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January 1, 2023

Re: Eagle County 2022 Ballot Issue 1A Lodging Tax

On November 8, 2022, Eagle County voters approved a Lodging Tax of 2% on the rental fee, price, or other consideration paid or charged for the leasing, rental, sale, or furnishing of a room or accommodation for a short-term period in unincorporated Eagle County and the Town of Gypsum. This new Lodging Tax applies to all lodging stays having a rental term of less than 30 days. The Lodging Tax will be effective January 1, 2023, and includes all lodging stays including January 1, 2023, or later, regardless of when the reservation was made.

Ballot Issue 1A supports our local workforce and quality of life. Support initiatives include additional childcare programs and affordable housing opportunities for local workers. Ten percent of the revenue generated by the Lodging Tax will be used for advertising and marketing local tourism with the remaining ninety percent used to support our local workforce.

The Lodging Tax applies to properties in unincorporated Eagle County and the Town of Gypsum. It does not apply to other municipalities within Eagle County that currently have their own adopted lodging tax including Avon, Basalt, Eagle, Minturn, Red Cliff and Vail.

The Lodging Tax will be administered by the Colorado Department of Revenue and remittances are due on a quarterly basis using form DR 1485, "County Lodging Tax Return". Form DR 1485 can be found at <https://tax.colorado.gov/sales-use-tax-forms>.

For further information, please reference the Colorado Sales Tax Rates Publication DR 1002 at <https://tax.colorado.gov/DR1002>. The Colorado Department of Revenue publication on rooms and accommodations is included with this letter and also available [here](#).

Sincerely,

Jill Klosterman
Chief Financial Officer
Eagle County Government



Colorado imposes sales tax on the entire amount charged for rooms and accommodations. The tax applies to any consideration (such as money or any other thing of value) for the use, possession, or the right to use or possess any room in a hotel, apartment hotel, inn, lodging house, motor hotel, motel, guest house, guest ranch, dude ranch, trailer coach, or mobile home and to any space in any camp ground, auto camp, or trailer court and park, under any concession, permit, right of access, license to use, or other agreement, or otherwise. Under certain circumstances, the rental of rooms and accommodations to a permanent resident for a period of at least 30 consecutive days is exempt from sales tax.

This publication is designed to provide general guidance regarding the taxation of rooms and accommodations and to supplement the guidance provided in the *Colorado Sales Tax Guide*. Nothing in this publication modifies or is intended to modify Colorado's statutes and regulations authorizing these exemptions. Taxpayers are encouraged to consult their tax advisors for guidance regarding specific situations.

The guidance in this publication applies to sales taxes administered by the Colorado Department of Revenue, including state, city, county, and special district sales tax, as well as county lodging and local marketing district taxes administered by the Department, but not to any sales taxes administered by any home-rule city.

Taxable charges

In general, sales tax applies to the entire amount charged to customers who rent rooms or accommodations, regardless of whether any part of the charge is stated separately on the customer's bill and designated for some specified service. For example, a room cleaning charge is generally considered part of the charge for rooms and accommodations and is therefore subject to sales tax. Similarly, any separately stated charges for the use of pools, spas, or health clubs which accompany charges for rooms and accommodations are also taxable, unless such charges are fully disclosed and truly optional for the customer. Typically, this will require that the use of such pools, spas, or health clubs is available to the general public without the rental of rooms and accommodations.

Deposits

Deposits paid for rooms or accommodations are not taxable when paid in advance. When the rooms or accommodations are provided, any deposits previously paid are taxable.

Deposit forfeits and cancellation charges

The taxability of deposits forfeits and cancellation charges associated with the rental of rooms and accommodations is based on the amount of the charge in relation to the daily reservation rate for rooms and accommodations. If the charge is greater than 50% of the daily reservation rate, it is considered payment for the rental of the room or accommodations and therefore fully taxable. If the charge is 50% or less of the daily reservation rate, the charge is not considered payment for the rental of the room or accommodations and is not subject to sales tax.



Banquet and meeting rooms

Sales tax does not apply to the rental of a room used exclusively for banquets or meetings, except that the rental of any room or suite with beds is taxable, regardless of use.

Tax-exempt entities

The rental of rooms and accommodations are exempt from sales tax if they are rented by:

- certain governmental entities operating in their governmental capacities; or
- charitable organizations in the conduct of their regular charitable functions and activities.

Please see *FYI Sales 63* and *Sales & Use Tax Topics: Charitable Organizations* for additional information regarding sales tax exemptions for governmental entities and charitable organizations.

Exemption for permanent residents

Colorado sales tax does not apply to the amount charged for any room or accommodations rented to any natural person if both of the following conditions are met:

- the person is a permanent resident of such room or accommodations; and
- the person enters into or has entered into a written agreement for occupancy of such room or accommodations for a period of at least thirty consecutive days.

A written agreement includes any legally enforceable written contract for the furnishing of rooms or accommodations, whether made in writing, electronically, or by any other means. Evidence of such agreement includes, but is not limited to, a hotel registration or a rent receipt. A canceled check shall not, by itself, qualify as a written agreement.

Exemption for state-administered local taxes

An exemption from city, county, and special district taxes administered by the Department applies, under the conditions described above, to the rental of rooms and accommodations not only by natural persons, but also by any legal entity, such as a corporation, partnership, or limited liability company. To qualify for exemption, the legal entity must:

- be a permanent resident of such room or accommodations; and
- enter into or have entered into a written agreement for occupancy of such room or accommodations for a period of at least thirty consecutive days.



County lodging taxes

Counties in Colorado may impose a county lodging tax on the rental of rooms and accommodations subject to Colorado sales tax. County lodging taxes are subject to the same exemptions as the state sales tax on rooms and accommodations. County lodging taxes must be reported and remitted to the Department on a quarterly basis with the *County Lodging Tax Return* (DR 1485). See Department publication *Colorado Sales/Use Tax Rates* (DR 1002) for information about the lodging taxes imposed by counties within Colorado.

The Colorado Department of Revenue does not administer any lodging taxes imposed by any municipality within Colorado.

Local marketing district taxes

Local marketing districts in Colorado may impose a marketing and promotion tax on the rental of rooms and accommodations subject to Colorado sales tax. Local marketing district taxes are subject to the same exemptions as the state sales tax on rooms and accommodations. Local marketing district taxes must be reported and remitted to the Department with the *Local Marketing District Tax Return* (DR 1490). See Department publication *Colorado Sales/Use Tax Rates* (DR 1002) for information about the local marketing district taxes imposed in Colorado.

Tax collection and remittance

Anyone who offers rooms or accommodations for rent is required to obtain a sales tax license and collect sales tax on any taxable rental. Please see the *Colorado Sales Tax Guide* for information about licensing, collection, filing, and remittance requirements.

A Colorado sales tax license is not required for anyone engaged exclusively in the business of renting rooms and accommodations that are exempt from Colorado sales tax.

Marketplaces

Rooms and accommodations in Colorado offered for rent through a marketplace, including any online marketplace, are subject to Colorado sales tax. Sales tax is calculated on the entire amount charged. The marketplace facilitator is required to collect and remit the applicable state and state-administered sales taxes, as well as any applicable county lodging tax and local marketing district tax. Please see Department publication *Sales & Use Tax Topics: Marketplaces* for additional information.



Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to taxes on rooms and accommodations. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

Statutes and regulations

- § 39-26-102, C.R.S., Definitions.
- § 39-26-103, C.R.S., Licenses.
- § 39-26-104, C.R.S. Property and services taxed.
- § 39-26-105, C.R.S., Vendor liable for tax.
- § 39-26-106, C.R.S., Schedule of sales tax.
- § 39-26-704, C.R.S., Miscellaneous sales tax exemptions.
- § 29-25-112, C.R.S. Power to levy marketing and promotion tax.
- § 30-11-107.5, C.R.S. Lodging tax for the advertising and marketing of local tourism.
- Rule 39-26-102(11).
- Rule 39-26-104-7.
- Rule 39-26-704-4.
- Special Rule 22. Hotels and Motels.

Forms and guidance

- [Tax.Colorado.gov](https://tax.colorado.gov)
- *Colorado Sales Tax Guide*
- *Sales & Use Tax Topics: Charitable Organizations*
- *Sales & Use Tax Topics: Marketplaces*
- *FYI Sales 63: Government Purchase Exemptions*
- *Colorado Sales/Use Tax Rates (DR 1002)*
- *County Lodging Tax Return (DR 1485)*
- *Local Marketing District Tax Return (DR 1490)*