

Title 3

REVENUE AND FINANCE

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Chapter 3.04

SALES AND USE TAX

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3.04.010 Definitions.

The following words and phrases shall have the following meaning for the purposes of this chapter, unless the context clearly indicates otherwise:

Charitable organization means any entity organized and operated exclusively for religious, charitable, scientific testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Clerk means the town clerk of the town of Cedaredge, and any deputy clerk duly appointed by the board of trustees of the town. "Director of revenue" means the director of the Department of Revenue of the State.

Town means the town of Cedaredge, Colorado.

The definitions of all other words, terms and phrases used herein shall be as defined in CRS 39-26-102, as amended, and said definitions are incorporated herein by this reference.

(Ord. 4-1995 § 2, 1995; Ord. 3-1983 § 1, 1983)

3.04.020 Imposition of sales tax.

There is levied and there shall be collected and paid a tax in the amount stated in Section 3.04.040 on the sale of tangible personal property and services described hereinbelow, at retail, upon every retailer in the town, as follows:

- A. The tangible personal property and services taxable pursuant to this chapter shall be the same as the tangible personal property and services taxable pursuant to CRS 391-26-104, as amended.
- B. For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the limits of the town or to a common carrier for delivery to a destination outside the limits of the town. The gross receipts from such sales shall include delivery charges when such charges are subject to the state sales and use tax imposed by Article 26 of Title 39, CRS regardless of the place to which delivery is made. If a retailer has no permanent place of business within the town, or has more than one place of business, the place at which the retail sales are consummated for the purposes of this chapter shall be determined by the provisions of Article 26 of Title 39, CRS, and by rules and regulations promulgated by the Department of Revenue of the State.
- C. The value of construction and building materials on which a use tax has previously been collected by an incorporated town, city, or county shall be exempt from the tax imposed if the materials are delivered by the retailer or his agent to a site within the town.
- D. The amount subject to the tax levied shall not include the amount of any sales or use tax imposed by Article 26, Title 39, CRS.

(Ord. 3-1983 § 2, 1983)

3.04.030 Exemptions from sales tax.

The sales tax imposed by this chapter shall not apply as follows:

- A. For the purpose of maintaining uniformity with the sales tax, all transactions and items which are declared to be exempt under the provisions of CRS 39.26.701-726 (except the exemption allowed by CRS Section 39-26-709, for purchases of Machinery or machine tools, CRS Section 39-26-707 exemption for sales of Food, meats, and beverages, CRS Section 39-26-715 exemption for Fuel and oil, and CRS Section 39-26-718 Charitable organizations), shall be exempt from the sales tax imposed by the chapter.

1. All sales and purchases of electricity, coal, wood, gas (including natural, manufactured and liquified petroleum gas), fuel oil, or coke sold but not for resale, to occupants of residences, whether owned, leased or rented by said occupants, for the purpose of operating residential fixtures and appliances which provide light, heat and power for such residences; and
 2. All occasional sales by a charitable organization. For the purposes of this subsection "occasional sales" means retail sales of tangible personal property, including concessions, for fund-raising purposes if:
 - a. The sale of tangible personal property or concessions by the charitable organization takes place no more than twelve (12) days, whether consecutive or not, during any one calendar year, and
 - b. The funds raised by the charitable organization through the sales are retained by the organization to be used in the course of the organization's charitable service, and
 - c. The funds raised by the charitable organization through the sales do not exceed twenty-five thousand dollars (\$25,000.00) during any one calendar year.
- B. All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from said tax when such sales meet both of the following conditions:
1. The purchaser is a nonresident of, or has its principal place of business outside the town; and
 2. Such personal property is registered or required to be registered outside the limits of the town under the laws of the state.

(Ord. 4-1995 § 3, 1995; Ord. 3-1983 § 3, 1983 and Ord 5-2015 03/14/2014))

3.04.040 Rate of tax.

The sales tax imposed by this chapter shall be charged and collected at the rate of two percent of the full purchase price of all tangible personal property and the furnishing of services subject to said tax as set forth above. Of said total tax rate of two percent, one-half percent shall be designated and utilized only for major street improvements. In the event a special district, as defined by C.R.S. Article 25 Title 31, is formed the town may match one for one up to one-half of the one-half percent of the total increased revenue for major street improvements within that district.

(Ord. 2007-8 (part), 2007; Ord. 3-1983 § 4, 1983)

3.04.050 Collection, administration and enforcement.

- A. The board of trustees, by and through the mayor and town clerk, is authorized to enter into a contract for the collection, administration and enforcement of the sales tax imposed by this chapter with the Director of the Department of Revenue of the state of Colorado in the same manner as the collection, administration and enforcement of the Colorado State sales tax. The provisions of Article 26 of Title 39, CRS, as amended, and all rules and regulations promulgated thereunder by the Director shall govern the collection, administration and enforcement of the sales tax imposed by this chapter, and said statutory provisions and rules and regulations are, e, incorporated herein by this reference.
- B. At the time of making his return of the sales tax as required by said statutory provisions and rules and regulations, every retailer shall be entitled to subtract from the tax so remitted a sum equal to three and one-third (3- 1/3) percent of said tax as his fee for collection, and said fee shall be known as the "vendor's fee."
- C. If any retailer shall be delinquent in remitting said tax, he shall forfeit the "vendor's fee," unless good cause can be shown for such delinquent remittance.

(Ord. 3-1983 § 5, 1983)

3.04.060 Imposition of use tax.

There is imposed a use tax upon the privilege of storing, using or consuming in the town any construction and building materials, and motor and other vehicles on which registration is required, purchased at retail, which tax shall be in the amount of two percent of the full storage or acquisition cost of such materials or vehicles. Of said total tax rate of two percent, one-half percent shall be designated and utilized only for major street improvements. In the event a special district, as defined by C.R.S. Article 25 Title 31, is formed the town may match one for one up to one-half of the one-half percent of the total increased revenue for major street improvements within that district.

(Ord. 2007-8 (part), 2007: Ord. 3-1983 § 6, 1983)

3.04.070 Exemptions from use tax.

The use tax imposed by this chapter shall not apply to the storage, use, or consumption of the following:

- A. Any tangible personal property the sale of which is subject to a retail sales tax imposed by the town;
- B. Any tangible personal property purchased for resale in the town, either in its original form, or as an ingredient of a manufactured or compounded product, in the regular course of a

business;

- C. Any tangible personal property brought into the town by a nonresident thereof for his own storage, use or consumption while temporarily within the town; provided, however, that this exemption does not apply to the storage, use or consumption of tangible personal property brought into this state by a nonresident to be used in the conduct of a business in this state;
- D. Any tangible personal property used, stored or consumed by the United States government, or the state, or its institutions or political subdivisions, in their governmental capacities only or by religious or charitable corporations in the conduct of their regular religious or charitable functions;
- E. Any tangible personal property used, stored or consumed by a person engaged in the business of manufacturing or compounding for sale, profit, or use any article, substance, or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded, or furnished and the container, label, or the furnished shipping case thereof;
- F. Any tangible personal property and household effects acquired outside of the town and brought into it by a nonresident acquiring residency;
- G. Any motor vehicle if the owner is or was, at the time of purchase, a nonresident of the town and he purchased the vehicle outside of the town for use outside of the town and actually so used it for a substantial and primary purpose for which it was acquired and he registered, titled, and licensed said motor vehicle outside the town;
- H. Any construction and building materials and motor and other vehicles on which registration is required if a written contract for the purchase thereof was entered into prior to the effective date of the use tax imposed by this chapter;
- I. Any construction and building materials required or made necessary in the performance of any construction contract bid, let, or entered into at any time prior to the effective date of the use tax imposed by this chapter.

(Ord. 6-1985 § 5, 1985; Ord. 3-1983 § 7, 1983)

3.04.080 Collection and administration of use tax.

- A. **Motor and Other Vehicles.** The two percent use tax provided for herein shall be applicable to every motor or other vehicle for which registration is required by the laws of the state, and no registration shall be made of any motor or other vehicle for which registration is required, and no certificate of title shall be issued for such vehicle by the Department of Revenue or its authorized agents until any tax due upon the use, storage, or consumption

thereof pursuant to this chapter has been paid. The use tax imposed shall be collected by the authorized agent of the Department of Revenue in Delta County, Colorado. The proceeds of said use tax shall be paid to the town periodically in accordance with an agreement entered into by and between the town and the Department of Revenue.

- B. Construction and Building Materials. The collection of the use tax for construction and building materials shall be administered by the board of trustees of the town in substantially the same manner as the collection, administration and enforcement of the Colorado sales and use tax. Said tax shall be paid by estimate through the payment of the tax at the time permits are issued for building and construction; provided, however, that an applicant for such permit may avoid the payment of such estimates by furnishing a properly acknowledged affidavit stating that he intends to purchase all such materials from a retailer located within the town. Every applicant for a building permit shall maintain and preserve detailed purchase and receipt records which shall be subject to inspection and audit by the board of trustees of the town, or its authorized agent, and unpaid taxes due by such audit shall be subject to collection. The town shall have a first and prior lien upon the real property improved by such materials for the collection of such use taxes, and the same may be certified annually to the Delta County treasurer for collection with real property taxes. In addition, the town building official shall withhold the certificate of occupancy until such taxes are paid.

(Ord. 2007-8 (part), 2007; Ord. 3-1983 § 8, 1983)

3.04.090 Use of proceeds of tax.

The board of trustees of the town declares that it is its intention in the adoption of the ordinance codified in this chapter to provide an additional source of revenue from which to defray the expenses of operation and maintenance of all town functions and of capital expenditures which will be required of the town for streets, water and sewer system improvements, municipal buildings, motor vehicles, including police vehicles, and other capital expenditures. There is created the sales and use tax capital improvements fund of the town, pursuant to CRS 29-2-111, as amended. All sales and use tax revenues received by the town shall be allocated by the town as follows:

- A. Twenty-five (25) percent to the sales and use tax capital improvements fund;
- B. Seventy-five (75) percent to the general fund for its standard operational requirements and for capital expenses.

(Ord. 2004-4, 2004; Ord. 3-1983 § 9, 1983)

3.04.100 Amendments.

The board of trustees of the town may by a majority vote, amend, alter, change, or repeal the ordinance codified in this chapter, or any part hereof, without submitting such amendment,

alteration, change or repeal to a vote of the qualified electors of the town; provided, however, that the rate of sales and use tax imposed shall not be increased, nor the use of the proceeds set forth in Section 3.04.090 altered, except upon the approval of a majority of the qualified electors of the town voting thereon at a regular or special election called for the purpose of adopting or rejecting said amendment.

(Ord. 3-1983 § 10, 1983)

Chapter 3.08

SALES AND USE TAX--NONAPPLICABILITY-- CREDITS--REFUND DEFICIENCY NOTICE

Sections:

- 3.08.010 Sales tax--Nonapplicability.**
- 3.08.020 Use tax--Nonapplicability.**
- 3.08.030 Sales tax--Credit for sales or use taxes previously paid to another municipality.**
- 3.08.040 Use tax--Credit for sales or use taxes previously paid to another municipality.**
- 3.08.050 Use tax--Alternative dispute resolution procedure— Deficiency notice or claim for refund.**

3.08.010 Sales tax--Nonapplicability.

For transactions consummated on or after January 1, 1986, the sales tax of the town shall not apply to the sale of construction and building materials, as defined in CRS 29-2-109, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the town evidencing that a local use tax has been paid or is required to be paid.

(Ord. 6-1985 § 1, 1985)

3.08.020 Use tax--Nonapplicability.

For transactions consummated on or after January 1, 1986, the town's use tax shall not apply to the storage of construction and building materials.

(Ord. 6-1985 § 2, 1985)

3.08.030 Sales tax--Credit for sales or use taxes previously paid to another municipality.

For transactions consummated on or after January 1, 1986, the town's sales tax shall not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule municipality equal to or in excess of one and one-half (1 1/2) percent; and a credit shall be granted against the town's sales tax with respect to such

transactions equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or the user to the previous statutory or home rule municipality. The amount of the credit shall not exceed one and one-half (1 1/2) percent.

(Ord. 6-1985 § 3, 1985)

3.08.040 Use tax--Credit for sales or use taxes previously paid to another municipality.

For transactions consummated on or after January 1, 1986, the town's use tax shall not apply to the storage, use, or consumption of any article of tangible personal property, the sale or use of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule municipality equal to or in excess of one and one-half (1 1/2) percent; and a credit shall be granted against the town's use tax with respect to a person's storage, use, or consumption in the town of tangible personal property purchased by him in a previous statutory or home rule municipality. The amount of the credit shall be equal to the tax paid by him by reason of the imposition of a sales or use tax of the previous statutory or home rule municipality on his purchase or use of the property. The amount of the credit shall not exceed one and one-half (1 1/2) percent.

(Ord. 6-1985 § 4, 1985)

3.08.050 Use tax--Alternative dispute resolution procedure--Deficiency notice or claim for refund.

For transactions consummated on or after January 1, 1986, the taxpayer may elect a state hearing on the town clerk's final decision with respect to any deficiency notice or claim for refund pursuant to the procedure set forth in this section.

- A. "State hearing" means a hearing before the Executive Director of the Department of Revenue or delegate thereof as provided in CRS 29-2-106.1 (3).
- B. When the town asserts that use taxes are due in an amount greater than the amount paid by a taxpayer, the town shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall state the additional use taxes due. The deficiency notice shall contain notification, in clear and conspicuous type, that the taxpayer has the right to elect a state hearing on the deficiency pursuant to CRS 29-2-106.1 (3).
- C. A taxpayer shall also have the right to elect a state hearing on the town's denial of such taxpayer's claim for a refund of use tax paid.
- D. The taxpayer shall request the state hearing within thirty (30) days after the taxpayer's exhaustion of local remedies and the taxpayer shall have no right to such hearing if he has not exhausted local remedies or if he fails to request such hearing within the time period provided for in this subsection. For the purposes of this subsection the "exhaustion of local remedies" means:

1. The taxpayer has timely requested in writing a hearing before the board of trustees and such board has held such hearing and issued a final decision thereon. Such hearing shall be informal and no transcript, rules of evidence, or filing of briefs shall be required; but the taxpayer may elect to submit a brief in which case the officer of the town who issued the deficiency notice or denied the claim for refund shall be entitled to submit a reply brief. The board of trustees shall hold such hearing and issue a final decision of the taxpayer's written request e, except that the board of trustees may extend such period if any delay in holding the hearing or issuing the decision thereon is occasioned by the taxpayer; provided, however, the board of trustees shall hold such hearing and issue the decision thereon within one hundred eighty (180) days of the taxpayer's request in writing e; or
 2. The taxpayer has timely requested in writing a hearing before the board of trustees and the board has failed to hold such hearing or has failed to issue a final decision thereon within the time period prescribed in subsection (D)(1) of this section.
- E. If a taxpayer has exhausted his local remedies as provided in subsection (D) of this section, the taxpayer may request a state hearing on such deficiency notice or claim for refund and such request shall be made and such hearing shall be conducted in the same manner as set forth in CRS 29-2-106.1 (3) through (7).
- F. If the deficiency notice or claim for refund involves only the town, in lieu of requesting a state hearing, the taxpayer may appeal such deficiency notice or denial of claim for refund to the district court of the county of Delta as provided in CRS 29-2-106.1 (8); provided the taxpayer has exhausted local remedies by complying with the procedure setforth in subsection (D) of this section.
- G. If the board of trustees reasonably finds that the collection of use tax will be jeopardized by delay, the town may utilize the procedure set forth in CRS 39-21-111.

(Ord. 6-1985 § 6, 1985)

Chapter 3.12

TOWN CONTRACTS AND BILLS-- DISTRIBUTION OF INFORMATION

Sections:

3.12.010 Procedure.

3.12.010 Procedure.

From and after the effective date of the ordinance codified in this chapter, notice of proceedings relating to the payment of bills and statements concerning contracts of the town shall be given in the following manner:

- A. Not later than the tenth day of each month, the town clerk shall prepare a report of the

town's expenditures, reflecting the total amounts paid to each individual, firm or corporation performing work or services for or furnishing materials, supplies or equipment to the town as well as payroll taxes, employee benefit plans, and all other expenditures of public funds by the town; provided, however, that salaries paid to employees of the town shall be combined and shown as a single item in the report.

- B. The clerk shall cause a notice of expenditures and contracts stating: (1) the total amount of expenditures for the preceding month; and (2) the date, subject matter and parties to any contract requiring the expenditure of public funds; to be published one time in a newspaper of general circulation within the town, which notice shall further indicate that an itemized list of expenditures and such contracts shall be available for inspection at the Town Hall during normal business hours of the town.
- C. The clerk shall post the itemized report of expenditures in a conspicuous place at the Town Hall for a period of not less than thirty (30) days from the date of the report and shall maintain a permanent file of the reports which shall, at all times, be and remain available for public inspection upon proper request during normal business hours of the town.

(Ord. 2-1996 § 1, 1996)