

ADMINISTRATIVE GUIDELINES
RESALE OF GOODS
Procedure 432

A retail sale of goods is a sale in which the buyer is the end user or consumer. It is the retail sale of goods that is subject to the sales tax. Thus, a business entity may be a buyer or consumer and must pay the tax on those goods that it consumes or uses. All sales are treated as retail sales unless the seller records the buyer resale certificate number. The business entity as a buyer would be exempt from the retail sales tax under CBJ sales tax ordinance 69.05.010 (4) sale for resale definition:

"Sale for resale" means the sale of tangible personal property to a buyer whose principal business is the resale of the property whether in the same or an altered form and who holds a valid resale certificate issued by the city and borough of Juneau.

All sales are treated as retail sales unless the seller records the buyer's resale certificate number.

The sales tax office provides the following interpretation of "sales for resale" of tangible personal property:

- A. The buyer's principal business must be the resale of the property (good).
- B. For resale in the regular course of business without intervening use.
- C. Ingredients or components used in processing new articles for sale.
 - 1. The sale of articles of tangible personal property which physically enter into and form a part of a new article or substance produced for sale is a sale for resale and is not subject to the retail sales tax.

This does not exempt from the retail sales tax the sale of articles consumed in a manufacturing process which do not enter into and become a physical part of the new article produced for sale, such as, fuel used for heating purposes, oil for machinery, sandpaper, janitorial supplies, etc. For articles to qualify for sales tax exemption as ingredients or components of products produced for sale, such articles must be traceable and identifiable in the finished product.

- D. The buyer has obtained a valid resale certificate issued by the City and Borough of Juneau.

Examples of non taxable ingredients or components:

- a. Food products and beverages by supply houses to persons operating restaurants, soda fountains, cocktail bars, beer parlors, etc.

- b. Food containers or wrap and other disposable articles which are:
 - 1. furnished to retail customers;
 - 2. essential to the serving of the food or beverage and without which the food or beverage could not be served.

Note: Java Jackets or the protective sleeve placed on hot drink containers are not essential to the serving of the drink and therefore are subject to the sales tax.

The following lists are provided for assistance in determining non taxable items. This list is not meant to be all-inclusive.

lids and straws	paper and plastic plates and cups
portion bags	paper bags
sized serving tissues and wax paper	individual portion cups
boxes for pizza, cake, doughnuts	disposable food trays and containers
napkins, individually	disposable eating utensils

The sale of articles consumed in a manufacturing process which do not enter into and become a physical part of the new article or substance produced for sale is a retail sale and as such is taxable to the buyer.

Examples of taxable components:

- a. Fuel used to operate equipment used in manufacturing or processing;
- b. Sandpaper, solvents used for cleaning, visqueen used for coverings and discarded, form lumber;
- c. Chemicals which are used up, dissolve in the process;
- d. Dishes, kitchen utensils, linens, etc. purchased by restaurants, cocktail bars, and similar businesses;
- e. Equipment, repairs, appliances; and
- f. Tools, equipment rentals without an operator.

Sales of containers to persons who sell tangible personal property therein, but who retain title to such containers which are to be returned, are sales for consumption. The retail sales tax must be paid upon the sale or use thereof. This class includes wooden or metal bottle cases, barrels, gas tanks, carboys, drums, bags and other items, when title thereto remains in the seller of the tangible personal property contained therein, and even though a deposit is not made for the containers, and when such articles are customarily returned to him. If a charge is made against a customer for the container, with the understanding that such charge will be canceled or rebated

when the container is returned, the amount charged is deemed to be made as security for the return of the container and is not part of the selling price for tax purposes.

Sales of packing materials to persons engaged in the business of custom or commercial packing are sales for consumption and are subject to the retail sales tax.

In special cases where doubt exists, a special ruling will be made by the sales tax office upon submission of all pertinent facts relative to the nature of the ingredients, components and chemicals involved.

Resale Documentation

Responsibility of the Seller:

All sales are treated as retail sales of goods unless the seller records the buyer's resale of goods certificate number. When the seller accepts from the buyer a properly executed resale of goods certificate at the time of sale, or has one on file at the time of sale, the seller is relieved of liability for retail sales tax with respect to the transaction. The seller is obligated to accept the resale of goods certificate in good faith, i.e., the seller cannot accept a resale of goods certificate if he knows the property will not be resold. When a seller has not secured a properly executed resale of goods certificate number, they are personally liable for the tax due.

Responsibility of Buyer:

Depending on the business entity, the resale of goods certificate may authorize the buyer to purchase at wholesale all products or only selected products. The buyer will be held responsible for separating taxable items from non-taxable items at the time of purchase. The resale of goods certificate may be limited to a single sales transaction, or may apply to all sales transactions within the one year period. The buyer is responsible for educating all persons authorized to use the resale of goods certificate on the proper use of the buyer's resale certificate privileges. Whatever its form and/or purpose, the resale of goods certificate must be presented by the buyer to the seller, and the person who is authorized to make the representation on behalf of the buyer must sign the sales invoice or the seller's record of exempt sales documentation.

Purchases for Dual Purposes

Many times a business will withdraw items purchased for resale from inventory for its own use. Such businesses are making purchases for dual purposes. When an item purchased for resale is sold at retail, the retail customer becomes the end user or consumer and must pay tax on that purchase. Similarly, when a business withdraws an item previously purchased for resale from inventory for consumption, a retail sale is deemed to have taken place. The business becomes the end user or consumer of the item, and must pay the tax on that purchase. The business must include such sales in their reported gross sales. The value to be placed upon such sales is the price at which these goods are offered for sale by the business withdrawing them. All cash or other customary discounts which the business would ordinarily allow to its customers may be

deducted; however, in no event can the amount used be less than the amount paid for the goods by the business making the withdrawal.

Businesses making purchases for dual purposes may use the resale certificate to purchase products for their inventory from a supplier. The supplier is liable for the sales tax and has the burden of proof that the sale was not at retail. However, if the purchaser gives the supplier a valid resale certificate, the supplier is relieved of the burden of proof and the liability of the tax shifts to the purchaser. The purchaser must then report all goods consumed from inventory in gross sales.

Purchases by Independent Contractors

Many companies make retail sales through independent contractors. An independent contractor may use a resale of goods certificate to purchase inventory tax-exempt for resale from the company; the sales tax is then due on the independent contractor's retail sales. In addition to retail sales to the public, independent contractors must collect the sales tax on all sales they make to themselves as individuals. These transactions are considered sales between two parties (the independent contractor and an individual), and tax is due on such transactions. For example, an individual contracts with a direct-marketing cosmetic company as its agent. If the individual purchases cosmetics from her own inventory, she must include her cost, or her business's selling price to her, for the cosmetics in the gross sales on her business's CBJ sales tax return and remit the appropriate amount of tax due with the return.

Improper use of resale of goods certificates or exemptions may result in revocation of the exemption under 69.05.052, or criminal liability under 69.05.110.

Resale certificates may only be used for sales at wholesale and may not be used as proof of entitlement to other retail sales tax exemptions provided by 69.05.040.

CBJ 69.05.010 (4)
CBJ 69.05.040 (32)