

Marijuana and Marijuana Products Sales Price: discounts included/excluded for tax

Assembly Counsel



Samples from other cities

Denver, CO retail tax

RETAIL MARIJUANA

9.15% Denver*

15.00% State*

1.00% RTD

.10% Cultural Facilities District

25.25%

***Note: Medical Marijuana is taxed at regular State sales tax rate (2.9%), RTD (1%), CFD (0.10%) and Denver (3.65%) for combined 7.65% rate**

(21) "Price" or "purchase price" means the aggregate value measured in currency paid or delivered or promised to be paid or delivered in consummation of a sale, without any **discount** from the price on account of the cost of materials used, labor or service cost, and exclusive of any direct tax imposed by the federal government or by this article, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if: (1) such exchanged property is to be sold thereafter in the usual course of the retailer's business, or (2) such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this state, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft, and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

a. Price or purchase price includes:

1. The amount of money received or due in cash and credits.
2. Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
3. Any consideration valued in money, whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.
4. The total price charged on credit sales including finance charges which are not separately stated at the time of sale. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated at the time of sale is not part of the purchase price.
5. Installation, applying, remodeling or repairing the property, delivery and wheeling-in charges included in the purchase price and not separately stated.

Samples from other cities

Denver, CO retail tax – cont'd

6. Transportation and other charges to effect delivery of tangible personal property to the purchaser.
 7. Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.
 8. The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.
- b. Price or purchase price shall not include:
1. Any sales or use tax imposed by the State of Colorado or by any political subdivision thereof.
 2. The fair market value of property exchanged if such property is to be sold thereafter in the retailers' usual course of business. This is not limited to exchanges in Colorado. Out of state trade-ins are an allowable adjustment to the purchase price.
 3. **Discounts** from the original price if such **discount** and the corresponding decrease in sales tax due is actually passed on to the purchaser, and the seller is not reimbursed for the **discount** by the manufacturer or someone else. An anticipated **discount** to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

Samples from other cities City and Borough of Juneau

(e) In addition to the tax levied and collected under subsection (a), there shall be levied and collected a tax equal to three percent of the selling price on the retail sale of marijuana and marijuana products sold within the City and Borough.

Selling price and price mean the consideration, whether money, credit, rights or other property, expressed in terms of money, paid, given or delivered by a buyer to a seller all without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expenses whatsoever paid or accrued, and without any deduction on account of losses.

Samples from other cities

City and Borough of Juneau Cont'd

Administrative Guidance from Juneau's Finance Dept

The **sales price** subject to sales tax is the net amount paid after any discounts have been deducted. The seller must add the sales tax to the selling price and separately state the tax on all sales invoices.

A **discount** given by the retailer reduces the selling price and is not taxable. Sales tax is due on the discounted selling price.

Quantity discounts are offered to urge customers to buy larger quantities. These discounts may increase with the size of the order. Quantity discounts reduce the price of the items purchased and are not taxable. Sales tax is due on the discounted selling price.

Cash discounts are granted to credit customers as an incentive to pay early. These discounts are commonly referred to as **2/10, net 30**—a two percent discount may be subtracted from the bill if paid within ten days; otherwise the full amount is due within 30 days. Tax is calculated on the discounted selling price if the discount is taken.

Manufacturer's Coupons for which a merchant is reimbursed by a third party are not discounts. The amount subject to sales tax is the sales price of the item, before deducting the value of the coupon.

In-Store Coupon issued by the retailer for which no reimbursement is received is considered a discount. The taxable amount is the net amount paid for the item after deducting the value of the in-store coupon.

Streamlined Sales Tax Project

<https://www.streamlinedsalestax.org/>

STREAMLINED SALES AND USE TAX AGREEMENT

**Adopted November 12, 2002 and
amended through **May 3, 2018****

- 24 states participating
 - (not Alaska or Colorado)
- Formed to simplify and modernize sales and use tax collection and administration
- **Uniform definitions!!**

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“Sales price” applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- A. The seller's cost of the property sold;
- B. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- C. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- D. Delivery charges;
- E. Installation charges; and
- F. Credit for any trade-in, as determined by state law.

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“Sales price” shall not include:

- A. Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;
- B. Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser; and
- C. Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser.

“Sales price” shall include consideration received by the seller from third parties if:

- A. The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

Streamlined Sales Tax Project

- B. The seller has an obligation to pass the price reduction or discount through to the purchaser;
- C. The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
- D. One of the following criteria is met:
 1. The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;
 2. The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount (a “preferred customer” card that is available to any patron does not constitute membership in such a group), or
 3. The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

States may also exclude from “sales price” either employee discounts that are reimbursed by a third party on sales of motor vehicles, or manufacturer rebates on motor vehicles, or both.

Sales Price and Discounts

What model should MOA follow?