John Doe is purchasing his material from a Denver vendor. This transaction and any subsequent purchases, for this job only, are not subject to Denver tax, provided the vendor maintains a copy of the permit indicating use tax was paid to another municipality.

## RELATED TAX GUIDE TOPIC

Charitable Exemption Governmental Exemption

- \* DRMC Section 53-13. Collection and refund of disputed tax.
- \* DRMC Section 53-20(f). Burden of Proof.
- \* DRMC Section 53-55. Exemptions.
- \* DRMC Section 53-57(c). Retailer responsible for payment of tax.
- \* DRMC Section 53-105. Exemptions.
- \* DRMC Section 53-107(c). Retailer responsible for payment of tax.
- \* DRMC Section 53-155. Exemptions.
- \* DRMC Section 53-157. Vendor responsible for payment of tax.
- \* DRMC Section 53-305. Exemptions

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.