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FOOD AND DRINK

This tax guide is prepared and published for the information of the general public and all persons in business pursuits who would be required to make payment of Sales Tax or Use Tax under provisions of the City of Fort Collins Sales and Use Tax Code, as well as for the guidance of the City employees whose responsibility it is to collect the taxes imposed by the Tax Code and the enforcement thereof. The following guide is exactly as it says, a GUIDE, and not to be used in any case of law. Please refer to the City of Fort Collins Sales Tax Ordinance for any references to your particular business operation for the official laws imposed by the City.

SALES TAXED AT THE RATE OF 2.25%

The City of Fort Collins Sales and Use Tax Ordinance allows for foods defined as food for home consumption in 7 U.S.C. Section 2012(g) as amended, for purposes of the food stamp program, to be taxed at a rate of 2.25%; examples are included below. Exceptions to this are noted in the section "SALES TAXED AT THE RATE OF 3.85%" below.

1. Food for domestic home consumption. Examples include but are not limited to, meat, poultry, fish, bread and breadstuffs, cereals, vegetables, fruits, fruit and vegetable juices, dairy products, coffee, tea, cocoa, candy, breath mints, condiments, spices, soft drinks, cakes, cookies, potato chips, special dietary foods, enriched or fortified foods, health food items, infant formulas, and items incorporated into foods with other ingredients (e.g., pectin, lard and vegetable oils).
2. Water marketed in containers and ice for human consumption are taxed at the rate of 2.25%, except for carbonated water as specified in "SALES TAXED AT THE RATE OF 3.85%" found below.

SALES TAXED AT THE RATE OF 3.85%

Food and drink sales taxed at 3.85%:

1. Food and drink served in or furnished by restaurants, cafes, lunch counters, cafeterias, hotels, drugstores, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, and other places at which prepared food or drink is regularly sold, including pushcarts, motor vehicles and other mobile facilities.
2. Food and drink sold through a vending machine or other vending devices on behalf of a vendor. The 3.85% tax, however, is included in the vended price rather than being added separately.
3. Alcoholic beverages. However, items such as cooking wine, wine vinegar, and nonalcoholic cocktail mixes when marketed and sold for domestic home consumption are food items and are taxed at the rate of 2.25%.
4. Coffee and related food products sold for office or commercial establishment use.
5. Non-food items taxable at 3.85% include sales of vitamins and minerals, food supplements, and health aids.
6. Food items not marketed for human consumption are taxable at the rate of 3.85%. Examples would be pet food, birdseed, and other animal food.
7. Mandatory gratuities or service charges associated with the taxable sale of food or beverage are subject to tax at the rate of 3.85%.

8. Items that qualify as food under the Federal Food Stamp Program but do not qualify as food for purposes of the City of Fort Collins food tax rate are taxable at 3.85%. They include:
- a) Carbonated water marketed in containers (e.g., sparkling or seltzer water).
 - b) Chewing gum.
 - c) Seeds and plants to grow food.
 - d) Prepared salads and salad bars.
 - e) Cold sandwiches.
 - f) Deli trays.
 - g) Prepared food or food marketed for immediate consumption.
 - h) Food or drink vended by or through machines.

If items are purchased through the Federal Food Stamp or the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) programs they would be tax exempt.

EXAMPLES

1. Sally Shopper goes to her local food shopping center. She buys a head of lettuce, ranch dressing, croutons, cheese, and tomatoes to make a salad. All of the products she buys would be taxed at the rate of 2.25% as they qualify as food for home consumption.
2. Later in the week Sally forgets her lunch at home and goes to the local bookstore where they have a café. She orders a side salad and a fountain drink for lunch. Both items would be taxed at 3.85% as it is a prepared food.

CITY OF FORT COLLINS SALES AND USE TAX ORDINANCE

Section 25-71	Definitions
Section 25-73	Imposition of Sales Tax
Section 25-123	Remittance of sales tax collected by retailer
Section 25-124	Remittance of use tax

June 1, 2007 – updated January 1, 2011 for new tax rate