

City of Colorado Springs

Tax Guide

Franchises

A franchise agreement is a business relationship which grants a right or license to a franchisee to operate, using the name, process, territory, patent, copyright, trademark, or other property, tangible or intangible, of a franchisor. In exchange, the franchisor charges a fee to the franchisee for the right to use the property. The franchisor may also impose various requirements or standards over the operation of the franchisee including distribution, sales, purchases, product presentation, quality, cleanliness or other controls as the franchise agreement specifies.

Sales or use tax applies to the sale or license to use taxable tangible personal property supplied under a franchise agreement. When both intangible rights and tangible personal property are furnished under a franchise agreement, and the charges are not separately stated, city tax will apply to the entire franchise payment. If the charges are separated or can be determined from the franchise agreement, only the items otherwise taxable under the City Code are subject to sales or use tax.

Common Examples

1. A retail location is owned by the franchisor and leased to the franchisee. The franchisee has a monthly lease for the rental of the building, equipment, customer seating, and pays a fee for promotional signs and logo items. The amount of the lease payment attributable to the tangible personal property under the agreement is subject to city tax.
2. A franchisee has an option to own the retail location and operate under franchisee's name. As part of this agreement, the franchisee must buy all restaurant equipment and all logo supplies from the franchisor. The purchase of all equipment and supplies that are not purchased for resale are subject to city tax.
3. As part of the franchise agreement, the franchisee must participate in national promotions such as a buy one get one free offer. The franchisor will reimburse the franchisee \$.50 for each unit sold. Since the franchisee is reimbursed, the reimbursement becomes part of the selling price and is subject to city tax. The franchisee must charge sales tax to the customers on the selling price of the item sold and on the \$.50 reimbursement received from the franchisor. If the franchisee does not charge sales tax to the customers, the franchisee is required to pay use tax.

CS CODE SECTION

2.7.104 Words and Phrases:
Purchase or Purchase Price
2.7.201, 2.7.312, 2.7.438

This guide provides an overview of specific subject matter and is not intended to be substituted for the full text within the City of Colorado Springs Tax Code.

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