



Contractors and Retailer-Contractors Definitions and Sales Tax Requirements

GENERAL INFORMATION

CONTRACTOR

The definition of “contractor” for Loveland sales tax purposes is any entity or person who bids for and performs work on real property that constructs changes to a building structure, for another party pursuant to an agreement or contract, this work is usually subject to building or site permit.

For City of Loveland purposes, subcontractors are considered the same as general contractors on these projects that the building use tax is collected when the permit is approved. Typically these “lump sum contractors, (or subcontractors) purchase their materials using the permit number to prove to their suppliers that the use tax has been paid to the city.

The following information pertains to the contractor’s operation only when work is actually being performed under a real property contract. Aspects of the contractor’s business not involved in real property contract construction work such as repairs, installation of taxable materials, resale, time and material projects are subject to regular sales tax regulations and should be billed on a time and material basis, therefore sales tax is due on materials at retail price. In any case, a business is liable for sales or use tax on all tools and equipment used, whether on leased or rental costs or on purchase costs.

BILLING AND CONTRACTS

The method of billing and the type of contract can affect the way tax is imposed on or by a contractor. A contract is not a quote, bid, or estimate.

Time and material billing – the contractor/subcontractor selling to retail customer who invoices separately for labor and materials must have a City of Loveland sales tax license and charge applicable taxes on **the marked up** billing price of all materials. The contractor is liable for sales tax on the cost of all supplies not separately billed to the customer, as well as on tools and equipment. A time and materials agreement cannot be treated as a lump sum contract for sales tax purposes. If the invoice is billed with materials and labor combined into one sum, then the entire price of the invoice is subject to city sales tax.

Lump sum contract – a contractor cannot treat this type of contract as time and materials for sales tax purposes. Loveland and Larimer county sales and use taxes are paid in conjunction with building permits. All supplies and materials are taxable on the contractors cost as billed by vendor/subcontractor, either through sales tax paid to the vendor or use tax paid by the contractor. The contractor is liable for sales and use tax on the cost of all supplies and materials becoming a part of the real property as well as on tools and equipment.

RETAILER/CONTRACTOR

The definition of “retailer/contractor” for Loveland sales tax purposes is a contractor who is also a retail merchant/seller/installer of building supplies and/or construction materials (that is one who purchases such property specifically for resale, repair work, installations, time and material jobs, as well as lump sum permitted construction projects.) In other words, a retailer/contractor serves as the retail merchant of the same materials/goods that are used or made in the course of executing a real property contract.

A retailer/contractor operates a business that purchases to sell (without real property construction contract, but sometimes with repairs and installation, quotes, bids or estimates), and also purchases to use in contractual work. These two activities are treated differently – the first much like any “store”, and the second (real property) like a contractor.

A retailer/contractor may buy materials for inventory tax free for both resale and for contract use, because the purpose for which the purchases will be used is unknown at the time of purchase. The purchases made by the retailer/contractor that are later sold as a part of the business sales will be subject to standard sales tax laws and regulations, and are subject to tax on the **full selling price including all markup charges passed on to the buyer**. The purchases made by the retailer/contractor that are subsequently used in contractual real property construction typically covered by building use tax requirements are subject to tax on the full purchase cost, and is remitted to the City of Loveland on line 10 of the “Sales Tax Return” form, including applicable local taxes, or to localities through their forms or building permits.

A retailer/contractor has a significant burden to keep good books and records, particularly since the retailer/contractor may be operating two distinct types of businesses.

The requirements are no different from those imposed both on stores and on contractors. If a contractor operates a store and never draws on the store’s inventory for contractor’s supplies, and the store never draws on the contractor’s supplies for its inventory, the store can be licensed as a re-seller and the contractor can operate without a sales tax license and pay tax on all purchases. However, if the businesses operate without a complete distinction in inventory and supplies, they must have adequate records to create this division through the hard copy records.

DO YOU NEED A SALES TAX LICENSE?

Contractors performing only lump sum contracts on real property which typically require payment of sales/use tax at permit process should **not** obtain a Loveland sales tax license. The only non-taxable purchases of building materials a contractor may make are those for construction work for tax-exempt organizations. You must pay sales tax based on the acquisition costs of any items removed from stock for use in your contract operations. Contractors who purchase materials which are then fabricated and installed into real property must pay sales or use tax on the cost of the materials and on the fabrication cost to produce the end product. **Exception: Materials for construction work on property owned by tax-exempt organizations are non-taxable.**

Retailer/contractors must open and maintain a City of Loveland sales tax account. Retailer/contractors who make retail sales of a complete unit with an agreement for installation of the unit must collect sales taxes from the end user/purchaser on the marked up sales price of the unit. Such sales are not building contracts; they are retail sales. The term “unit” includes stoves, refrigerators, furnaces, air conditioners, washing machines, dryers, carpets, electrical fixtures, ready-made cabinets, storm doors and windows, exterior siding, roofing and roofing systems, screens, sod, landscaping and other similar items. Installation charges are not taxable, **if listed separately** from the sales price of the unit on the bid proposal and invoice. Efforts to avoid this sales tax by billing retail customers on sales of time and materials on a lump sum invoice will result in the entire amount billed to retail customer being subject to sales tax.

Exception: On the sale of construction materials, if the purchaser presents to the retailer a building permit showing a use tax for the municipality has been paid, sales tax is not due for any municipality. If the purchaser presents to the retailer a building permit that proves a use tax has been paid to the county, sales tax would not be due for any county on the sale of construction materials.

TAX-EXEMPT CONSTRUCTION PROJECTS

Building materials for construction work on property owned and used by tax-exempt organizations religious, charitable and governmental, may be purchased tax free. Contractors must supply their OWN tax exempt certificate provided by the state for the exempt project; they may not use the tax exempt certificate of the tax exempt entity. These are provided free of charge by the state, and will be required at audit. The purchase or rental of equipment, supplies, and other materials by the contractor is taxable.

THE ABOVE INFORMATION IS A SUMMARY IN LAYMAN'S TERMS OF THE RELEVANT LOVELAND TAX LAW FOR THIS INDUSTRY OR BUSINESS SEGMENT. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE LMTC (LOVELAND MUNICIPAL TAX CODE) AND APPLICABLE RULES AND REGULATIONS.

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