

(e) The City may deny a claim on the grounds that it has previously paid a claim for recovery arising out of an audit of the same taxpayer.

(f) The period subject to a claim for recovery shall be limited to the 36-month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery.

(Code 1994 § 34-133; Code 1965 § 24-34)

3.12.340 Overpayment from returns.

If the amount remitted with the return is more than the tax due as computed from information in such return, the taxpayer shall be notified. Unless requested otherwise by the taxpayer, all overpayment shall be credited to the tax due for the next reporting period. Upon request by a taxpayer, a taxpayer may submit a claim for refund along with an amended return and other documentation as may be required by the City Manager. Interest shall not be allowed and paid upon any overpayment in respect of any sales or use tax. At the City Manager's discretion, any portion of sales or use tax, or any interest, assessable penalty, additional amount, or addition to tax, which has been erroneously refunded, shall bear interest at the rate established in GJMC [3.12.420\(a\)](#) from the date of the payment of the refund.

(Code 1994 § 34-134; Code 1965 § 24-35)

3.12.350 Tax overpayment determined through audit.

If the City ascertains, through an audit of a taxpayer's records, that the tax due is less than the full amount paid, a notice of overpayment shall be issued. Such notice will serve as documentation for a claim for refund, if such claim is signed and submitted by the taxpayer within 30 days of the date of the notice of overpayment.

(Code 1994 § 34-135; Code 1965 § 24-36)

3.12.360 Refunds of disputed tax.

Refunds of tax paid to a retailer by a purchaser who claims that the sale is exempt from the tax may be requested by such purchaser by signing and submitting claim for refund on or before 60 days from the date of such purchase.

(Code 1994 § 34-136; Code 1965 § 24-37)

3.12.370 Claim for refund.

No tax overpayment shall be refunded unless a claim for refund is signed and submitted to the City by the taxpayer.

(a) Application. An application for refund of tax shall:

- (1) Be made on a claim for refund form furnished by the City;

- (2) Be signed by the taxpayer; and
- (3) Include adequate documentation of the claim.

(b) Decision. The City Manager shall examine the claim for refund and give written notice to the taxpayer of the amount to be refunded or denied.

(c) Refunds Not Assignable. The right of any person to obtain a refund pursuant to this chapter shall not be assignable.

(d) False Claims. No person shall make any false statement in connection with a claim for refund.

(Code 1994 § 34-137; Code 1965 § 24-38)

3.12.380 Underpayment from returns.

If the amount remitted with a return is less than the tax computed from information in such return, the taxpayer shall be notified.

- (a) If the underpayment is at least \$15.00, a notice of assessment may be issued.
- (b) If the underpayment is less than \$15.00, it shall be added to the tax due for the next reporting period.

(Code 1994 § 34-138; Code 1965 § 24-39)

3.12.390 Tax deficiencies from failure to file.

- (a) If any taxpayer neglects or refuses to obtain a license, the amount of tax due shall be estimated based upon such information as may be available, and a notice of assessment shall be issued.
- (b) If any taxpayer neglects or refuses to file a return by the due date, the tax due shall be estimated based upon such information as may be available, and a notice of assessment shall be issued.
- (c) Estimated tax due shall be adjusted if a return reporting actual tax due is filed on or before the payment date of the notice of assessment.

(Code 1994 § 34-139; Code 1965 § 24-40)

3.12.400 Tax deficiencies determined through audit.

If the City ascertains, through an audit of the taxpayer's records, that the tax due has not been fully reported or paid by the applicable due date, a notice of assessment shall be issued.

(Code 1994 § 34-140; Code 1965 § 24-41)

3.12.410 Penalties.

(a) Penalty for Late Payment. A penalty shall be levied on any tax deficiency. Such penalty shall be \$15.00 or 10 percent of the tax deficiency, whichever is greater.

(b) Penalty for Fraud. If any tax deficiency is due to fraud or the intent to evade the tax, the penalty shall be 100 percent of the total tax deficiency.

(c) Penalty for Repeated Enforcement. If three notices of assessment have been issued to the same taxpayer within any 36 consecutive months, a special penalty of \$100.00 or 25 percent of the tax due, whichever is greater, shall be levied.

(d) Penalty for Returned Checks. If a taxpayer pays for any tax imposed pursuant to this chapter by check for which there are insufficient funds to cover such check or on a closed account, then the City Manager may assess a penalty against such taxpayer as follows:

- (1) Ten dollars for the first violation;
- (2) Twenty-five dollars for the second violation; and
- (3) Fifty dollars for each additional violation.

(e) Abatement of Penalty. Any penalty assessed in this section may be abated by the City Manager if the taxpayer submits a written request for such abatement on or before the payment date of the applicable notice of assessment, and if the City Manager finds good cause therefor.

(Code 1994 § 34-141; Code 1965 § 24-42)

3.12.420 Interest.

Interest shall be levied on any tax deficiency.

(a) Interest shall be calculated for each month or portion of a month from the due date that a tax deficiency remains unpaid. The monthly interest rate shall be one and one-half percent per month.

(b) When a timely protest is made to a notice of assessment, no additional interest shall be assessed on any tax upheld by the City Manager for the period between the interest date of such assessment and the payment date established in an informal meeting or 30 days after the date of a findings of fact, conclusion and decision issued after a hearing.

(c) The City Manager, at his discretion and for good cause shown, may abate interest assessed on any tax deficiency.

(Code 1994 § 34-142; Code 1965 § 24-43)

3.12.430 Notice of assessment.

The City Manager shall issue a notice of assessment for any total tax liability.

(a) Notices of assessment shall be in writing and delivered in person or sent, postpaid by first class mail, to the last known address of the taxpayer on file with the Finance Department.

(b) The payment due date for the tax due pursuant to a notice of assessment shall be as stated in the notice of assessment.

(Code 1994 § 34-143; Code 1965 § 24-44)

3.12.440 Abatement of tax deficiency.

The City Manager, at his discretion and with good cause therefor and for the purpose of facilitating settlement, may agree to an amount of taxes due which may be less than the actual total tax liability. Payment in accordance with such agreement between the taxpayer and the City Manager fully satisfies the tax liability for the periods and terms set forth in such agreement, unless the taxpayer has committed fraud or malfeasance or misrepresented a material fact regarding the tax or liability thereof.

(Code 1994 § 34-144; Code 1965 § 24-45)

3.12.450 Protest of notice of assessment or denial of refund.

(a) Any notice of assessment for failure to file a return, underpayment of tax owed or as a result of an audit may be protested by the taxpayer or vendor to whom it is issued.

(1) Such protests must be submitted in writing to the City Manager within 20 calendar days from the date of the notice of assessment, and must identify the amount of total tax liability disputed and the basis for the contention that the tax is not due. The time period set forth in this section may, in the absolute discretion of the City Manager, be waived for good cause on written application of a vendor or taxpayer.

(2) When a timely protest is made, no further enforcement action will be instituted by the City for the portion of the assessment being protested unless the taxpayer fails to pursue the protest in a timely manner.

(b) Protest of Denial of Refund. Any denial of a claim for refund may be protested by the taxpayer who submitted the claim. Such protest must be submitted in writing to the City Manager within 20 calendar days from the date of the denial of the refund and shall identify the amount of the denial contested and the basis for the contention that the refund is due. The time period set forth in this section may, in the absolute discretion of the City Manager, be waived for good cause on written application of a vendor or taxpayer.

(c) Any timely protest entitles a taxpayer to a hearing under the provisions of this chapter.

(1) If, in the opinion of the City Manager, the issues involved in such protest are not a matter of interpretation or may be resolved administratively, the City Manager may recommend an informal meeting with the taxpayer.

(2) Participation in such an informal meeting does not prevent either the taxpayer or the City from holding a hearing if the dispute cannot be resolved by such meeting.

(Code 1994 § 34-145; Code 1965 § 24-46)

3.12.460 Hearings.

(a) The City shall commence a hearing within 90 days after the City's receipt of the taxpayer's written protest; except the City may extend such period if the delay is requested by the taxpayer. The City Manager shall notify the taxpayer in writing of the time and place of such hearing.

(b) Every hearing shall be held in the City before the City Manager.

(c) The taxpayer may assert any facts, make any arguments and file any briefs and affidavits which, in the opinion of the taxpayer, are pertinent to the protest. The filing of briefs shall not be required.

(d) Based on the evidence presented at the hearing, the City Manager shall issue findings of fact, conclusions, and a decision which may modify or abate in full the tax, penalties and interest protested at the hearing, approve a refund, or uphold the assessment.

(e) After such hearing, the taxpayer shall not be entitled to a second hearing on the same notice of assessment or denial of refund.

(f) An appeal of a final decision of the City Manager shall be commenced within 30 days of mailing of the City Manager's written decision pursuant to the process set forth in § 29-2-106.1, C.R.S.

(g) Unless the decision of the City Manager is appealed as provided in this chapter, the remaining tax due, if any, shall be paid on or before 30 days after the date of the findings of fact, conclusions and decision.

(Code 1994 § 34-146; Code 1965 § 24-47)

3.12.470 Review by district court.

(a) If the petitioner or if an applicant for a refund is aggrieved by the final decision of the City Manager, then he may appeal to the district court of the County. The procedure shall be in accordance with § 29-2-106.1, C.R.S.

(b) Within 15 days after filing a notice of appeal as provided in subsection (c) of this section, the taxpayer shall file with the district court a surety bond in twice the amount of the taxes, interest, and other charges stated in the final decision by the City Manager that are contested on appeal. The taxpayer may, at

his option, satisfy the surety bond requirement by a savings account or deposit in or a certificate of deposit issued by a State or national bank or by a State or federal savings and loan association, in accordance with the provisions of § 11-35-101(1), C.R.S., equal to twice the amount of the taxes, interest, and other charges stated in the final decision by the City Manager. The taxpayer may, at his option, deposit the disputed amount with the City Manager in lieu of posting a surety bond. If such amount is so deposited, no further interest shall accrue on the deficiency contested during the pendency of the action. At the conclusion of the action, after appeal to the supreme court or the court of appeals or after the time for such appeal has expired, the funds deposited shall be, at the direction of the district court, either retained by the City Manager and applied against the deficiency or returned in whole or in part to the taxpayer. No claim for refund of amounts deposited with the City Manager need be made by the taxpayer in order for such amounts to be repaid in accordance with the direction of the district court.

(c) Any appeal pursuant to § 29-2-106.1, C.R.S. shall, to the extent allowed by law, be filed on the district court of the County upon a verified petition of the taxpayer filed within 20 days after notice of the decision of the City Manager in any such matter.

(Code 1994 § 34-147; Code 1965 § 24-48)

3.12.480 Appeals.

(a) Subsequent to a hearing, the taxpayer may appeal the decision of the City Manager in district court pursuant to the process in § 29-2-106.1, C.R.S..

(b) Upon appeal to the district court, the taxpayer shall either file with the City Manager a bond for twice the unpaid amount or deposit the unpaid amount with the City Manager.

(Code 1994 § 34-148; Code 1965 § 24-49)

3.12.490 Lien for tax due.

(a) Issuance. If any tax due is not paid by the payment date of a notice of assessment, the City Manager may issue a notice of lien on the real and personal property of the taxpayer. Such lien shall specify the name of the taxpayer, the tax due, the date of the accrual thereof, and the location of the property if known, and shall be certified by the City Manager.

(b) Filing. The notice of lien may be filed in the office of the clerk and recorder of any county in the State. Such filing shall provide additional notice of such a lien.

(c) Priority. The attachment and priority of such a lien shall be as follows:

(1) Such lien shall be a first and prior lien upon the goods and business fixtures owned or used by any taxpayer, including those used under lease, installment sale or other contract agreement, and shall take precedence on all such property over all other liens or claims of whatsoever kind or nature.

(2) Such lien on the real and tangible personal property of the taxpayer that is not goods, stock in trade, and business fixtures shall be a first and prior lien except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights have attached and been perfected prior to the filing of the notice of lien.

(3) The personal property of an owner who has made a bona fide lease to a taxpayer shall be exempt from the lien created in this subsection if such property can reasonably be identified from the lease description and if the lessee is given no right to become the owner of the property leased. This exemption shall be effective from the date of the execution of the lease if the lease is recorded with the county clerk and recorder of the county where the property is located or based.

(4) Motor vehicles which are properly registered in this State, showing the lessor as owner thereof, shall be exempt from such lien except that such lien shall apply to the extent that the lessee has an earned reserve, allowance for depreciation not to exceed fair market value, or similar interest which is or may be credited to the lessee.

(5) Where a lessor and lessee are blood relatives or relatives by law or have 25 percent or more common ownership, a lease between such lessee and such lessor shall not be considered as bona fide for purposes of this section.

(d) **Enforcement Against Real Property.** If a notice of lien is filed against real property, the City Manager may request the City Attorney to file a civil action to enforce such lien. The court may determine the interest in the property of each party, decree a sale of the real property, and distribute the proceeds according to such findings. Procedure for the action and the manner of sale, the period for and manner of redemption from the sale and the execution of deed of conveyance shall be in accordance with the law and practice relating to foreclosures of mortgages upon real property. In any such action, the court may appoint a receiver of the real property involved in such action if equity so requires.

(Code 1994 § 34-149; Code 1965 § 24-50)

3.12.500 Perpetuance of lien.

(a) Any lien for tax due shall continue until a release of lien is filed by the City Manager.

(b) Any person who purchases or repossesses real or personal property upon which a lien has been filed by the City Manager for tax due shall be liable for the payment of such tax due up to the value of the property taken or acquired.

(Code 1994 § 34-150; Code 1965 § 24-51)

3.12.510 Release of lien.

Upon payment of the tax due or enforcement of the lien, the City Manager shall file a release of lien with the county clerk and recorder of the county in which the lien was filed.

- (3) Any other claim for refund shall be filed on or before three years after the date such overpayment was paid to the City.
- (b) Assessments. Except as otherwise provided in this chapter, no notice of assessment shall be issued more than three years after the due date of such tax due, or for a construction project which requires a City building permit, the date the final certificate of occupancy was issued for such project or final inspection, whichever is later.
- (c) Liens. Except as otherwise provided in this chapter, no notice of lien shall be issued more than three years after the due date of the tax due. If the limitation period is extended, a notice of lien may be filed on or before 30 days from the date of the notice of assessment issued for such extended period.
- (d) Returns.
- (1) When a taxpayer fails or refuses to file a return, the tax due may be assessed and collected at any time.
- (2) In the case of a false or fraudulent return filed with intent to evade tax, the tax due may be assessed, or proceedings for the collection of such tax due may be begun, at any time.
- (e) Protests. No protest of a notice of assessment or denial of a claim for refund shall be valid unless submitted to the City Manager in written form within the period allowed in this chapter.
- (f) Extension. The period of limitation may be extended before its expiration.
- (1) The taxpayer and the City Manager may agree in writing to extend the period.
- (2) If the City provides written notice to the taxpayer prior to the expiration of the period of limitation that the latter's records will be audited pursuant to this chapter, such period of limitation shall be extended for the audit period until 30 days after the date of the notice of assessment or notice of overpayment issued as a result of such audit. "Audit period" is the 36-month reporting period preceding the date of the notice of audit, or if a City building permit is required, the period between the issuance of such building permit and the issuance of a final certificate of occupancy, or final inspection.
- (g) Audits. Performance of an audit does not constitute a statute of limitations or preclude additional audits of the same period within the parameters of this section.

(Code 1994 § 34-157; Code 1965 § 24-58)

3.12.580 Enforcement, collection and delinquency policy.

- (a) The City's enforcement policies and practices relative to sales tax as outlined in this chapter are hereby confirmed and approved for continuation in the day-to-day administration of the City's sales tax.

(b) The following enforcement policies and practices are hereby approved in addition to those contained in this chapter:

(1) Automatic administrative remedies including notice of tax assessments from our sales tax system, loss of vendor's fee, penalties and interest.

(2) Telephone and/or physical visit by customer service staff to location of local vendors to obtain compliance.

(3) Payment arrangements to eliminate delinquency, while keeping current on all required filings and remittances.

(c) If the above procedures fail to achieve compliance more aggressive action will be taken including: turning the account over to the City Attorney for contact, Municipal Court complaint, bank account garnishment, and seizure and sale of assets at public auction.

(d) While proceeding through the above processes, every attempt will be made to coordinate and evaluate conditions of delinquency with the State of Colorado enforcement personnel.

(e) No open and ongoing business will be allowed to continue in operation beyond nine months of delinquency without the seizure and sale of assets being activated; unless a payment arrangement being complied with goes beyond this period. Also failure to comply with a payment arrangement on an account over nine months delinquent will result in immediate seizure of bank accounts and/or business assets.

(Res. 45-04, 5-5-04)

RESOLUTION NO. 10-96

A RESOLUTION PRESCRIBING SALES AND USE TAX RETURN FILING FREQUENCY AND REPORTING DUE DATES

RECITALS:

This resolution prescribing filing frequency and due dates for sales and use tax returns is necessitated in order for the Finance and Administrative services department of the City of Grand Junction to coordinate sales and use tax filing requirements with those of the State of Colorado. Coordination between the City and State is in the taxpayers' and the City's best interest. Such coordination will result in a reduction of the number of sales tax returns filed each year and therefore will not adversely impact the City because administrative cost savings are expected to exceed loss of income from cash flows.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

A. Each taxpayer required to file a sales and/or use tax return pursuant to Article 3.12 of the Grand Junction Code of ordinances shall file a return and pay tax as follows:

1) A taxpayer whose average monthly tax due over the last completed fiscal year is less than fifteen dollars (\$15), shall file a return and pay tax ANNUALLY;

(2) A taxpayer whose average monthly tax due over the last completed fiscal year is less than three hundred dollars (\$300), shall file a return and pay tax QUARTERLY;

(3) A taxpayer whose average monthly tax due over the last completed fiscal year is three hundred dollars (\$300) or more, shall file a return and pay tax MONTHLY.

B. All returns are due on the 20th of the month following the reporting period as stated below:

ANNUAL REPORTING PERIOD DUE JANUARY 20th

QUARTERLY REPORTING PERIODS

January, February, March DUE APRIL 20th

April, May, June DUE JULY 20th

July, August, September DUE OCTOBER 20th

October, November, December DUE JANUARY 20th

MONTHLY REPORTING PERIODS

January - DUE FEBRUARY 20th July..... DUE AUGUST 20th

February DUE MARCH 20th August DUE SEPTEMBER 20th

March DUE APRIL 20th September DUE OCTOBER 20th

April DUE MAY 20th October..... DUE NOVEMBER 20th

May DUE JUNE 20th November..... DUE DECEMBER 20th

June DUE JULY 20th December DUE JANUARY 20th

If a due date falls on a weekend day or a national holiday recognized by the City, the return is due the following business day.

C. The Finance Director shall have sole and absolute discretion in reviewing the filing frequency of any taxpayer and may change the filing frequency of that taxpayer as he deems proper based on the filing requirements prescribed herein.

D. A filing frequency other than prescribed herein may be requested by a taxpayer in writing to the Finance Director. The Finance Director may approve an alternative filing frequency if such does not jeopardize, in the Finance Director's sole and absolute judgment and discretion, the collection of the tax.

E. If a taxpayer is filing other than monthly and becomes delinquent, the Finance Director may upon written notice require the taxpayer to begin filing on a monthly basis.

F. The filing frequency of the taxpayer, once established by the Finance Director upon initial issuance of the sales and use tax license, shall remain so unless changed as described in C.,D., and E. herein.

ADMINISTRATIVE REGULATIONS

[92-01]

REGULATION 3.12.010 ANNEXATION

Tangible personal property, which was purchased prior to the effective date of annexation to the City, of any place of sale or use not previously within the corporate limits of the City of Grand Junction, is not subject to City use tax as a direct consequence of annexation. Use tax may be payable, however, based upon prior use of tangible personal property within the City limits.

Tangible personal property of any person who is engaged in business in the City, as those terms are defined in section 3.12.020, which property is purchased or used subsequent to the effective annexation date, is subject to taxation under the City Retail Sales and Use Tax Ordinance.

[92-02]

REGULATION 3.12.070(c) CONSTRUCTION MATERIALS & FIXTURES USED OUTSIDE CITY

EXEMPTION

A contractor may purchase and take delivery of construction materials and fixtures from a vendor's location inside the City limits without paying City sales tax on the purchases, if such materials and fixtures are not to be used inside the City limits of Grand Junction, subject to the requirements and restrictions set forth.

BUILDING CONTRACTOR

To be entitled to this exemption, a purchaser of construction materials and fixtures must, at the time of purchase, be a building contractor. A building contractor is one who in the normal course of business is involved in construction activity as that term is defined in Section 3.12.020 of the Sales & Use Tax Ordinance.

CONSTRUCTION MATERIALS AND FIXTURES DEFINED

Construction materials are tangible personal property which become an integral and inseparable part of a completed project. Construction materials, include, but are not limited to, such items as:

asphalt	lime
bricks	lumber
builder's hardware	macadam
caulking material	millwork
cement	mortar
concrete	oil
conduit	paint

electrical wiring and connections	plumbing fixtures
fireplace inserts	putty
electrical heating and cooling equipment	reinforcing mesh
flooring	road base
glass	roofing
gravel	sand
insulation	sanitary sewer pipe
lath	wall board
lead	wall coping
sheet metal	wall paper
shrubs/landscaping materials	weather stripping
site lighting	wire netting and screen
steel	water meters and mains
stucco	
tile	
trees	

Any materials that do not remain as an integral and inseparable part of a completed project are not considered construction materials.

Construction fixtures are tangible personal property that are accessory to a building and which do not lose their identity as accessories when placed or installed. Construction fixtures include, but are not limited to, such items as:

lighting fixtures	elevators, hoists, and conveying units
plumbing fixtures	awnings & venetian blinds
furnaces, boilers, and heating units	burglar alarm and fire alarm fixtures
air conditioning units	vault doors and equip
refrigeration units	cabinets, counters, and lockers
telephone switchboards and instruments	carpeting
signs	

Construction equipment, machinery, or tools, or parts for repair of such equipment, machinery, or tools are not included in this definition of construction materials or fixtures and, therefore, are not eligible for this tax exemption. Hence, the purchase or short term rental of such items is taxable.

DELIVERY MADE BY SELLER

When the materials purchased are delivered by the vendor, the vendor shall, at the time of delivery, record the point of delivery on the invoice.

USE OF CONTRACTOR'S OWN VEHICLE FOR DELIVERY

When a licensed building contractor purchases construction materials and fixtures within the City limits and delivers such to a project location outside the City limits by using his own vehicle, such contractor must certify to the vendor that the purchased materials and fixtures will be used outside the City limits, in order for the transaction to be tax exempt.

Exemption Certificate Card:

The only acceptable form of certification to the vendor shall be by presentation of an exemption certificate card, **Form #GJ110**, issued by the City Finance Department.

To be entitled to this exemption, the contractor must obtain, from the City, an exemption certificate for each project. The contractor may apply by completing application **Form #GJ100** and submitting it to the City. The application is not complete unless it includes information pertaining to the contractor applying for the exemption, the general contractor on the project (if different from applicant), the ultimate owner of the construction project, the nature and location of the project, and the estimated dates of performance of services on the project. The application shall also include a listing of subcontractors scheduled on the project.

Each exemption certificate card shall list the contractor who applied for the exemption, the subcontractors to work on the project, the date of approval, the address and location of the project outside the City limits, and the exemption certificate number. An exemption certificate number is not transferable and is limited to the contractor who applied for and was approved the exemption, and to the subcontractors and project listed on the exemption certificate. Each certificate shall expire on the 30th day after the contractor's estimated completion of services.

[92-03]

REGULATION 3.12.070(d) PROPERTY FOR DIRECT USE IN MANUFACTURING, PROCESSING, MINING OR IRRIGATION

TANGIBLE PERSONAL PROPERTY SOLD TO PERSONS ENGAGED IN MANUFACTURING, PROCESSING, MINING, OR IRRIGATION

Tangible personal property for the purposes of this section is defined as that property purchased for direct *use* in the purchaser's performance of manufacturing, processing, mining, or irrigation operations conducted entirely outside the City limits of Grand Junction. Such operations might include oil & gas exploration and development, oil shale mining, uranium mining, paper and plastics manufacturing, and irrigation projects.

Tangible personal property purchased for direct use in such operations is exempt subject to the requirements of this regulation. The exemption does **not** apply to the following:

- 1) Tangible personal property used to move materials and supplies to and from job locations outside City limits;
- 2) Consumable office supplies;
- 3) Tools, machinery, or parts for repair of said tools and machinery used by purchaser in business.

USE OF PURCHASER'S OWN VEHICLE FOR DELIVERY

When a person purchases tangible personal property for direct use in such person's operations, as defined above, he may deliver the purchases by using his own vehicle. The purchaser however must certify to the vendor that said purchases will be used entirely outside the City limits in order for the transaction to be tax exempt.

Exemption Certificate Card:

The only acceptable form of certification to the vendor shall be by presentation of an exemption certificate card, **Form #GJ1310**, issued by the City Administrative services Department.

Such an exemption card will be issued on an operating area basis as approved by Finance Department personnel. The purchaser may apply for the exemption card by completing application **Form #GJ1300** and submitting it to the City.

The completed application shall include information pertaining to the purchaser applying for the exemption, the nature of the purchaser's business operations, and the locations of operations. The certificate shall expire by each January 31st.

This exemption applies only to purchasers engaged in manufacturing, processing, mining, or irrigation who conduct such operations solely outside the city limits of Grand Junction.

The exemption certificate card is not valid unless it lists the purchaser who applied for the exemption, the date of approval, the address of the purchaser, the location of operations outside the City limits, the exemption certificate number, the expiration date, and an original signature of a City employee. The exemption certificate number is limited to the purchaser to whom it was issued and to the area of operations as stated on the exemption certificate.

[92-04]

REGULATION 3.12.070(bb) – 3.12.130(a) (c) ESTIMATED PERCENTAGE BASIS OPTION**EXEMPTION**

A contractor who purchases construction materials and fixtures from a vendor inside the City limits is exempt from paying City sales tax on the purchases, if that contractor has paid **use tax** on such materials and fixtures on the estimated percentage basis. The following requirements and restrictions shall apply to entitle such purchaser to this exemption.

APPLICATION

A contractor may elect to pay use tax on construction materials and fixtures used on a project inside the city limits by using the estimated percentage basis. Prior to the issuance of a building permit, the contractor must submit a completed application **Form #GJ300**. The application requires information regarding the contractor and the estimated total cost of the project. After the application is approved by the Finance Department, the contractor shall pay the deposit amount, if applicable, and shall be issued a tax deposit receipt, **Form #GJ310**. For estimated values or contract costs exceeding \$500,000, the deposit amount will only be required on the first \$500,000 value.

TAX DEPOSIT RECEIPT

The retailer must collect the applicable tax unless the purchaser of construction materials and fixtures shows the city issued tax deposit receipt, **Form #GJ310**, as evidence that use tax on such materials has been paid to the city through the estimated percentage basis. The vendor must record the tax deposit receipt number on each invoice on which sales tax was not charged and collected.

ESTIMATED PAYMENT VS. ACTUAL COSTS

Pursuant to Section 3.12.130(c) of the City Code, if total tax liability is more than the deposit made, the contractor shall remit additional use tax due on construction materials and fixtures by the 20th of the month following the earlier of (a) issuance of a certificate of occupancy; (b) actual occupancy, or

(c) completion of the project. If the tax deposit is in excess of calculated use tax on actual cost of construction materials and fixtures used, the contractor may file a claim for refund with the City including all invoices, receipts, and statements supporting such claim; in the absence of such claim, the City shall retain the funds.

CONSTRUCTION MATERIALS AND FIXTURES DEFINED

Construction materials are tangible personal property which become an integral and *inseparable* part of a completed project. Construction materials include, but are not limited to, such items as:

asphalt	lime
bricks	lumber
builder's hardware	macadam
caulking material	millwork
cement	mortar
concrete	oil
conduit	paint
electrical wiring	pipng
and connections	pipe valves
fireplace inserts	and pipe fittings
electrical heating	plaster
and cooling equipment	plumbing fixtures
flooring	putty
glass	reinforcing mesh
gravel	road base
insulation	roofing
lath	sand
lead	sanitary sewer pipe
sheet metal	wall board
shrubs/landscaping	wall coping
materials	wall paper
site lighting	weather stripping
steel	wire netting and
stucco	screen
tile	water meters and
trees	mains

Any materials that do not remain as an integral and inseparable part of a completed project are not considered construction materials.

Construction fixtures are tangible personal property that are accessory to a building and which do not lose their identity as accessories when placed or installed. Construction fixtures include, but are not limited to, such items as:

lighting fixtures	elevators, hoists, and
plumbing fixtures	conveying units
furnaces, boilers, and	awnings & venetian blinds
heating units	burglar alarm and fire
air conditioning units	alarm fixtures
refrigeration units	vault doors and equip
telephone switchboards	cabinets, counters, and
and instruments	lockers
signs	carpeting

Construction equipment, machinery, or tools, or parts for repair of such equipment, machinery, or tools are not included in this the definition of construction materials or fixtures and, therefore, are not eligible for this tax exemption. Hence, the purchase or short term rental of such items is taxable.

[92-05]

REGULATION 3.12.130(b) ACTUAL USE TAX ON CONSTRUCTION MATERIALS AND FIXTURES

TAX ON ACTUAL COST OF CONSTRUCTION MATERIALS AND FIXTURES

Contractors who do not elect to pay use tax on construction materials and fixtures on the estimated percentage basis must pay tax on the actual cost of construction materials and fixtures used.

FOR PURCHASES OF CONSTRUCTION MATERIALS AND FIXTURES TO BE USED ON PROJECTS LOCATED INSIDE THE CITY LIMITS

SALES TAX:

For purchases transacted inside the City limits of Grand Junction (e.g., purchaser takes possession of property **inside** City) , sales tax shall be paid directly to the vendor at point of purchase.

USE TAX:

For purchases transacted outside the City limits of Grand Junction (e.g. , purchaser takes possession of property **outside** City), use tax shall be paid to the City in accordance with all applicable reporting rules and regulations.

CONSTRUCTION MATERIALS AND FIXTURES DEFINED

Construction materials are tangible personal property which become an integral and inseparable part of a completed project. Construction materials include, but are not limited to, such items as:

- | | |
|-----------------------|---------------------|
| asphalt | lime |
| bricks | lumber |
| builder's hardware | macadam |
| caulking material | millwork |
| cement | mortar |
| concrete | oil |
| electrical wiring | pipng |
| and connections | pipe valves |
| fireplace inserts | and pipe fittings |
| electrical heating | plaster |
| and cooling equipment | plumbing fixtures |
| flooring | putty |
| glass | reinforcing mesh |
| gravel | road base |
| insulation | roofing |
| lath | sand |
| lead | sanitary sewer pipe |
| sheet metal | wall board |
| shrubs/landscaping | wall coping |

materials	wall paper
site lighting	weather stripping
steel	wire netting and
stucco	screen
tile water meters and	
trees	mains

Any materials that do not remain as an integral and inseparable part of a completed project are not considered construction materials.

Construction fixtures are tangible personal property that are accessory to a building and which do not lose their identity as accessories when placed or installed. Construction fixtures include, but are not limited to, such items as:

lighting fixtures	elevators, hoists, and
plumbing fixtures	conveying units
furnaces, boilers, and	awnings & venetian blinds
heating units	burglar alarm and fire
air conditioning units	alarm fixtures
refrigeration units	vault doors and equip
telephone switchboards	cabinets, counters, and
and instruments	lockers
signs	carpeting

[92-06]

REGULATION 3.12.070(l) (n) CONSTRUCTION MATERIALS & FIXTURES FOR TAX EXEMPT PROJECTS

PURCHASE OF CONSTRUCTION MATERIALS

Any contractor working on a project for which the City’s sales and use tax does not apply (e.g., governmental entity) may be entitled to an exemption for the purchase of construction materials and fixtures inside the City limits for use on that project, by providing proof of the issuance of a State of Colorado tax exempt project identification.

The City will accept State tax exempt identification for construction projects. The purchasers of construction materials and fixtures shall use the exemption number issued by the State as evidence to the retailer that the project is tax exempt. The vendor must record the State exemption number on each invoice on which sales tax was not charged and collected. Subcontractors working on the tax exempt project may also use the State tax exempt identification.

CONSTRUCTION MATERIALS & FIXTURES DEFINED

Construction materials are tangible personal property which become an integral and inseparable part of a completed project. Construction materials include, but are not limited to, such items as:

asphalt	pipe valves
bricks	and pipe fittings
builder’s hardware	plaster
caulking material	plumbing fixtures
cement	putty
concrete	reinforcing mesh

conduit	road base
electrical wiring and connections	roofing
fireplace inserts	sand
electrical heating and cooling equipment	sanitary sewer pipe
flooring	sheet metal
glass	site lighting
gravel	steel
insulation	stucco
lath	tile
lead	trees
lime	shrubs and other landscaping
lumber	materials
macadam	wall board
millwork	wall coping
mortar	wall paper
oil	weather stripping
paint	wire netting and screen
pipng	water meters

Any materials that do not remain as an integral and inseparable part of a completed project are not considered construction materials.

Construction fixtures are tangible personal property that are accessory to a building and which do not lose their identity as accessories when placed or installed. Construction fixtures include, but are not limited to, such items as:

lighting fixtures	elevators, hoists, and conveying units
plumbing fixtures	awnings & venetian blinds
furnaces, boilers, and heating units	burglar alarm and fire alarm fixtures
air conditioning units	vault doors and equip
refrigeration units	cabinets, counters, and lockers
telephone switchboards and instruments	carpeting
signs	

Construction equipment, machinery, or tools, or parts for repair of such equipment, machinery, or tools are not included in this the definition of construction materials or fixtures and, therefore, are not eligible for this tax exemption. Hence, the purchase or short term rental of such items is taxable.

[92-07]

REGULATION 3.12.150 ALTERNATIVE SALES/USE TAX ON CONSTRUCTION EQUIPMENT

ALTERNATIVE SALES/USE TAX RATE ON CONSTRUCTION EQUIPMENT

A contractor who has properly applied for and been approved an alternative sales/use tax rate for construction equipment may pay this rate in lieu of the full City sales/use tax rate of 2.75% on eligible construction equipment.

APPLICATION AND APPROVAL

Application for the alternative rate may be made through the City Finance Department. Application must be made and approval obtained prior to use of equipment inside the City limits. Calculation of the alternative rate is based on individual contractor's revenue activity within the City limits for the most recently completed financial year. Approval of the alternative rate is by the City Finance Director and is effective for 24 months after the date of approval. At the end of the 24 months, the alternative rate must be re-calculated and applied for again.

PAYMENT OF ALTERNATIVE TAX

For eligible construction equipment, the contractor may pay the alternative tax as follows:

- 1) The contractor may pay the full City sales tax rate to vendor at point of purchase or to the Department of Motor Vehicles at point of registration, and then file a claim for refund from the City for the difference between the full rate paid and the approved alternative rate.

or

- 2) The contractor may pay an approved -alternative tax directly to the City of Grand Junction by completing the alternative use tax return (**Form #GJ600**), and remitting the appropriate tax amount. For construction equipment that must be registered, the City will issue the contractor who pays alternative use tax directly to the City, a Use Tax Receipt (**Form #GJ610**) that may be presented to the Department of Motor Vehicles (DMV) upon registration. This receipt will be the only documentation accepted by the DMV as proof that proper sales/use tax has been paid.

ELIGIBLE CONSTRUCTION EQUIPMENT

Eligible construction equipment is equipment that meets the definition of "construction" equipment **and** was purchased by contractor subsequent to December 31, 1990.

CONSTRUCTION EQUIPMENT DEFINED

Construction equipment means any purchased tangible personal property used, owned, operated, or stored by a person engaging in construction activity. **Construction activity** means to build, construct, reconstruct, alter, expand, modify or improve any building, dwelling, other structure, or improvement, on or to real property.

Construction equipment includes, but is not limited to, such items as:

backhoe	front end loader
bulldozer	grader
cement mixer	paver
compactor	pile driver
compressor	power tool
concrete pump	roller
concrete saw	skid loader
conveyer	steam shovel
crane	tamper
dump truck	trackhoe
excavator	truck
fork lift	tractor

[92-08]

REGULATION 3.12.020 WHOLESALE SALES

EXEMPTION

Sales transacted inside the City limits to **licensed** retailers, jobbers, dealers, or wholesalers **for resale** are exempt from taxation, if the following requirements and restrictions are met.

LICENSED

The purchaser of tangible personal property must be currently and properly licensed by the City in order to qualify for this exemption. The purchaser must hold a valid City retail sales tax license.

In instances where the purchaser is not required to obtain a City of Grand Junction retail sales tax license, a State of Colorado sales tax license is acceptable verification of the purchaser's resale status. If a purchaser is from another state, then a properly issued sales tax license from that state shall be acceptable verification of resale status. A **business license only** is not acceptable verification.

The retailer must record a purchaser's retail sales tax license number on all invoices for which sales tax was not charged, or keep such number on file to identify with its respective customer /account number.

FOR RESALE

The seller must reasonably believe that a sale is for resale and not a sale to the final consumer for this exemption to apply. A duty of inquiry is hereby established requiring the seller to make reasonable inquiry/investigation to determine whether a sale is for resale and not a sale to the final consumer. For example, it would not appear reasonable for an Ice Cream retailer to be purchasing hardware supplies for re-sale.

[92-09]

REGULATION 3.12.110 CONTINUOUS POSSESSION, LEASING, RENTALS

When a right to the continuous possession or use, for more than three years, of any article of tangible personal property, with the exception of automotive vehicles, is granted under a lease or contract, and such transfer of possession would be taxable if outright sale were made, such lease or contract shall be considered a sale of such article, and the tax shall be computed and paid upon the periodic rentals paid.

If a lessor has a right to continuous possession or use for three years or less of any article of tangible personal property, with the exception of automotive vehicles, under a lease or contract, and if the lessor has paid the City a sales or use tax on such tangible property upon its acquisition, such lessor shall be exempt from collecting sales tax on the periodic rental payments. The Finance Director may permit a lessor of tangible personal property leased for a period of three years or less to acquire such property free of sales tax if the lessor agrees to collect sales tax on all lease payments received on such property. Once the election is made by the lessor to collect tax on rentals or lease payments, he must continue to operate in this manner. He cannot alternate methods of paying tax on some purchases and collecting tax on rentals or leases on other purchases.

AUTOMOTIVE VEHICLES

Sales tax on the right to continuous possession of automotive vehicles shall be computed and paid as follows: if at the time of vehicle registration, lessor is licensed with the City to collect sales tax, lessor shall collect from lessee sales tax on the periodic rentals charged. If lessor is not licensed with the City to collect sales tax, lessee shall pay sales tax on the total of the periodic lease payments at time of registration.

All taxes collected on the lease are based on the lessee's location when the lease was entered into, and remain in effect until lease ends. If the lessee moves to a different taxing jurisdiction, the taxes do not change to the new jurisdiction; they remain at the original rates and go to the City.

[95-01]

REGULATION 3.12.080(f) EXEMPTION OF MANUFACTURING EQUIPMENT**MANUFACTURING & MANUFACTURING EQUIPMENT**

Manufacturing means the operation of producing a new product, article, substance or commodity different from and having a distinctive name, character or use from raw or prepared materials.

Manufacturing equipment means machinery or machine tools used directly and exclusively in manufacturing by a person engaged in manufacturing, compounding for sale, profit or use, any article, substance or commodity.

QUALIFYING FOR THE EXEMPTION

In order to qualify for this exemption, a purchase must also qualify for the investment tax credit provided by section 38 of the Internal Revenue Code of 1954, as amended. Generally this requires that the equipment have a useful life of three years or longer.

The purchase order or invoice, excluding blanket or open purchase orders, must be in excess of five hundred dollars (\$500.00).

Leases of equipment used in manufacturing are exempt under the following conditions:

- 1) The lease must be for more than three years;
- 2) The lessee must qualify for the investment tax credit;
- 3) The minimum lease payments must be for more than \$1,000.00 during the three year period; and
- 4) The equipment must be used within the city limits of Grand Junction directly and exclusively in manufacturing.

The equipment must be used exclusively in manufacturing of tangible personal property within the city limits of Grand Junction. If the equipment is purchased for any purpose outside the beginning and ending points of manufacturing, it is not exempt from use tax.

Direct use in manufacturing is deemed to begin at the point at which raw material reaches the first machine involved in changing the form of the material and is deemed to end at the point at which manufacturing has altered material to its completed form, including packaging, if applicable. Equipment used to move material from one direct production step to another in a continuous flow is

deemed part of direct use. To be used directly in manufacturing, equipment must act upon and have a positive effect on the manufactured article.

The following are **not** direct uses in manufacturing:

- 1) Tangible personal property used for moving raw materials to a plant prior to their entrance into the manufacturing process;
- 2) Tangible personal property used for moving finished goods from a plant after manufacture. This includes vehicles used both to carry manufacturing equipment and to move goods after they are finished. Machinery added to a vehicle, which does not itself qualify for exemption, may qualify for the exemption providing it is used directly and exclusively in the manufacture of tangible personal property;
- 3) Tangible personal property used to transport work in process or semi-finished materials to or from storage;
- 4) Equipment used in normal repair and maintenance;
- 5) Equipment used to test and inspect the product; and
- 6) Equipment used in managerial, sales research and development, or other non-operational activities.

RECEIVING THE EXEMPTION

To receive this exemption, a declaration of entitlement (Colorado Department of Revenue form DR1191) must be timely filed by the purchaser with the vendor of the equipment and the City of Grand Junction Finance Department. A copy must also be kept by the purchaser.

[95-02]

REGULATION 3.12.080 (g) EXEMPTION OF CONSUMABLE MANUFACTURING MATERIALS

MANUFACTURING & CONSUMABLE MANUFACTURING MATERIALS

Manufacturing means the operation of producing a new product, article, substance or commodity different from and having a distinctive name, character or use from raw or prepared materials. Consumable Manufacturing Materials means tangible personal property used and consumed exclusively and directly in the manufacturing process when such tangible personal property does not become a necessary and recognizable ingredient, component and constituent part of the finished product.

QUALIFYING FOR THE EXEMPTION

In order to qualify for this exemption, a consumable material must be used exclusively in manufacturing of tangible personal property within the city limits of Grand Junction. If the consumable material is purchased for any purpose outside of the beginning and ending points of manufacturing, it would not be exempt, and tax on its value must be paid.

Direct use in manufacturing is deemed to begin at the point at which raw material reaches the first machine involved in changing the form of material and deemed to end at the point at which manufacturing has altered material to its completed form, including packaging if applicable. To be

used directly in manufacturing, a consumable material must act upon, and have a positive effect on, the manufactured article.

The following are **not** direct uses in manufacturing:

- 1) Tangible personal property used for moving raw materials to a plant prior to their entrance into the manufacturing process.
- 2) Tangible personal property used for moving finished goods from a plant after manufacture. This includes vehicles used both to carry manufacturing equipment and to move goods after they are finished. Machinery added to a vehicle, which does not itself qualify for exemption, may qualify for the exemption providing it is used directly and exclusively in the manufacture of tangible personal property.
- 3) Tangible personal property used to transport work in process or semi-finished materials to or from storage;
- 4) Tangible personal property used in normal repair and maintenance;
- 5) Tangible personal property used to test and inspect the product;
- 6) Tangible personal property used in managerial, sales research and development, or other non-operational activities.

RECEIVING THE EXEMPTION

If the exemption applies, the manufacturer does not pay the City of Grand Junction use tax on qualifying consumable materials. If sales tax is paid to a vendor when purchasing qualifying consumable materials, the manufacturer may file a claim for sales tax refund with the City Finance Department.

[95-03]

REGULATION 3.12.060 ANNUAL USE TAX.

USE TAX

Use tax is the tax levied by the City on the use, storage, or consumption of taxable property or services inside the City limits. Use tax is paid by the user **ONLY WHEN** City sales tax was not paid to the seller.

Businesses that do not have a sales tax license with the City remit use tax due once each year

RATE, CALCULATION, CREDITS, AND EXEMPTIONS

The City's use tax rate is 2.75% (the same as the sales tax rate). Use tax due is calculated as 2.75% of the purchase price of items used, stored, kept or consumed in business operations. (Again, use tax only applies to those purchases on which City sales tax was not paid.)

NOTE: The purchase price before any State or County taxes are added should be used when calculating the amount due. Annual use tax is the sum of all use tax due on purchases for the filing year which is the calendar year January 1st through December 31st.

If sales taxes are paid to another municipality, a credit of up to 2.75% can be applied against Grand Junction use tax owed on that purchase.

Items that are exempt from City sales tax are also exempt from City use tax.

ANNUAL RETURN AND MID-YEAR REMINDER MAILINGS

Annual City use tax returns and instructions are mailed in December of the filing year and are due by January 20th of the following year. For example, the return for 1995 would be mailed in December, 1995 and due by January 20, 1996. Annual returns are mailed to a pre-determined list of service industry businesses. NOTE: If a business is not on this list, it does not relieve that business of the requirement to file use tax due pursuant to Chapter 3.12 of the City's code of ordinances. It is the duty of each business to file use taxes whether or not the City contacts the business.

Mid-year reminders are also mailed to the same businesses. The reminders are mailed in June or July of the filing year and discuss the filing requirements for that year. They also explain the use tax giving example calculations and record keeping suggestions.

FILING REQUIREMENTS

If use tax due for any one business is less than \$50.00, that business is not required to file the annual use tax return or pay the use tax due. If an annual use tax return is not filed with the City, the City will assume that the use tax liability, if any, falls below the minimum of \$50.00; the business assumes the risk of any error since penalties and interest apply to any amount which are due but late. All individuals and businesses are and remain responsible for determining and paying any tax liability.

[98-01]

REGULATION 3.08 and 3.12.050(h) LODGING SERVICES

DEFINITION

Lodging services means the furnishing of rooms or accommodations by any person to another person who for consideration uses, possesses, or has a right to use or possess any room in a hotel, inn, bed and breakfast, residence, apartment, lodging house, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, or trailer court and park, or similar establishment, for a period of less than 30 days under any concession, permit, right of access, license to use, or other agreement, or otherwise.

TAXABILITY

The *full price* charged for lodging services as defined is subject to **City sales tax of 2.75% and lodging tax of 3%**. *Full price* includes added costs for the room such as rollaway beds, cribs, pet surcharges, etc.

EXEMPTIONS

Charges for banquet/meeting rooms along with services such as laundry services, fax services, valet services and other such services are not subject to sales tax or lodging tax. Equipment rental for banquet/meeting rooms *is subject to City sales tax* if no City sales/use tax was paid when the equipment rental inventory was purchased. Equipment rental for banquet/meeting rooms is not subject to lodging tax.

Lodging services provided for 30 consecutive days or more are not subject to sales or lodging tax. For this exemption to apply to contract billings (i.e., SkyWest, Roadway, etc.), there must be a written agreement for occupancy for a period of 30 consecutive days or more and the company/lodger must be billed based on a monthly contract rate, not daily rate. For instance, if the company needs three rooms

per day for 30 or more consecutive days, they must pay for the three rooms for the whole month whether the rooms are used or not. If the company needs more than three rooms on a particular day but not for the whole month, the additional rooms are subject to sales and lodging tax.

Government employees, educational & religious groups, and charitable organizations are exempt from sales and lodging tax. See City of Grand Junction FYI *How to Document Tax-Exempt Sales* for information on requirements and documentation needed.

TELEPHONE CHARGES BY HOTEL/MOTELS:

The charges for local and long distance telephone calls are subject to City sales tax but not lodging tax. See Regulation [98-02] 3.12.050(b) *Telephone Charges By Hotels/Motels* for further information and clarification.

TAXABILITY OF ITEMS PURCHASED BY HOTEL/MOTELS

GUEST AMENITIES:

Such supplies as toilet tissue, soap, shoeshine cloths, clothes bags, matches, facial tissue, coffee and other items available for guests use are **not subject to sales or use tax** at the time of purchase by the hotel or motel.

Linens, furniture, pool equipment and supplies, and similar items **are** subject to sales or use tax at the time of purchase by the hotel or motel.

CONTINENTAL BREAKFASTS:

If a continental breakfast is provided for guests of a lodging service at no extra charge if either accepted or declined, the food, drink, paper and plastic supplies used to provide the continental breakfast to the hotel/motel guests are **not subject to City sales or use tax** at the time of purchase by the hotel or motel.

[98-02]

REGULATION 3.12.050(b) TELEPHONE CHARGES BY HOTELS/MOTELS

Hotels and motels that charge as a separate cost for local and/or long distance telephone calls are required to collect and remit sales tax to the City of Grand Junction on the markup of the telephone charge. This tax is in addition to any tax(es) the hotel/motel remits to the telephone utility for line charges, availability or administrative costs on local and long distance phone calls.

LONG DISTANCE CALLS

All long distance calls (intrastate, interstate, and international) are subject to City sales tax, whether the calls are placed by guests or staff. The entire amount hotels/motels charge their patrons for long distance telephone calls (including markup) is subject to tax. The amount hotels/motels paid the long distance carrier for the calls may be taken as a deduction on the sales tax return. These transactions are reported on the City of Grand Junction Sales/Use Tax Return as follows:

The full amount charged for long distance calls (not including the sales tax) by the Hotel/Motel shall be included in Gross Sales reported on the City of Grand Junction Sales/Use Tax Return. The amount the hotel/motel paid for the long distance calls (not including the

taxes charged by the long distance carrier) may be deducted as an “Other Deduction” on the City of Grand Junction Sales/Use Tax Return.

LOCAL CALLS

Any charge to the guest and/or patron for local calls is subject to sales tax. Hotels/motels that charge for local calls may take a deduction on their sales/use tax return for monthly line charges (not including taxes paid to the carrier). This deduction is limited to the lines dedicated or calls made by customers from their rooms and does not include lines used for calls by sales or administrative staff nor does it include dedicated fax or computer lines. If telephone lines are dedicated to room use, a deduction can be taken for the cost of those lines. If it cannot be determined which lines are dedicated or if lines are not dedicated to a particular use, the deduction can be determined by applying the following formula:

Divide the number of local calls billed to patrons by the total number of local calls made from the hotel/motel. Then, multiply the result by the total line charges paid to the telephone company for local service.

As with long distance calls, the full amount charged for local calls (not including the sales tax) by the Hotel/Motel shall be included in Gross Sales reported on the City of Grand Junction Sales/Use Tax Return. The line charges as determined above (not including the taxes charged by the carrier) may be deducted as an “Other Deduction” on the City of Grand Junction Sales/Use Tax Return. The amount deducted cannot be more than the amount included in Gross Sales.

[98-03]

REGULATION 3.12.050(i) VENDING MACHINES

Any person or company who removes the receipts from vending machines is liable for remitting City sales taxes on the vending machine revenues. If a person or company only receives a fixed fee or a percentage of receipts from vending machine(s), and has no access to the machine, then such person or company is not liable for remitting sales tax. Typically, the owner or lessor of a machine periodically replenishes the machine, removes the receipts and remits sales tax on the proceeds. In some cases a lessee or operator stocks the machine and removes the money, which would require that the lessee or non-owner operator be liable for remittance of sales tax.

DEFINITION

A vending machine is a money-operated (coins or bills) machine offering tangible personal property and/or food and/or drink to a consumer. This definition does not include such things as video games, pinball machines, pool tables or other money-operated machines which do not dispense food, drink or other tangible personal property. Machines where players *may* receive a toy(s)/prize(s) require tax to be paid on the merchandise as it is purchased for use in the machine, rather than payment of tax on collection of the machine's gross receipts.

LICENSING

Owners, operators, lessors and lessees of vending machines who control the receipts of vending machine(s) must have a City of Grand Junction sales tax license.

TAXABILITY OF ITEMS

Items selling for 15 cents or less are exempt from sales tax. If the item vends for more than 15 cents, the sales tax is calculated on the vended price; subtracting the first 15 cents from the items you sell is illegal.

HOW TO CALCULATE GROSS SALES

For the example cited below, if your total vending machine collections in Grand Junction are \$500, the computation would be as follows (based on tax rates in effect on the publishing date of this Regulation): Colorado sales tax is 2.9 percent, Mesa County sales tax is 2 percent, and the Grand Junction sales tax is 2.75 percent, for a total of 7.65 percent.

\$500 divided by 1.0765 = \$464.47

Gross sales, therefore, would be \$464.47 not including tax. This amount would be included in your gross sales reported on Line 1 of your City Sales/Use Tax Return.

ADMINISTRATIVE INTERPRETATION

MAINTENANCE AND SERVICE CONTRACTS

AUGUST 22, 1994 (*Revised 6/18/96, 6/26/01*)

Warranty and maintenance services relating to tangible personal property are taxable services under Chapter 3.12 of the City of Grand Junction Code of Ordinances. Therefore, maintenance and service contracts are subject to City sales and use taxes as follows:

NOTE: All vendors of maintenance and service contracts must be properly licensed with the City of Grand Junction.

If a contract is *mandatory and part of the purchase price* of item to be maintained or serviced, the full contract price is subject to sales tax and the vendor of the contract must collect, report, and remit the appropriate tax to the City.

If a contract is *optional and sold separately* from the item to be maintained or serviced, sales tax is not collected on the full contract price at the time of the sale. When performing the warranty or maintenance service the vendor of the contract has two options regarding the payment of City tax.

- 1) The vendor may separately identify tangible personal property (parts, supplies, and materials) and labor/service sold on the invoice to the customer. Sales tax must then be charged and collected on the sales price of the total tangible personal property sold to the customer as part of the maintenance and service contract. Labor or service charges are not subject to sales tax *as long as they are separately identified*. The vendor shall then report and remit sales tax in accordance with City policies and procedures.

or

- 2) The vendor may choose not to separately identify tangible personal property sold as part of the maintenance contract. In this case the vendor must pay **SALES** or

USE tax on the actual cost of tangible personal property (parts, supplies, and materials) used in the performance of the contract. The vendor shall pay **SALES** tax when purchasing tangible personal property from a seller who is licensed to collect Grand Junction city sales tax. When City sales tax is **not paid** upon purchase of tangible personal property, the vendor shall report and remit **USE** tax in accordance with City policies and procedures. The vendor may make application to the Finance Director for permission to use a percentage basis of reporting tangible personal property costs.

NOTE: Once a vendor has chosen one of the two options, the vendor must be consistent in the application of the option to **all** transactions.

EQUIPMENT USED IN THE PRODUCTION OF ELECTRICITY FROM A RENEWABLE ENERGY SOURCE

March 6, 2008

The sale of manufacturing equipment, as defined by Section 34-102 of the Code of Ordinances, was exempted from use tax under Ordinance No 2810. This interpretation expands that exemption to include the following:

- Machinery and machine tools, or parts for such machinery, used in the production of electricity from a renewable energy source, including but not limited to wind.

The exemption for purchases of renewable energy electricity production machinery and parts applies whether or not the purchases are capitalized or expensed. This exemption applies to the machinery, such as the wind generator or solar panel, but not to supporting structures or to transmission lines coming from the machinery. This exemption is applicable for both commercial and residential installations.

The effective date of this interpretation is January 1, 2008.

FREIGHT, DELIVERY AND TRANSPORTATION

November 2, 2005

The transportation of tangible personal property between a retailer and a purchaser is a service presumed to be not subject to sales or use tax. Transportation charges are not taxable if they are **both** (1) separable from the sales transaction, **and** (2) stated separately on a written invoice or contract.

Transportation charges: include carrying, handling, delivery, mileage, freight, postage, shipping, trip charges, stand-by and other similar charges or fees.

Separable charges: Transportation charges are separable from the sales transaction if they are performed after the taxable property or service is offered for sale and the seller allows the purchaser the option either to use the seller's transportation services or use alternative transportation services (including but not limited to the purchaser picking up the property at the seller's location). The fact that transportation charges are stated separately does not, in and of itself, mean the charges are a separable charge.

Stated separately: Transportation charges will be regarded as “separately stated” only if they are set forth separately in a written sales contract, retailer’s invoice or other written document issued in connection with the sale.

Intermediate or “freight in” charges: Transportation charges incurred in connection with transporting tangible personal property from the place of production or the manufacturer to the seller or to the seller’s agent or representative, or to anyone else acting in the seller’s behalf, either directly or through a chain of wholesalers or jobbers or other middlemen, are deemed “freight-in” charges and are not a transportation charge exempt from tax.

Overstated transportation charges: The amount of transportation charges excluded from the calculation of tax shall be the amount of transportation charges separately stated, provided that such separate statement is not to avoid the tax upon the actual sales price of tangible personal property.

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