

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2016

COUNCIL BILL NO. CB16-_____
COMMITTEE OF REFERENCE:

A BILL

For an ordinance amending the City Retail Sales Tax Article, Article II, Chapter 53 of the Denver Revised Municipal Code and the City Use Tax Article, Article III, Chapter 53 of the Denver Revised Municipal Code to provide that each calculation on the taxpayer's return shall be rounded to the nearest whole dollar.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That section 53-28 of the Denver Revised Municipal Code ("D.R.M.C.") shall be amended by adding the language underlined and deleting the language stricken, to read as follows:

Sec. 53-28. - Retailer responsible for payment of tax.

(a) Amount. Every retailer shall, irrespective of other provisions of this article, be liable and responsible for the payment of an amount equivalent to three and sixty-five one-hundredths (3.65) percent of the retailer's gross taxable sales of commodities or services specified in this article, except:

- (1) Aviation and railway fuel, as to which the rate of four cents (\$0.04) for each gallon purchased shall apply;
 - (2) Automotive vehicles when they are for any term of thirty (30) days or less hired for use, rented, leased or transferred under a grant of a license to use, as to which a rate of taxation as set forth in subsection 53-27(b)(2) shall apply; ~~and~~
 - (3) Food and beverages not exempted from taxation under subsection 53-26(8) of this article, as to which the rate of four (4) percent shall apply; ~~and for~~
 - (4) For each of which respective rates aforesaid the retailer shall be liable for an equivalent amount; and every retailer shall on or before the twentieth day of each month pay over such amount and make a return to the manager.
 - (5) Every retailer shall on its return round each calculation, as directed on such form as the manger may require, to the nearest whole dollar and remit the rounded amount. In rounding under this section, any amount of forty-nine cents (\$.49) or less shall be rounded down, and any amount of fifty cents (\$.50) or higher shall be rounded up.
- (b) ~~Returns:~~ Content, form, etc. Every taxpayer shall on or before the twentieth day of

1 each month make a return to the manager for the proceeding calendar month and remit to the
2 manager simultaneously therewith the total amount due the city. Returns of the taxpayer, or his
3 duly authorized agent, shall contain such information and be made in such a manner and upon
4 such forms as the manager may prescribe, and the manager may by regulation ~~duly adopted~~
5 extend the time up to one (1) year for making returns and paying the tax due.

6 (c) *Exemption; burden of proof.* The burden of proving that any retailer is exempt from
7 collecting and returning the tax upon any goods sold or taxable services rendered by the retailer,
8 and from paying over the same to the manager, shall be on the retailer, and such proof shall be by
9 a preponderance of evidence.

10 **Section 2.** That section 53-99 of the D.R.M.C. shall be amended by adding the language
11 underlined and deleting the language stricken, to read as follows:

12 **Sec. 53-99. - Retailer responsible for payment of tax.**

13 (a) Amount. Every retailer shall, irrespective of other provisions of this article, be liable
14 and responsible for the payment of an amount equivalent to three and sixty-five one-hundredths
15 (3.65) percent of gross taxable sales made by him of services and tangible personal property
16 specified in this article, except:

17 (1) Aviation and railway fuel, as to which the rate of four cents (\$0.04) for each gallon
18 purchased shall apply;

19 (2) Automotive vehicles when they are for any term of thirty (30) days or less hired for
20 use, rented, leased or transferred under a grant of a license to use, as to which a
21 rate of taxation as set forth in subsection 53-98(b)(2) shall apply; ~~and~~

22 (3) Food and beverages not exempted from taxation under subsection 53-26(8) of the
23 city retail sales tax article, as to which the rate of four (4) percent shall apply; ~~and~~
24 ~~for~~

25 (4) For each of which respective rates aforesaid the retailer shall be liable for an
26 equivalent amount; ~~and every retailer shall on or before the twentieth day of each~~
27 ~~month pay over such amount and make a return to the manager.~~

28 (5) Every retailer shall on its return round each calculation, as directed on such form as
29 the manger may require, to the nearest whole dollar and remit the rounded amount.
30 In rounding under this section, any amount of forty-nine cents (\$.49) or less shall be
31 rounded down, and any amount of fifty cents (\$.50) or higher shall be rounded up.

32 (b) *Returns: content; form, etc.* Every taxpayer shall on or before the twentieth day of
33 each month make a return to the manager for the proceeding calendar month and remit to the

1 manager simultaneously therewith the total amount due the city. Returns of the taxpayer, or his
2 duly authorized agent, shall contain such information and be made in such a manner and upon
3 such forms as the manager may prescribe, and the manager may by regulation ~~duly adopted~~
4 extend the time up to one (1) year for making returns and paying the tax due.

5 (c) *Exemption; burden of proof.* The burden of proof that any retailer is exempt from
6 collecting and returning the tax upon any goods sold or taxable services rendered by the retailer,
7 and from paying over the same to the manager, shall be on the retailer and such proof shall be by
8 a preponderance of evidence.

9
10 COMMITTEE APPROVAL DATE: _____, 2016

11 MAYOR-COUNCIL DATE: _____, 2016

12 PASSED BY THE COUNCIL: _____, 2016

13 _____ - PRESIDENT

14 APPROVED: _____ - MAYOR _____, 2016

15 ATTEST: _____ - CLERK AND RECORDER,
16 EX-OFFICIO CLERK OF THE
17 CITY AND COUNTY OF DENVER

18 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2016; _____, 2016

19 PREPARED BY: Charles T. Solomon, Assistant City Attorney Date: _____, 2016

20 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
21 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
22 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
23 3.2.6 of the Charter.

24 D. Scott Martinez, City Attorney

25 BY: _____, Assistant City Attorney Date: _____, 2016