

This publication addresses tax matters only. For information regarding permitting requirements, fees, and contractor or subcontractor licensing, please contact the Louisville Building Safety Division directly at (303) 335-4584.

Contractors

The definition of a contractor is any person who shall build, construct, reconstruct, alter, expand, modify, or improve any building, dwelling, structure, infrastructure, or other improvement to real property for another party pursuant to an agreement. This includes but is not limited to, building contractors; foundation, curb and parking lot contractors; painting, stucco, brick and other finish contractors; roofing contractors; road, grading and excavating contractors; electrical, plumbing, and heating and air conditioning contractors. In some cases, where the owner of the property is performing its own work, the owner is also a “contractor”. The definition also applies to persons involved in cabinet, casework, sheet metal, glazing and other such trades when they construct components on site for permanent incorporation into real property and any other person engaged in construction, reconstruction or significant repair of any building, bridge or structure under a contractual arrangement. A subcontractor has the same meaning as contractor but does not mean any individual who is working for salary or wages.

Any aspect of a contractor’s business which does not involve a real property contract for construction work in the City, is subject to the standard sales tax regulations promulgated in the Louisville Municipal Code (LMC), and are the consumers of all tools, equipment or other items used or consumed whether leased, rented or purchased.

A “consumer” is any person engaged in business in the City that uses, stores, distributes or otherwise consumes tangible personal property or taxable services in the City whether purchased from sources inside or outside the City.

“Use” means the exercise for any length of time by any person within the City of any right, power, or dominion over tangible personal property or services when rented, leased or purchased at retail from sources either within or without the City, from any person or vendor or used in the performance of a contract in the City whether such tangible personal property is owned or not owned by the taxpayer.

“Use” includes the withdrawal of items from inventory for consumption.

“Taxpayer” means any person obligated to collect tax, pay tax, or account for tax, or any combination thereof, under the terms of the LMC. The term “taxpayer” includes but is not limited to a retailer, a vendor and such other persons as the context may require. The person responsible for obtaining a building permit is liable for all use taxes due on construction materials and other tangible personal property and taxable services used in the City whether provided by subcontractors or the property owner. The contractor may not avoid the payment of sales or use tax by use of provisions in any agreement.

“Tax” means the sales tax due from a retailer or the use tax due from a consumer or the sum of both due from a retailer who also consumes.

Contractors with a permanent physical location in the City of Louisville are required to obtain a Louisville Sales/Use Tax License.

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Building/Construction Materials

The LMC defines construction materials or construction and building materials to mean tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a structure or project, including public and private improvements.

Construction materials include, but are not limited to, such things as asphalt, brick, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wall paper, weather stripping, wire netting and screen, water mains and meters, and wood preserver.

When any of the above materials are used to create forms or other items which do not remain as an integral or inseparable part of a completed structure or project, they are not construction materials, but rather tangible personal property.

The privilege of using or consuming construction and building materials in the City purchased for use in connection with new residential construction or new residential building projects, commercial, industrial or other non residential construction or building projects, whether purchased, leased or rented from sources inside or outside the City are subject to Louisville sales or use tax. All materials delivered into the City of Louisville are subject to sales/use tax.

Items such as furniture, appliances, window coverings and hot tubs, as well as tools and supplies, are not building materials and may not be purchased without payment of City sales tax by the use of a building permit. These items are subject to the standard sales tax rules provided in the LMC.

The storage of construction and building materials in the City of Louisville is exempt from City use tax.

Permitted Projects

The taxation of construction or building materials is dependent on various factors with taxation the general rule. Considerations include whether or not the project or job requires a City of Louisville building permit, and additionally, whether or not the contractor or sub-contractor bills on a time and materials basis or a lump sum basis. This section pertains to all projects requiring a City of Louisville building permit.

Louisville use tax is imposed and shall be collected in full prior to issuance of a building permit for all construction and building projects taxed under the LMC. The Louisville Building Department as designee for the Finance Director is responsible to collect such tax payments as part of the building permit process. From time to time, the determination of value or valuation shall be made by the Louisville building official based on the Valuation Schedule published in the American Building Standards magazine published by the International Code Council.

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The value used in computing the building permit taxes and fees shall be the total actual value of all construction work for which the permit is issued and include all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and other permanent equipment. The valuation must include all building materials, labor and profit (everything except land cost). To determine the estimated amount of use tax to be collected by the City, 50% of the estimated general contract costs and 50% of the estimated mechanical contract costs (basically 50% of the total project valuation) will be deemed the purchase price of the construction and building materials subject to use tax. Louisville also collects Boulder County use tax on their behalf on all City of Louisville building permits.

The sale of construction and building materials by a Louisville retailer or vendor to a contractor is exempt from City sales tax only if both the materials are picked up by the purchaser, and the purchaser presents the retailer or vendor with a copy of the building permit evidencing that local City and County use tax has been paid. A retailer located in the City of Louisville will charge a contractor State, RTD and Cultural District (CD) sales tax, but will not charge City or County sales tax.

Construction and building materials may be purchased from a retailer or vendor located outside the City of Louisville, but the contractor must present a copy of the City of Louisville permit to the vendor to avoid paying additional local or county taxes. Again, the vendor will charge a contractor any applicable State or special district taxes, but should not charge any local municipal or county taxes.

In all cases, where a City of Louisville permit is required, the person responsible for obtaining a permit and for payment of all costs associated with the permit is the person liable for all taxes due. The person or contractor responsible to obtain the permit is also responsible to furnish copies of the permit to any sub-contractors so that they may avoid paying additional local sales tax on the materials they purchase.

No credit or refund of Louisville sales tax charged for construction or building materials purchased in the City prior to the issuance of a building permit will be allowed.

If a person or contractor does not provide a copy of the building permit to a vendor in the City, and City of Louisville sales tax is charged on the construction materials, the contractor may apply to the City of Louisville for a refund of the municipal tax paid twice on a Refund Claim Form. Such refund request must include copies of all receipts. In some instance, the refund of Louisville sales tax may be delayed to the end of the construction project in order for the City to verify that the amount of use tax pre-paid was sufficient for the project. Should purchases be made outside the City of Louisville for which a contractor did not provide a copy of the building permit to a vendor, then the contractor must seek a refund of sales tax paid from the municipality in which the purchase was made.

In certain circumstances, a building permit is required to install small items that are not building or construction materials or for which a lump sum contractor or property owner has pre-purchased materials and paid sales tax to another jurisdiction. For these rare instances, the contractor may not be required to pre-pay the estimated use tax with the building permit, but the contractor must hold a valid Louisville Sales/Use Tax License and collect or remit City of Louisville sales or use tax not otherwise lawfully imposed.

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Manufacturing and fabrication of tangible personal property or other processing labor is subject to Louisville sales or use tax and must be included with the full cost of materials for tax calculation purposes.

Sales tax is due on the rental or leasing of inventory goods when used in the purchaser's general business operations or for personal use.

Non-Permitted Projects

Construction materials are subject to sales tax on the price paid or charged within the City which are used for the improvement or repair of any building, dwelling, other structure, or realty which does not require a building permit.

Contractors are required to license with the City and to collect and remit any sales or use tax due to the City based on their billing method.

Billing and Contracts

Contractors performing work under a real property contract are required to pay City use tax at the time the building permit is issued regardless of the manner in which they bill their client for the project. This includes new residential, commercial and industrial projects and tenant finish or remodeling projects.

All contractors except those that bill for Time and Materials work are responsible for sales and use tax on the goods and materials at the time of purchase.

Time and Materials Billing

Contractors who invoice separately for labor and materials must have a Louisville Sales/Use Tax License and collect and remit City sales tax on the marked-up billing price of all materials charged to the customer. These contractors must have a State Sales/Use Tax License in order to purchase their materials tax-exempt for resale.

Time and materials contractors are still liable for use tax on the cost of all supplies not separately billed to the customer and on any tools or equipment purchased, leased or rented for use in completing the job on which a lawfully imposed sales tax was not collected at the time of purchase.

Lump Sum Billing

All supplies and materials used by the contractor are taxable on the contractor's cost, either through sales tax paid to the vendor at the time of purchase or use tax paid by the contractor to the City. Credit may be given for lawfully imposed sales tax paid to another municipality but the contractor must obtain a Louisville Sales/Use Tax License and remit any use tax owed up to the City's tax rate.

Projects for Tax Exempt Organizations

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Sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration or repair of structures, highways, roads, streets, and other public works owned or used by a religious or charitable organization in the conduct of their regular charitable functions and activities, or by the U.S. government, the State of Colorado, its department or institutions, and the political subdivisions thereof in their governmental capacities only, are exempt from City sales and use tax.

In most cases, but not all, the City will accept a State issued contractor Exemption Certificate (DR 0172) for exemption from City sales or use tax. It is recommended that contractors and retailers or vendors contact the Louisville Tax Division to verify the project they are working on is exempt from City tax. The City does not issue its own exemption certificates.

City Projects

No use tax is due on the purchase of construction materials used in construction projects undertaken and managed directly by the City of Louisville.

Construction Equipment

Construction equipment means any equipment, including mobile machinery and mobile equipment, which is used to erect, install, alter, demolish, repair, remodel, or otherwise make improvements to any real property, building, structure or infrastructure.

City of Louisville use tax is due on construction equipment used inside the City for contracts entered into on or after January 1, 2011. Credit for such equipment will be given for legally-imposed sales or use tax paid to Louisville or another municipality.

The rules set forth to remit City use tax for construction equipment used inside the City is as follows:

1. Prior to or on the date the equipment is located inside the City, the taxpayer shall file with the City an equipment declaration on a form provided by the City. Such declaration shall state the dates which the taxpayer anticipates the equipment will be located inside and removed from the boundaries of the City, a description of each anticipated piece of equipment, the actual or anticipated price of each piece of equipment, and any other information deemed necessary by the City.
2. At least once every 90 days after the equipment is brought inside the City, the taxpayer shall file an amended equipment declaration reflecting any changes to the information contained in the previous declaration. For equipment brought inside the City for a period of less than 90 days, an amended declaration must be filed within 10 days of substantial completion of the project.
3. Equipment for which the purchase price is less than \$2,500 does not need to be declared.

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Construction equipment located inside the City for 30 consecutive days or less, and for which a declaration was properly filed, will be subject to Louisville use tax on 1/12th of the purchase price of the construction equipment at the time it was purchased regardless of age or value at the time of first use in the City.

For construction equipment located inside the City for more than 30 consecutive days, or for equipment which was not properly declared, Louisville use tax will be due on the full purchase price of such equipment regardless of age or value at the time of first use in the City.

Construction equipment means any equipment, including mobile machinery and mobile equipment, which is used to erect, install, alter, demolish, repair, remodel, or otherwise make improvements to any real property, building, structure or infrastructure.

Mobile machinery and self-propelled construction equipment means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, including motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery and which may be only incidentally operated or moved over the public highways.

This definition includes but is not limited to wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells and the digging of ditches. Mobile machinery and self-propelled construction equipment is subject to City use tax.

Combined personal property rentals with operator service is subject to City sales tax on the price paid for the right of possession or use of tangible personal property granted under lease, hire, or rental contract with an operator, regardless that at all times the rental property remains in the possession of the operator providing the rental service. When the charge for an operator of the property is separately stated on the rental invoice, only the property rental charge is subject to sales tax. When the charges are not separately stated, the entire purchase price of the rental and operator service is subject to Louisville tax.

A retailer of rental construction equipment is responsible to collect and remit sales tax on the rental of all equipment; however, if a retailer does not collect sales tax on the rental, then use tax is due from the contractor on the full rental price.

Public and Private Improvements

The Louisville Municipal Code imposes a sales and use tax on all construction materials used in making public or private improvements. Tax is due on the cost of all materials whether such materials are acquired from sources within or outside the City.

Use Tax Reconciliation/Audit

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The Louisville Municipal Code requires that use tax must be paid directly to the City on all construction materials used in making public and private improvements, and for projects requiring a City building permit. Use tax is due whether such materials are acquired from sources within or outside the City. To avoid tax overpayments, contractors and sub-contractors must present a copy of the building permit when purchasing construction materials in order to qualify for exemption from City and County tax.

It is important to note that the use tax paid when the permit is issued is strictly an estimate. The actual cost of the materials used in the project is the proper basis for determining the amount of use tax due. If the actual use tax due for a project is greater than the estimated amount of use tax paid with the permit, the difference must be remitted to the City of Louisville. A general contractor or the person responsible for obtaining the permit is liable for the use tax and may not avoid payment by virtue of any provisions in its contract with the owner.

While the City of Louisville does not require mandatory reconciliation of building projects, every contractor is encouraged to calculate the projects final material costs and voluntarily remit to the City of Louisville any additional use tax owed and avoid any penalties or interest. Conversely, should a contractor determine too much tax was prepaid at the time of permit issuance, the contractor may complete a Claim for Refund form and provide copies of all job cost reports, invoices, and any other information deemed necessary to the Louisville Tax Department.

The City may audit any project within three years of the date of the Certificate of Occupancy, Certificate of Completion, Final Inspection, or invoice date or similar.

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