



CITY OF THORNTON TAX INFORMATION - MEDICAL INDUSTRY

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GENERAL INFORMATION

The Thornton Municipal Tax Code states that tangible personal property is subject to 3.75% City sales tax when sold, used, consumed, leased, or stored in the City, unless it is specifically exempted within the Code. The Code exempts the following medical related items from taxation: prescription drugs, specifically defined medical supplies, prosthetic devices, and therapeutic devices.

PRESCRIPTION DRUGS

Prescription drugs are those prescribed for human consumption by a licensed practitioner of the healing arts. They must be prescribed for a specific individual and be filled by a pharmacist. Exempt prescription drugs include those administered by a licensed practitioner in their practice as a part of a patient's treatment. Over-the-counter medications are not prescription drugs. Prescription drugs for animals are not exempt.

Example #1 – Jane has a toothache and goes to see the dentist. The dentist gives Jane two Advil for the pain. Advil is an over-the-counter medication, and the dentist must pay sales tax on the purchase price of the Advil when purchased. Or, if no sales tax is charged at the time of purchase, the dentist must report use tax to the City on the purchase price.

Example #2 – Jane's toothache continues and she visits the dentist again. The dentist performs a root canal and gives Jane two Tylenol w/Codeine for the pain. Tylenol w/Codeine is a prescription drug and is exempt from tax. The dentist does not have to pay sales tax or report use tax on this drug.

MEDICAL SUPPLIES

Medical supplies, as defined in the Code, include the following nine items. These nine items qualify for the tax exemption when they are sold for the

direct personal use of a specific individual in accordance with a prescription or other written directive from a licensed practitioner:

- 1) Prosthetic medical and dental appliances,
- 2) Special beds for patients with neuromuscular or similar debilitating ailments,
- 3) Corrective eyeglass lenses including frames and corrective contact lenses,
- 4) Wheelchairs and crutches,
- 5) Oxygen and hemodialysis products for use by a medical patient,
- 6) Hearing aids and hearing aid batteries,
- 7) Insulin and insulin measuring and injecting devices,
- 8) Glucose to be used for treatment of insulin reactions, and
- 9) Human whole blood, plasma, blood products and derivatives.

Example #1 – Dr. Smith buys ten pairs of crutches from XYZ Medical Supply. Five pairs will be used in his practice by patients while they are being seen in his office, and five pairs will be held in inventory to be given to specific patients. Because the five pairs to be used in the office are not going to be sold for the direct personal use of a specific individual, Dr. Smith should pay sales tax to XYZ on the purchase price of five pairs, if sales tax is not charged by XYZ, then Dr. Smith should report use tax on the five pairs of crutches he will be using in his practice.

Example #2 – Joey, a patient of Dr. Smith, breaks his leg. Dr. Smith prescribes in writing a pair of crutches for Joey. Dr. Smith gives Joey a pair of crutches from his stock, and Joey will keep the crutches indefinitely. Dr. Smith does not need to report use tax on the purchase price of this pair of crutches; the crutches qualify as an exempt medical supply in this situation.

PROSTHETIC DEVICES

A prosthetic device is any limb, part or device for human use that aids or replaces a bodily function, is designed or manufactured to fit a

particular person, and that is prescribed by a licensed practitioner.

Example #1 – Jill has been having pain in her feet. She visits Dr. Jones, and he prescribes arch support inserts. Dr. Jones gives Jill a pair of inserts for size 8 shoes. Because the inserts were not specifically fitted for Jill, Dr. Jones should pay sales tax on the inserts at the time of purchase, or if no sales tax is charged, Dr. Jones should report use tax on the purchase price of the inserts.

Example #2 – Jack’s leg is injured in an accident. Dr. Jones operates, but is unable to repair all the damage. Jack is left with a permanent injury. Dr. Jones measures Jack’s leg and foot, and based on these measurements orders a leg brace and orthopedic shoe specifically fitted to Jack. Dr. Jones should not pay sales tax or report use tax on the purchase price of the brace and shoe, these items qualify for the tax exemption as prosthetic devices.

THERAPEUTIC DEVICES

A therapeutic device is a piece of equipment, machine or mechanism designed to serve the special purpose of correcting or treating a human physical disability or surgically-created abnormality. The term device, as it relates to this exemption, suggests a degree of permanence, with the capability of repeated use, as opposed to a supply item that may be used once and then discarded. In addition, the item must be devised or constructed for the particular purpose of healing or curing a human disability or surgically-created abnormality. Therapeutic devices must be prescribed by a licensed practitioner for a specific person.

Example #1 – Janice has been suffering from lower back pain. She visits her chiropractor, Dr. Baker, and he schedules ten visits in an exercise class held in his office. Janice participates in the class, walks twenty minutes on the Dr.’s treadmill, and soaks in the hot tub for fifteen minutes at the end of each visit. Dr. Baker must pay sales tax to the retailer or report use tax on the purchase price of the treadmill and hot tub because they were not specifically designed for therapeutic purposes.

Example #2 – Tyler is a patient at Thornton Orthodontics. Tyler needs to wear a retainer for

an indefinite period of time. The orthodontist manufactures a retainer for Tyler. The orthodontist should not pay sales or use tax on the items used in making the retainer because it is specifically designed to heal or cure an abnormality. The retainer qualifies as an exempt therapeutic device.

ITEMS COMMONLY MISTAKEN AS TAX EXEMPT

The following items are not tax exempt:

Gauze, bandages, dressings, tongue blades, swabs, ice packs, gloves, masks, table paper, over-the-counter drugs, dietary food supplements, medical equipment such as X-ray machines, CAT Scans, ultrasonic equipment, X-ray film and supplies, testing kits and lab supplies, non-prescription ointments and lotions, mouthwash, toothbrush, dental floss, slings, splints, and casting material, catheters, tracheotomy supplies, IV tubing, syringes, surgical instruments and tools, surgical supplies and tray set-ups, oxygen and other gases that are not medical grade.

MAINTENANCE AGREEMENTS

Maintenance service agreements are subject to City sales/use tax on a portion of the contact amount, as follows:

- Replacement part contracts – **100%**
- Medical equipment and related software – **50%**
- Parts & labor contracts (non-medical) – **30%**
- Software maintenance contracts – **30%**
- Labor-only contracts – **0%**

Example #1 – Dr. Smith purchased an x-ray machine for his office five years ago. Each year Dr. Smith pays \$1,000 for a maintenance service agreement. Under the agreement the manufacturer will repair and service the machine as needed. All parts and labor are provided by the manufacturer at no additional charge and the manufacturer will provide software updates periodically. Dr. Smith must either pay sales tax to the manufacturer or use tax to the City based on \$500 (50% of maintenance agreement) per year, or \$18.75.

Example #2 – Dr. Smith pays \$500 per year for his medical billing software license and also pays \$100 per year for a software maintenance

agreement. Under the software maintenance agreement the software company provides phone support and provides software updates periodically. Dr. Smith must pay sales tax to the software company or use tax to the City on the entire \$500 software license agreement and on \$30 (30% of maintenance agreement) per year, or \$19.88.

ADDITIONAL INFORMATION

Licensed practitioner means any practitioner of the healing arts who can legally give a written or oral prescription for human consumption to be filled by a licensed pharmacist, assistant pharmacist, or pharmacy intern.

Licensed practitioners are service providers and generally **are not** considered to be retailers of tangible personal property. Therefore, licensed practitioners are considered to be the consumers of the supplies they purchase and use in providing their services, and must pay tax on their supplies.

Vendors and manufacturers who sell to medical service providers **are** considered to be retailers of tangible personal property and must collect sales tax on non-exempt sales.

The Code does not exempt drugs, medical supplies, or devices for use in the treatment of animals.

TAXPAYER ASSISTANCE

The City of Thornton provides the following resources to answer your tax questions:

1. Thornton Municipal Code – This document establishes the tax laws of the City. This document is available on the website www.ThorntonCO.gov or you may request a copy by contacting the Sales Tax Division.
2. Determinations – Upon written request, the Finance Director will provide a determination on how City taxes apply in specific circumstances.
3. City Personnel – Staff are available Monday through Friday, 8:00 a.m. to 5:00 p.m. either by phone or in person. It is recommended that you call in advance to ensure a tax representative will be available for assistance. The phone number is 303-538-7400.
4. Free Workshops - Thornton's Tax Staff offer free Sales & Use Tax workshops periodically throughout the year. Please contact the Sales Tax Division at 303-538-7400 or visit our website at www.ThorntonCO.gov to find out when the next workshop will be offered.

Important Note: This information is provided as a general overview of the City of Thornton Sales and Use Tax Ordinance, and is not intended to replace or supersede the information contained in the Ordinance.