

# Sales & Use Tax Topics: Incontinence Products and Diapers



Sales of incontinence products and diapers are exempt from state sales and use taxes in Colorado beginning January 1, 2023. This publication is designed to provide general guidance regarding the sales and use tax exemption for incontinence products and diapers and to supplement guidance provided in the *Colorado Sales Tax Guide*. Nothing in this publication modifies or is intended to modify the requirements of Colorado's statutes and regulations. Taxpayers are encouraged to consult their tax advisors for guidance regarding specific situations.

## Local sales and use taxes

The exemption for incontinence products and diapers applies to sales and use taxes imposed by the State of Colorado and certain special districts within the state, including the Regional Transportation District (RTD), the Scientific and Cultural Facilities District (SCFD), and Regional Transportation Authorities (RTA). However, the exemption does not apply to any city or county sales tax administered by the Department, unless the city or county has adopted the exemption by ordinance or resolution. For additional information about exemptions allowed for state-administered local taxes, please see Department publication *Colorado Sale/Use Tax Rates (DR 1002)* and the *Supplemental Instructions for Form DR 0100*, both of which are available online at [Tax.Colorado.gov/sales-use-tax-forms](http://Tax.Colorado.gov/sales-use-tax-forms).

The information in this publication does not apply to any city sales and use taxes administered by any home-rule cities. Please contact these home-rule cities directly for information about the taxes they administer.

## Exempt incontinence products & diapers

All sales of incontinence products and diapers are exempt from Colorado sales and use taxes beginning January 1, 2023. Incontinence products and diapers are absorbent cloth or disposable products worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements.

## Qualifying products

Tax-exempt incontinence products and diapers include, but are not limited to:

- Cloth diapers;
- Disposable diapers;
- Diaper inserts and liners;
- 2-in-1 incontinence and period pads; and
- Pads and liners for bladder leaks.

## Nonqualifying products

Products that do not qualify for the exemption include:

- Clothing;
- Hygiene products such as rash creams, soaps and cleaning solutions, or lotion; and
- Home products such as sheets, bed and crib liners, or mattress covers.

## Seller responsibilities

Retailers bear the burden of proof for the proper exemption of any sale upon which the retailer did not collect sales tax. No exemption certificate is required for sellers or purchasers to qualify for the sales tax exemption on incontinence products and diapers, but in the case of a disagreement between the retailer and the purchaser about whether a sale is exempt, the retailer must collect the tax and the purchaser is obligated to pay it. In the case of such disagreement, the retailer must issue to the purchaser a receipt or certificate showing the names of the retailer and purchaser, the item(s) purchased, the date, price, amount of tax paid, and a brief statement of the claim of exemption. The purchaser may request a refund from the Department of the tax paid using the applicable Department form.



## **Additional resources**

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The following is a list of statutes, regulations, forms, and guidance pertaining to the sales and use tax exemption for incontinence products and diapers. 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**

- § 39-26-717, C.R.S. Drugs and medical and therapeutic devices - legislative declaration - definitions - repeal.

### **Forms and guidance**

- [Tax.Colorado.gov](https://tax.colorado.gov)
- [Tax.Colorado.gov/sales-use-tax](https://tax.colorado.gov/sales-use-tax)