



Financial Services
Sales Tax Division
215 North Mason Street, 2nd Floor
P.O. Box 580
Fort Collins, CO 80522
970.221.6780
970.221.6782 - fax
fcgov.com/salestax

ADVERTISING AGENCIES

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 Chapter 25, Article III of the Code of the City of Fort Collins (the "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 relied upon as an official interpretation of the Tax Code applicable in all circumstances. Instead, specific reference should be made to the Tax Code and related ordinances for what is required in any particular circumstance.

TAXABLE SALES

Sales tax is due on the entire amount charged to the advertising agency's clients for tangible personal property, including drawings, paintings, radio and television transcriptions, tapes, films, designs, photographs, lettering, assemblies, type composition, finished art, photo retouching, and printed material such as annual reports, stationery, brochures, newsletters, direct mail, handouts, throwaways, business cards, ad reprints, and newspaper inserts and sale literature.

Those agencies with their own printing and binding facilities must be licensed to collect sales tax on their printing jobs.

NON-TAXABLE SALES

If the advertising agency is primarily performing a service and does not sell tangible personal property, the agency may not have taxable sales; however, the agency still needs a Sales and Use tax license.

Tax does not apply to charges by advertising agencies, commercial artists or designers for consulting charges for which there is no exchange of tangible personal property. Examples of non-taxable services include: writing original manuscripts and news releases; writing copy for use in newspapers, magazines, or other advertising, or to be broadcast on television or radio; compiling statistical and other information; market research individualized for one client; placing and/or arranging for the placing of advertising in media, such as newspapers, magazines, or other publications; and delivering or causing the delivery of brochures, pamphlets, cards, etc. Charges for such items as account supervision, account service, creative concept development, consultation, research, postage, express, telephone and telegraph messages, transportation and travel expenses, if involved in the rendering of such services, are likewise excluded from the taxable charge to the customer.

PRELIMINARY ART

"Preliminary art" as used herein means roughs, visualizations, layouts, and comprehensives submitted by an advertising agency to its clients for the client's approval of the advertising concept or message prior to the preparation of finished art. ("Finished art" as used herein means the final art, assembly, or formulation representing the ultimate product to be used for actual reproduction by photomechanical or other process used by the client for display or other advertising purposes. Examples include all camera-ready art, drawings, architectural delineations, paintings, retouched photographs, lettering, assembly of elements, and show cards.) Tax does not apply to separately stated charges for preliminary art except where the preliminary art becomes physically incorporated into the finished art, as, for example, when the finished art is made by inking directly over a pencil sketch or drawing, or the approved layout is used as camera copy for reproduction.

The charge for preliminary art must be separately stated on the customer's bill. The charge must be clearly identified on the billing as preliminary art, of one or more of the types mentioned in the preceding paragraph. Proof of ordering or producing the preliminary art

prior to date of contract or approval for finished art, shall be evidenced by purchase orders of the buyer, or by work orders or other records of the seller.

RETOUCHING

Retouching ordinarily constitutes a step in the process of preparing photographs or other artwork for reproduction, and is done to improve the quality of the reproductions. Tax applies to charges for photo retouching.

BILLBOARDS, POSTERS, AND OTHER OUTDOOR ADVERTISING

Both the charge made for advertising display material used on billboards and other forms of outdoor advertising, cards in cars, buses, etc. and the charge made for the lease or rental use of the billboards and public transportation display facilities are taxable to the full extent of such charges made to the customer.

Tax applies to retail sales of signs, show cards and posters, and to charges for painting signs, show cards, and posters whether the materials are furnished by the painter or by the customer.

Tax does not apply to charges for painting or lettering on real property. The painter or letterer is the consumer of the material used in such work, and tax applies with respect to the sale of such property to him.

PURCHASES

Advertising agencies that primarily perform a service for their customers act as the consumer of tangible personal property used in the operations of its business, such as stationery, ink, paint, tools, drawing tables, pens, pencils, computers, equipment, and other office supplies and furniture. The agency is required to pay sales tax on the property purchased within the City limits or use tax if purchased outside of the City limits and brought into the City limits for use.

An advertising agency is the seller of, and, may purchase for resale (tax-free) any item that he resells before use, or that becomes physically an ingredient or component part of tangible personal property sold. Examples: illustration board, paint, ink, rubber cement, flap paper, wrapping paper, photographs, photostats, or art purchased from other artists. The agency must be licensed to collect sales tax.

DIRECT MAIL

Any person who owns circulars, samples, etc., distributed in the City are required to pay the tax on the cost of printing or on the product distributed.

Any such distributing service or any person who distributes the circulars etc., or products of others, the ownership of which does not reside in the distributor, and who fails to collect and remit any tax due the City from such tangible property owners shall be considered in violation of the code in aiding or abetting another to avoid the tax.

Any such service businesses selling printed matter, products or other tangible personal property to any person for distribution, use, storage or consumption in this city or delivering in this city such property must license, collect, and remit the tax.

EXAMPLES

1. Sam's Advertising Agency buys art supplies for its layout work. (Layout work is a drawing or sketch of a proposed printed piece.) Sales tax should be charged by the vendor of the art supplies. If the vendor is unlicensed, or for any reason fails to charge sales tax, Sam's Advertising Agency is responsible for remitting use tax to the City on its sales and use tax return.
2. Bob's Advertising Agency designs an annual report for the XYZ Corporation. An outside printer is engaged by Bob's to do the printing. The charge to the XYZ Corporation for the in-house design work and for printing the report is taxable, unless the design charge is separately stated on the invoice. If the design charge is separately stated, then only the charge for printing the report is taxable.

3. Bob's Advertising Agency designs an annual report for the Sally Corporation. Bob's Advertising has its own in-house print shop and bindery. The guidelines for taxation of the printing industry must be followed. The total charge to the customer for printing and binding is subject to sales tax.
4. Ann's Advertising Agency solicits advertising in Fort Collins through direct mail coupons. Although the advertising charges are not taxable, the cost to have the coupons printed is taxable. If using a local printer, the printer would charge sales tax on the printing charges billed to Ann's Advertising Agency. If the vendor is unlicensed, or for any reason fails to charge sales tax, Ann's Advertising Agency is responsible for remitting use tax to Fort Collins on the printing charges.

CITY OF FORT COLLINS SALES AND USE TAX ORDINANCE

Section 25-73	Imposition of the sales tax.
Section 25-74	Imposition of the use tax.
Section 25-123	Remittance of sales tax collected by retailer.
Section 25-124	Remittance of use tax.

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