

CITY OF COLORADO SPRINGS TAX GUIDE

REFUND OF TAXES TO QUALIFYING ENTITIES FOR THE PURCHASE OF CONSTRUCTION AND BUILDING MATERIALS

Scope: This Tax Guide specifies the conditions under which the Director will approve an application for a refund of City taxes paid on the purchase price paid for construction and building materials (materials) used by qualifying entities in the conduct of their functions or activities only, for the creation of real property located exclusively inside of the city boundaries. If the conditions are met, the transactions will be deemed to be “direct sales to and direct purchases by” a qualified entity for purposes of the Sales and Use Tax Code even though the funds for the purchases were not transferred directly from the qualified entity to the retail vendor. Construction projects funded by external sources, such as federal or state grants, or reimbursements, are not eligible for a refund as this would not constitute a direct sale. Projects funded with mixed funding from both direct and external sources will be refunded proportionally based on the percentage of direct funding. The scope of this guide is limited to City of Colorado Springs taxes paid and remitted for the purchase of qualifying materials and does not apply to the purchase of any other tangible personal property. “Qualified entity” means a religious, charitable organization; the United States government, the State of Colorado, its departments or institutions, and political subdivisions in their governmental capacity; and a school (other than a school held or conducted for private or corporate profit) in the conduct of its educational functions and activities.

This Tax Guide does not address purchases by a contractor from a vendor under § 2.7.604 of the City of Colorado Springs Sales and Use Tax Code (Code).¹ The contractor must pay the City tax on those purchases unless the purchases are otherwise exempt as provided in the Code.

Authority: This Tax Guide is issued under § 2.7.901.A, which vests the Director with authority to administer the Code.

Requirements: The Director may grant a refund to a qualified entity for city taxes paid upon the purchase of construction and building materials, defined in 2.7.104, by their contractors and subcontractors when the following conditions are met:

1. The qualified entity, contractors, and subcontractors are in good standing with the Colorado Secretary of State, State of Colorado, Internal Revenue Service, and the City of Colorado Springs during the period beginning with the date of the purchase and ending on the date the application for a refund is filed.

¹ Unless otherwise indicated, all references are to the Code.

2. On the date of purchase, the qualified entity, other than one described in § 2.7.418 Government, (i) held a current letter of exemption from the City and (ii) was classified by the Internal Revenue Service for exemption from federal income tax under § 501(c)(3) of the Internal Revenue Code.
3. To ensure construction materials are incorporated into a completed structure, a copy of all permits required and issued by Pikes Peak Regional Building Department must be submitted at the time the claim for refund is made by the Qualifying Entity.
4. The application for refund complies with City Code § 2.7.810 and is submitted on forms prescribed and furnished by the Director. The qualifying entity shall gather and submit the following documents as part of a complete packet at the completion of the construction project.
 - a. **ST 19** Qualifying Entity Claim for Refund of Sales and Use Tax on Construction Materials form.
 - b. **ST 19 EX** Excel Summary Workpapers which identifies all requested sales and use tax paid on qualifying materials purchased by contractors and subcontractors.
 - i. Qualifying Materials: construction and building materials described in 2.7.104 (i) that were incorporated into the new structure, (ii) classified as real property, (iii) and obtained a certificate of occupancy.
 - ii. Non-Qualifying Materials - Ineligible for a Refund: (i) construction and building materials used for repairs, replacement, alteration or maintenance to real property, (ii) tangible personal property, (iii) rentals used on the project, (iv) purchases made that are outside of the 3-year statute of limitations.
 - c. **ST16 COS QE** Contractors Certificate and Assignment Rights and the Contractors Summary Sheet, related invoices, and proof of payment of city tax.
 - i. The qualifying entity must gather all ST16 forms from the contractor and subcontractors and verify signatures.
 - ii. The qualifying entity must gather all Contractor Summary worksheets and enter the data into the ST 19 EX Excel Summary worksheet.
 - iii. The qualifying entity must submit all corresponding invoices, and use tax accrual reports for each line item claimed.
 - iv. Additional reports may be requested by the Director to help substantiate proof of city tax paid.

Approval: The Director will determine that the facts adequately support the claim for a refund. Generally, a claim for refund cannot be substantiated unless the qualified entity submits documents prepared by, or for, the contractor, including, but not limited to, invoices, purchase orders, job cost detail reports, and use tax detail reports. Any transaction in which State taxes are not paid, regardless of whether an “contractors exemption certificate” issued by the State of Colorado was presented, will receive additional scrutiny to ensure that the vendor collected the City tax. The Director may reject any document showing purchases unrelated to construction and building materials for the qualified entity seeking the refund. The qualified entity is advised to ensure that the contractor does not combine purchases on behalf of the qualified entity with purchases for other persons or projects. Comingled purchases, incomplete forms, partial or inconclusive submissions, or claims associated with contractors not in good standing will be denied.

Section 2.7.810.B.2 provides that the applicant for a refund bears the burden of proof. The failure of the qualified entity to satisfy this burden will result in the denial, or partial denial, of the claim for refund.

Common examples of items that do not qualify:

Non-structures: landscaping, landscaping retaining walls, fencing, flag poles, exterior light poles, parking lots, playground equipment, factory-built non-residential structures.

Tangible personal property or completed units: furniture, fixtures, appliances, dry-erase boards, artwork, audiovisual equipment, security equipment, and fire suppression equipment.

Replacement or maintenance to existing items incorporated in the structure: flooring, HVAC units, ducting, doors, windows, repainting, and acoustical tiles.

Repeal or Amendment: This Tax Guide is subject to repeal or amendment. This refund process is a matter of policy.