

In general, leases of tangible personal property are considered retail sales and are subject to Colorado sales tax. However, a lease for a term of 36 months or less is tax-exempt if the lessor has paid Colorado sales or use tax on the acquisition of the leased property. A lessor may request permission from the Department to acquire tangible personal property tax-free on the condition that the lessor agrees to collect sales tax on all lease payments received on the property.

A contract pursuant to which a contractor performs a service for a customer using equipment owned by the contractor is not considered a lease of the equipment by the customer and is not subject to the tax requirements discussed in this publication.

This publication is designed to provide general guidance regarding the tax treatment of leases. 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 information in this publication applies to state and local sales and use taxes administered by the Department, but not to any sales or use taxes that the Department does not administer for any home-rule cities. Please contact any applicable home-rule city directly for information about their sales and use taxes.

Effect of lease duration

The tax treatment of lease payments is determined, in part, by the duration of the lease.

Leases greater than 36 months

If a lease is for a term of greater than 36 months, the lessor must collect all state and state-administered local sales taxes from the lessee on all payments made pursuant to the lease. The lessor's acquisition of the property is considered a wholesale sale and is not subject to sales or use tax.

Leases of 36 months or less

If the lease term is 36 months or less, the lessor must pay sales and/or use taxes, as applicable, on the full purchase price the lessor paid for the acquisition of the property, unless the lessor has received permission from the Department to collect all applicable state and state-administered local sales taxes on all payments made by the lessee pursuant to the lease. The lessor may request such permission from the Department by filing the *Lessor Registration for Sales Tax Collection* (DR 0440). The permission to collect sales tax on lease payments, if granted by the Department, obligates the lessor to collect sales tax on all leases made by the lessor for terms of 36 months or less.

The lessor must apply for a sales tax license and for permission to collect sales tax prior to acquiring the tangible personal property that is to be leased. A lessor who has received permission from the Department to collect sales tax on leases of 36 months or less will owe no sales or use tax on the acquisition of tangible personal property for lease.

If the lessor has not received permission to collect tax prior to the acquisition of any property that will be leased for a term of 36 months or less, the lessor must pay sales tax to the seller at the time of acquisition and any applicable use tax if the seller does not collect sales tax. If immediately thereafter the lessor obtains a license and files a DR 0440, the lessor may apply for a refund of sales and/or use tax paid for the lessor's acquisition of the property.

Taxable charges

In general, all payments made pursuant to a lease contract, including any associated charges, are subject to sales tax. See *Part 3: Calculation of Tax* in the *Colorado Sales Tax Guide* for additional information.

If a lessor's lease transactions consist of the supplying of both tangible personal property and maintenance services for such property, the lessor may request permission from the Department to collect sales tax only on that percentage of the full contract price attributable to the lease of the tangible personal property under the contract.

Lessor registration requirements

Any lessor that will be collecting sales tax must apply for and maintain an active sales tax license and submit a completed *Lessor Registration for Sales Tax Collection* (DR 0440). The lessor must submit with their completed DR 0440 an attachment listing the location/jurisdiction codes for each jurisdiction for which the lessor will be collecting sales tax. See *Location/Jurisdiction Codes for Sales Tax Filing* (DR 0800), and [Colorado.gov/tax/sales-tax-license](https://colorado.gov/tax/sales-tax-license) for additional information.

Motor vehicle leases

See *Sales & Use Tax Topics: Motor Vehicle* for rules and guidance specific to motor vehicle leases.

Sourcing lease payments

Lease payments are subject to Colorado sales tax if they are sourced to Colorado under Colorado law. These sourcing rules also determine the applicability of any state-administered local sales taxes.

- 1) In general, periodic lease payments are sourced to the primary property location for each period covered by the payment. The primary property location is generally the address for the property provided by the lessee to the lessor.
- 2) If the leased property is not a motor vehicle, trailer, semi-trailer, or aircraft, the first periodic payment is sourced to the location at which the lessee takes possession of the leased property, either at the lessor's business location or at another location.
- 3) For a lease or rental that does not require recurring periodic payments, the payment is sourced to the location at which the lessee takes possession of the leased property, either at the lessor's business location or at another location.
- 4) The preceding sourcing rules do not generally apply to trains, trucks, buses, or aircraft used to transport people or property in interstate commerce.

If the primary property location for the leased property changes during the lease term, the state and state-administered local sales taxes due on subsequent lease payments will be based upon the new location for the property. See Proposed Rule 39-26-104-2(6) for lease or rental agreements executed prior to June 1, 2019.

See section 39-26-104(3)(b), C.R.S., for additional information about sourcing lease payments.

Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to sales tax on leases. 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.
- § 39-26-113, C.R.S. Collection of sales tax - motor vehicles.
- § 39-26-208, C.R.S. Collection of use tax - motor vehicles.
- § 39-26-713, C.R.S. Tangible personal property.
- Rule 39-26-102(9). Retail sales.
- Rule 39-26-102(10).
- Rule 39-26-102(19).
- Rule 39-26-713-1.

Forms and guidance

- [Colorado.gov/Tax](https://colorado.gov/Tax)
- [Colorado.gov/tax/sales-use-tax](https://colorado.gov/tax/sales-use-tax)
- *Tax Statement for Leased Motor Vehicle* (DR 0026)
- *Lessor Registration for Sales Tax Collection* (DR 0440)
- *Location/Juris. Codes for Sales Tax Filing* (DR 0800)