



Tax and Licensing Division
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Tax Compliance Guide

Direct Sales Companies

(2/2022)

THIS GUIDANCE IS A SUMMARY IN LAYMEN'S TERMS OF THE RELEVANT AURORA TAX LAW FOR THIS TOPIC, INDUSTRY, OR BUSINESS SEGMENT. IT IS PROVIDED FOR THE CONVENIENCE OF TAXPAYERS AND IS NOT BINDING UPON THE CITY. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE AURORA MUNICIPAL CODE AND APPLICABLE RULES AND REGULATIONS. THIS GUIDE DOES NOT CONSTITUTE A CITY TAX POLICY.

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Direct sales companies market goods through a network of independent "person-to-person" distributors rather than from retail outlets. Relationships between these companies and their distributors vary, as do the specific marketing schemes; however, one common model is for the distributor, an independent contractor, to recruit a host or hostess to hold a party in their home. During the party the distributor solicits sales from attendees. Attendees place orders with the distributor, who delivers the goods directly to the attendees some time later.

property of the City at all times. Distributors hold these taxes in trust for the sole use and benefit of the City until paid. All City sales tax collected by a distributor must be remitted directly to the City. Remittance to the Colorado Department of Revenue or any other taxing authority does not relieve a distributor of their liability to the City. Should a distributor collect tax in excess of the computed tax due, such tax must be reported as excess tax on the Aurora sales and use tax form and remitted to the City.

Sales Tax on Goods Sold by Distributors

Under this model, the distributor would be considered a retailer, and the company would be considered a wholesaler. If the distributor operates their business from a commercial or residential location in Aurora, they are required to obtain a general business or home occupation license. This license is also a sales and use tax license. Distributors who operate from another city but solicit sales at parties in Aurora, or make deliveries to attendees in the City, will need to obtain a temporary or permanent sales and use tax license depending upon the frequency of their contacts in the City.

In some cases, direct sales companies have been granted permission to collect tax from all of their distributors and remit it to the City on their behalf. Distributors should not assume, however, that payment of tax to a direct sales company relieves them of liability. Distributors must ensure that Aurora tax is collected based upon the location where the goods are delivered. Distributors may contact the Sales Tax Division to confirm if their company is permitted to remit on their behalf. Direct sales companies may also contact the Sales Tax Division to request such permission.

The *Aurora Municipal Code* imposes a sales tax upon the purchase price paid for tangible personal property sold at retail. A licensed distributor selling goods is required to collect and remit City sales tax on the purchase price paid for the goods. Delivery fees and other miscellaneous handling fees must also be included in the taxable purchase price. Distributors may not avoid collecting Aurora sales tax by collecting and paying tax for another city based upon their home location or the location of the party.

Purchases by Distributors

Goods purchased exclusively for resale by licensed distributors are exempt from Aurora sales and use tax. Distributors must pay Aurora sales or use tax on non-resale purchases such as party supplies, food, decorations, and door prizes. As discussed above, some distributors may remit collected sales tax to the direct sales company who will, in turn, remit it to the City on their behalf. Distributors must pay Aurora sales tax to the company for goods used for demonstration and display purposes. If Aurora sales tax is not paid to a company licensed and authorized to collect the same at the time of purchase, then a use tax must be remitted directly to the City.

Aurora sales tax only applies to transactions where delivery of the goods occurs in the City. Distributors need not collect Aurora sales tax on items delivered outside the City, even if the party was held and orders for the goods were taken in the City. Distributors located outside of Aurora making deliveries into the City must collect Aurora sales tax. In determining whether or not a specific address is inside or outside the City, distributors are encouraged to use the electronic location databases certified by the Colorado Department of Revenue pursuant to *Colorado Revised Statutes* § 39-26-105.3. Distributors are cautioned that mailing addresses and zip codes do not coincide with City boundaries and are not a reliable source for determining taxability.

Host Gifts and Credits

In exchange for holding the party, the host often receives a gift or credits toward the purchase of goods. In some cases, the value of the gift or the amount of credits received is dependent upon the level of sales generated by the party. In any case, because of the *quid pro quo* nature of the exchange between the company/distributor and the host, the goods provided to the host cannot be considered bona fide gifts. In fact, this transaction qualifies as a sale of such goods to the host and Aurora sales tax is due. The tax is measured based upon the retail price of the goods, with no discount based upon the amount of cash actually surrendered by the host.

Sales tax collected by any distributor on behalf of the City remains

Examples

1. Distributor A sells home décor for Company B, a direct sales company. Company B has permission from the City to remit tax on behalf of its distributors. Distributor A operates from his home in Aurora, and holds an Aurora business license from the City. Distributor A arranges with a host to hold a demonstration party at their home in Aurora.
 - a. At the party, Distributor A takes an order from Customer X for \$500 in merchandise. Customer X lives outside of Aurora in Thornton, where Distributor A will deliver the merchandise in three weeks. Because the merchandise will be delivered outside Aurora, Distributor A should not collect Aurora sales tax from Customer X.
 - b. Customer Y, an Aurora resident, also orders \$500 in merchandise. Because Distributor A will deliver the merchandise to Customer Y in Aurora, he must collect Aurora sales tax. Distributor A will remit the tax to Company B when he places the order, and Company B will send it to the City on his behalf.
 - c. Because the party generated \$1,000 in sales, Hostess C is entitled to take a 50% discount on one item in the catalogue. Hostess C purchases an item priced at \$100 (\$50 after her discount). Distributor A must collect Aurora sales tax on the full \$100 price, rather than the discounted price.
 - d. Distributor A buys snacks for the party at an Aurora grocery store. Distributor A must pay Aurora sales tax on the snacks and cannot use his tax license to avoid the sales tax. If sales tax was not paid on the snacks, Distributor A must accrue and remit use tax on the purchase price paid for the snacks.
2. Distributor B sells home décor for Company C, Distributor B inquired with Company C and was informed that they **do not** collect Aurora sales taxes on behalf of their distributors. Distributor B is responsible for collecting and remitting sales tax on all Aurora sales in the same manner as example 1.

Related Topics

Coupons, Discounts, & Promotional Items
Freight and Transportation
Deliveries Outside the City
Samples, Demonstrations, & Displays

Citations

Aurora Municipal Code
§ 130-31. Definitions
§ 130-33. Legislative Intent
§ 130-156. Taxable Items
§ 130-157. Items Exempt from Taxation
§ 130-160. Responsibility for payment
§ 130-161. Schedule of Taxes
§ 130-196. Levy

Contact Us

For additional assistance, please contact us:

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