

CML Overview of Use Tax

Meghan Dollar, CML

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Intro to Use Tax

- **Part of Municipal Revenue Source**
 - Sales and use taxes are the main revenue source for most Colorado municipalities.
 - Colorado municipalities derive, on average, nearly three quarters of their general-purpose tax revenues from these taxes.
- **What is a Use Tax?**
 - Municipalities often levy a use tax as a compliment to their sales tax.
 - *A use tax is owed by a consumer who purchases taxable goods in some other jurisdiction without paying a sales tax (as often occurs when goods are delivered) and then stores, uses, or consumes the item in the use tax jurisdiction.*



Statutory Municipalities vs. Home Rule Municipalities

- **Statutory Municipalities**

- Additional restrictions and guidelines laid out in statute that statutory municipalities must follow when adopting a use tax ordinance.
- Statutory municipalities are limited to imposing a use tax on certain motor vehicles and building materials.

- **Home Rule Municipalities**

- Authority of home rule municipalities over the sales and use tax is plenary.
- Home Rule taxing authority is derived from Colorado's constitution, rather than the state statutes
- The use tax base of home rule municipalities is generally coextensive with their sales tax base.



Passage of Use Tax Ordinance

- **Like the local sales tax, a use tax ordinance may be proposed by the municipality's governing body or initiated by the electors. Use taxes must be approved by a majority vote of the people.**
- **Statutory Municipal Ordinances**
 - **A statutory municipality may impose a use tax only on the use or consumption within the municipality of any construction and building materials purchased at retail, or on any motor vehicles, on which registration is required.**
 - **A use tax cannot be imposed on the storage of construction and building materials.**
 - **The use tax statutes contain a list of circumstances in which the storage, use or consumption of certain property shall be exempt from the local use tax. These required exemptions are listed at C.R.S. 29-2-109(1)(a)-(j).**



Provisions often in Use Tax Ordinances

- 1. Definitions:** The state use tax definitions may be referred to generally and incorporated by reference, with further definitions included as needed.
- 2. Penalties and enforcement provisions:** As collection of use tax is done locally, the municipality may wish to include a penalty provision and other enforcement provisions. For example, a common provision prevents the issuance of building permits until all applicable use taxes on the building materials have been paid.
- 3. Tax schedule:** Besides imposing a percentage rate, the ordinance may delineate the tax by providing a tax schedule. While a municipality may devise a schedule in any manner desired, a schedule uniform with the state's schedule simplifies the calculation for vendors.



Enforcement and Collection

Municipalities collect use tax locally.

- Construction and building materials use tax is collected through the permitting process.
- Statutes authorize DOR to enter into agreements with the county and the municipality for the collection of the municipal use tax on motor vehicles by the county clerk.
- Home Rule municipalities may attach enforcement to business licenses.

