



City of  
Golden

FINANCE DEPARTMENT  
SALES TAX DIVISION

911 10<sup>TH</sup> ST  
GOLDEN, CO 80401  
303-384-8000  
CITYOFGOLDEN.NET

## ADMINISTRATIVE DIRECTIVE REGARDING INTERPRETATION OF THE GOLDEN SALES AND USE TAX CODE REGARDING TAXABILITY OF MEDICAL MARIJUANA

Unless specifically exempted, the City of Golden imposes a sales/use tax on the sale/use of “tangible personal property”. With respect to any usable form of medical marijuana<sup>1</sup> sold, purchased or used pursuant to the provisions of Article 18, Section 14, of the Colorado Constitution, the following shall be utilized to determine whether such sale or use is taxable under Chapter 3 of the Golden Municipal Code:

Exempt Items Not Subject to Tax – Section 3.03.040(a) of the Golden Municipal Code states the following is not subject to sales or use tax;

(3) Sales of medical supplies. This exemption shall not encompass items purchased for use by medical and dental practitioners or medical facilities in providing their services, even though certain of those items may be packaged for single use by individual patients after which the item would be discarded.

Definitions – The following definitions from Section 3.02.010 are applicable:

"Medical supplies" means drugs dispensed in accordance with a prescription; insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose usable for treatment of insulin reactions; urine and blood-testing kits and materials; insulin measuring and injecting devices, including hypodermic syringes and needles; prosthetic devices; wheelchairs and hospital beds; drugs or materials when furnished by a doctor as part of professional services provided to a patient; and correctable eyeglasses, contact lenses, or hearing aids.

"Drugs dispensed in accordance with a prescription" means drugs dispensed in accordance with any order in writing, dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner, and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and address of the person for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

Process – The following is understood to be the process utilized in order to obtain medical marijuana:

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<sup>1</sup> “Usable form of medical marijuana” includes, but is not limited to the seeds, leaves, buds, flowers, and oils of the cannabis plant, and any mixture or preparation thereof, including any mixture or preparation made from of any part or form of the cannabis plant and mixed with food or other edibles, oils, tinctures, creams, or other substances.

The physician/practitioner puts in writing a determination that the patient may benefit from the use of medical marijuana. The patient applies to the Colorado Department of Public Health and Environment for a permit to possess and use a limited supply of marijuana for medical purposes, submitting the practitioner's determination as justification for the application.

Findings – The following is the interpretation of the taxability of Medical Marijuana:

Medical marijuana sold, purchased or used pursuant to Article 18, Section 14 of the Colorado Constitution, is not exempt from sales tax under the Golden Municipal Code. Documentation from a physician merely proclaims that the patient has a debilitating medical condition and that the patient may benefit from the use of medical marijuana. The patient's ability to lawfully obtain and use marijuana under Article 18, Section 14, of the Colorado Constitution is dependent upon the approval of a registry identification card from the State. The registry identification card merely states that a person may address their debilitating medical condition with marijuana. No writing or order for marijuana is ever issued by a physician, and marijuana is not dispensed to a patient as a result of a prescription.

The sale or purchase of medical marijuana is not a "sale of medical supplies" because the medical marijuana is not a "drug dispensed in accordance with a prescription" under the Golden Municipal Code. Therefore, the sale or purchase of medical marijuana does not fall within the exemption for sales of medical supplies in Section 3.03.040(a) of the Golden Municipal Code.

The sale or purchase of medical marijuana, in any of its usable forms, is subject to sales tax under Chapter 3 of the Golden Municipal Code. Relevant sections of the Code pertaining to use tax shall also apply to the use of medical marijuana in any of its usable forms.

  
Jeffrey A. Hansen - Finance Director

Approved this 13th day of November, 2009