

## Cook, Mishawn

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**From:** Cook, Mishawn  
**Sent:** Thursday, July 21, 2016 1:26 PM  
**To:** Cook, Mishawn  
**Subject:** Marijuana city tax seminar on Wednesday July 27, 2016 at 9AM  
**Attachments:** Marijuana Tax Seminar 07-27-2016.pdf

Dear Boulder Licensed Marijuana Businesses:

This email is to let you know about a city tax training which will be held next Wednesday July 27, 2016 from 9AM to 10:30AM. It will be held in the Municipal Building, 2<sup>nd</sup> Floor, City Council Chambers at 1777 Broadway, Boulder, CO 80302.

A copy of the training presentation is attached to this email invitation. Please try to attend this helpful seminar and be sure to bring your questions about city financial requirements and audit records.

Thank you and looking forward to seeing you at the training, Mishawn Cook

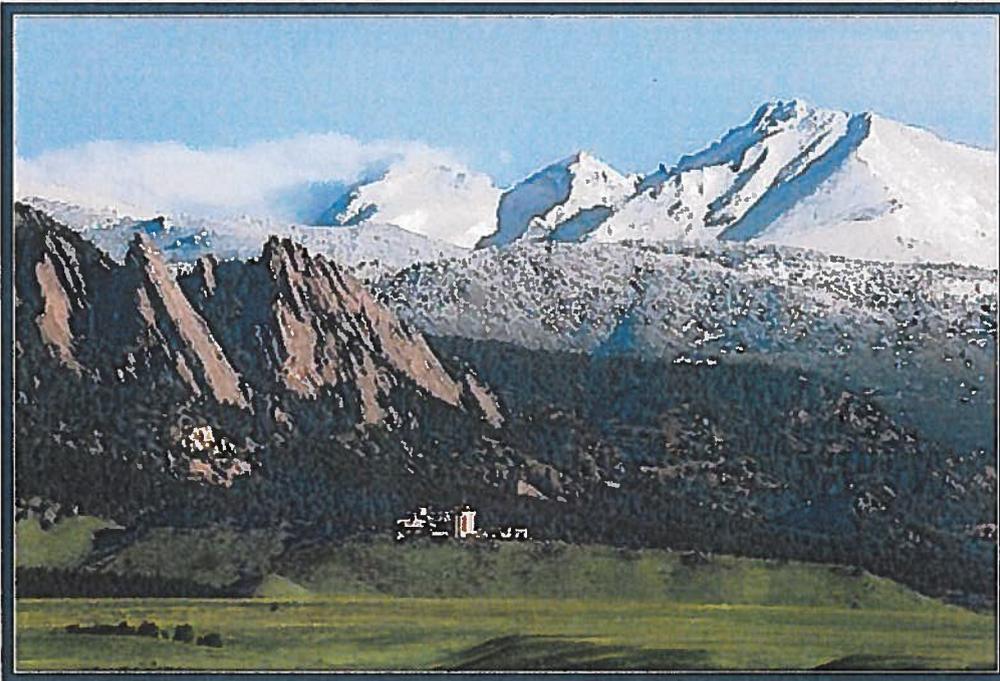
**Mishawn J. Cook**  
Licensing Administrator  
Certified Municipal Clerk



**City of Boulder**  
**Finance**

O: #303-441-3010  
[cookm@bouldercolorado.gov](mailto:cookm@bouldercolorado.gov)

Finance Department  
1777 Broadway | Boulder, CO 80302  
[Bouldercolorado.gov](http://Bouldercolorado.gov)



**City of Boulder  
Tax Seminar For  
Marijuana Businesses**

# Home Rule vs. State Collected

- Home Rule Cities:
  - Set own tax laws & rates
  - Taxpayers remit city tax directly to City
  - Home rule city tax laws may have some differences
- State Collected Cities (Statutory):
  - Follow state tax laws
  - These city taxes are reported on State tax return
- State also collects for most counties

## Sales Tax

- Sales Tax is a transaction (excise) tax that must be collected by the seller on the sale (for any consideration) of tangible personal property or taxable services. The transaction tax applies whenever tangible personal property or taxable services are sold, purchased, leased, used, stored, distributed or consumed in Boulder.

## Tangible Personal Property (Taxable)

- Personal property that may be seen, weighed, measured, felt or touched or is in any manner perceptible to the senses.
- This is the primary category of taxable items in the City code.

## Non-Taxable Services Received (includes but not limited to):

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- Installation Labor (separately stated)
- Repair Labor (separately stated)
- Legal Services
- Accounting Services
- Design Services, including web design/hosting
- Consulting Services

## Tax Exempt Sales (TR19)

- Purchaser holds an exempt license
- Wholesale transaction
  - Retain copy of Colorado resale certificate and City tax license in customer's or general "resale" file
- Purchased item is shipped out the City of Boulder (deliveries for Medical Marijuana only)

## Consumer Use Tax

- (TR 43) Use tax is paid by the purchaser directly to the city when sales tax has not been charged and collected by the seller. It is a complement to sales tax and its purpose is to equalize competition between in-city and out-of-city vendors.
  - Vendors without a Boulder license
  - Items picked up outside the City of Boulder
  - Marketing/Non Marijuana Inventory pulled from stock by a business for its own use (demo, display, marketing promotion, consumption, t-shirts, coffee mugs, etc.)
- Checking the tax rate charged on an invoice is important!

# Commonly Missed Use Tax Items

- Computer Software is a taxable service (TR11)
  - Packaged off the shelf, Downloaded, Cloud Computing, Licensed “right to use,” Maintenance/Support agreements that include software upgrades and updates, Leased software.
  - Exception is customized software (modifications costing over 25% of base price). This must occur on the same invoice as the software, not at a later date.
- Freight, Delivery & Transportation Charges are taxable (TR 21).
  - Freight is part of the negotiated purchase price.
  - Included on the sellers invoice
  - Non-taxable charges that are commingled with the freight charge are also taxable (i.e. Handling, Insurance, Installation, etc).
- Fertilizer and CO2 is taxable
  - Chapters 6-14 Medical Marijuana and 6-16 Recreational Marijuana of the Boulder Revised Code do not specifically exempt any materials or fertilizers in the production of marijuana plants. This includes the use of CO2 gas and equipment.
  - Fertilizer includes compounds of nitrogen, phosphorus, potassium, trace elements or similar materials or substances which provide essential plant food and which are absorbed by the growing plant.

## 3.5% Additional Recreational Marijuana Sales and Use Tax

- In addition to the standard 3.86% Sales and Use Tax rate, there is an added 3.5% Sales and Use tax due for a total of 7.36% (BRC 3-14-2(b)).
- This rate applies to all tangible personal property subject to use tax, and to all sales made at a recreational marijuana dispensary.

## Excise Tax

- Excise tax is due when marijuana is transferred from a Boulder Recreational Marijuana cultivation facility to a MIP, testing facility or Recreational Marijuana store. The 5% tax is paid on the amount calculated on the weight or number of plants/seeds multiplied by the value set. The current value sets are:
  - \$1,816 per pound for bud/flower
  - \$505 per pound for trim
  - \$10 per plant per immature plant
  - \$209 per pound for Wet Whole Plant
  - \$2 per Seed
- If the destination of the product is outside of Boulder, the excise tax is still due. The taxable event happens when the product leaves the grow facility.

## Medical Marijuana Tax Types/Rates

(2016)

City

Total

- |  |       |        |
|--|-------|--------|
| • Sales Tax  | 3.86% | 8.845% |
| • Applies to all sales including marijuana infused products, paraphernalia, etc. |       |        |
| • Consumer Use Tax   | 3.86% | 7.86%  |
| • Applies to Fixed Assets, Taxable Expenses, and Withdrawals from inventory      |       |        |

## Recreational Marijuana Tax Types/Rates (2016)

	<u>City</u>	<u>Total</u>
<ul style="list-style-type: none"> <li>• Sales Tax                             <ul style="list-style-type: none"> <li>• Applies to all sales                                     <ul style="list-style-type: none"> <li>▪ Including, but not limited to, marijuana, marijuana infused products, paraphernalia, t-shirts, mugs, glasses, etc.</li> </ul> </li> </ul> </li> </ul>	7.36%	22.345%
<ul style="list-style-type: none"> <li>• Consumer Use Tax                             <ul style="list-style-type: none"> <li>• Applies to Fixed Assets and Expenses</li> </ul> </li> </ul>	7.36%	11.36%
<ul style="list-style-type: none"> <li>• Consumer Use Tax                             <ul style="list-style-type: none"> <li>• Withdrawals from inventory</li> </ul> </li> </ul>	7.36%	21.36%
<ul style="list-style-type: none"> <li>• Excise Tax                             <ul style="list-style-type: none"> <li>• Due when marijuana leaves the grow facility</li> </ul> </li> </ul>	5.00%	20.00%

## Advertising and Sales Receipts

- Any advertising inside the store, website, or externally cannot say “tax included” in the price.
- The store receipt must have tax separately stated from the product.
- BRC 3-2-4(b)
  - The vendor shall add the tax as a separate and distinct item in the sale, except that any retailer selling malt, vinous or spirituous liquors by the drink may include in the sales price the tax imposed by this chapter. The tax shall be a debt from the purchaser to the vendor recoverable at law in the same manner as other debts. The vendor may not absorb the tax or advertise or state that the tax will be absorbed or will not be imposed. Nor may the vendor refund any part of the tax, except when the full sales price is refunded or a discount is made as provided in Section 3-2-10, "Deductions," B.R.C. 1981.

# Accounting Records

- Section 6-14-9 and Section 6-16-9 of the Boulder Revised Code require each marijuana business to maintain a complete set of books of accounts for that license number and associated license type that are separate from any other business.
- Such books of account include, without limitation, separate profit and loss records, account statements, equipment receipts, marijuana transport manifests, historical sales receipts, expense purchase invoices, tax remittance records, and other records specifically listed in those code sections (see example invoice).
- Each licensed business is also required to have a separate bank account. The only exception would be separate deposit slips for each business in one bank account. Each deposit slip must tie to the accounting records for each business.
- This separate accounting is required for co-located licensed locations and each licensed business regardless of whether the same owner owns more than one licensed business.
- Comingling of accounting records is prohibited by our local code.
- Sales journals must separate product price from sales tax collected.

# Xerox

222 Xerox Way  
Los Angeles, CA 90002

# INVOICE

Date: 7/5/2016  
Invoice No. 1  
Order No. PO 65821

**Bill To:**  
City Technology  
P O Box 791  
Boulder, CO 80306

**Shipped To:**  
City Technology  
1156 Canyon  
Boulder, CO 80306

<b>Delivery Method:</b>
Fedex Ground

ORDERED	SHIPPED	DESCRIPTION	UNIT PRICE	AMOUNT
5	5	Xerox Copy Paper Box	30.00	\$ 150.00
<p>Allocation</p> <ul style="list-style-type: none"><li>Grow #1 = 1 Box @ \$30 + 12.50 shipping</li><li>Grow #2 = 1 Box @ \$30 + 12.50 shipping</li><li>Retail #1 = 1 Box @ \$30 + 12.50 shipping</li><li>Retail #2 = 2 Boxes @ \$60 + 12.50 shipping + tax</li></ul>				

**Please remit payment to:**  
Xerox Corporation  
P.O. Box 12345  
Philadelphia, PA

<b>Subtotal</b>	\$ 150.00
<b>Freight</b>	\$ 50.00
<b>Tax (8.845%)</b>	17.69
<b>Total</b>	\$ 217.69

# Marijuana Transport Manifests

- Used to report the movement of recreational marijuana from Recreational Marijuana cultivation facility to a MIP, testing facility or Recreational Marijuana store.
- When emailed to the City of Boulder, put the business name in the email subject line so it can be quickly identified.
- Item Description must clearly state whether product is bud, trim, clones, wet plants or seeds.
  - If not clearly stated, the product will automatically default to bud and be taxed as such.
  - Not being specific as to what type of product is moved on the manifest is a violation of the BRC 6-16-14(a)(2)
    - "Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the city related to the recreational marijuana business"

# Audit Records

- During an audit, each business license must provide separate and distinct records. These records may include, but are not limited to:
  - Fixed Asset Addition list and Asset Depreciation schedule
  - Fixed Asset invoices
  - Annual Trial Balances
  - General Ledger Detail
  - Equipment Lease Agreements and Maintenance Contracts
  - Expense Purchase Invoices
  - Bank Statements
  - Credit Card Statements
  - List of Inventory Suppliers
  - Daily Sales Summaries or “Z” tapes
  - Sales Journals
  - Sales Tax Returns & Support Worksheets

# Audit Records

- Monthly Marijuana Transfer Manifests
- METRC System Reports:
  - Monthly Sales
  - Transfer Report
    - This report defines what is bud, trim, etc.
    - Also, this report uses pounds rather than grams. Since not all taxpayers use the same conversion factor, please specify what unit of measure you use.
  - Plants Inventory Report
- All Marijuana Enforcement Division (MED) manifests (moving product) must be onsite for inspection
- Two new categories were added for the excise tax
  - Wet Plant
  - Seeds

# Audit Record Check List

Each Boulder Marijuana Business licensee shall maintain the below legally required financial records (see 6-14 and 6-16, section 9):

- Keep a complete set of accounting records and separate bank accounts for each city license/location (if a separate bank account cannot be maintained, then separate cancelled checks, deposit slips, and credit card machines with transactions should be kept),
- Copies of inventory, expense, and fixed asset purchase invoices should be kept separate for each city license/location (i.e. grow facility supply invoices vs. retail store supply invoices kept in separate boxes, filing cabinets, or electronic folders),
- Copies of sales receipts to customers should be kept separate for each city license/location (receipts shall be maintained in a computer program or by pre-numbered receipts and used for each sale),

## Audit Record Check List (cont.)

- Copies of transport documents/manifests for MJ product shipped or received should be kept separate for each city license/location,
  - The transport documents/manifest should clearly state if the individual products are bud, trim, or clones for audit purposes.
- Separate inventory records for each city license/location. The accounting records of each business should clearly track marijuana product inventory purchased, sold, and disposal of any recreational marijuana separately from other paraphernalia, or services, offered by the recreational marijuana business. The licensee must also maintain inventory records supporting that no more marijuana was within the marijuana business allowed by applicable law. Records must clearly show the source, amount, price, and dates of all marijuana received/purchased, and the amount, price, and dates for all marijuana sold.
- Separate city tax returns and tax remittance records should be kept separate for each city license/location.

# Sales Tax Websites

- [www.bouldercolorado.gov](http://www.bouldercolorado.gov)
- Click on A-Z; select 'T' and then 'Tax and Licensing'
  - Boulder Tax Code
  - Boulder Tax Regulations (TR's)
  - Finance Contacts
  - Medical Marijuana Businesses
  - Recreational Marijuana Businesses

# Tax Returns

- **Return is due the 20th day of the month following the reporting period - if the 20th is a weekend or holiday, return is due the following business day.**
  - Monthly: i.e. August 2016, due 9/20/2016.
  - Quarterly: i.e. July - Sept, due 10/20/2016.
  - Yearly: i.e. Jan-Dec 2016, due 01/20/2017.
- **Reporting Thresholds (AVERAGE MONTHLY LIABILITY)**
  - \$300 or more/month – MONTHLY – OR > \$3600/ YR
  - \$15 - \$300 /month – QUARTERLY – OR Between \$180 & \$3588/ YR
  - Less than \$15/month – ANNUAL – OR Less than \$180/ YR

Select to Reset Form

Select to Print Form

**CITY OF BOULDER, DEPARTMENT OF FINANCE, SALES/USE TAX DIVISION**  
**P.O. BOX 791, BOULDER, CO 80306-0791 (303) 441-3050**

Period Covered \_\_\_\_\_ Thru \_\_\_\_\_ Due Date \_\_\_\_\_ Account # \_\_\_\_\_ Business Name \_\_\_\_\_

1.	Gross Sales & Service	0.00	5A.	Amount of CITY SALES TAX 3.86% of line 4	0.00		
2A.	Bad Debts Collected		5B.	Amount subject to FOOD SERVICE TAX \$	0.00		
2B.	Total of lines 1 and 2A	0.00	5C.	Amount of city FOOD SERVICE TAX 0.15% of line 5B	0.00		
D E D U C T I O N S	3A.	Non-taxable Service and Sales	<	>	6.	Excess Tax Collected	0.00
	3B.	Sales to Other Licensed Dealers for Purpose of Taxable Resale	<	>	7.	<b>Total Sales Tax (Add lines 5A, 5C, and 6)</b>	0.00
	3C.	Sales shipped out of city and/or state	<	>	8A.	Amount subject to CITY USE TAX \$	0.00
	3D.	Bad debts charged off	<	>	8B.	Amount of CITY USE TAX 3.86% of line 8A	0.00
	3E.	Trade Ins for taxable resale	<	>	9.	<b>Total Tax Due (add lines 7 and 8)</b>	0.00
	3F.	Sales of gasoline, cigarettes and newspapers	<	>	10.	If return is filed after _____ then add penalty and interest	
	3G.	Sales to governmental and religious orgs	<	>	Penalty is	10% of line 9	0.00
	3H.	Returned Goods	<	>	Interest is	1% of line 9 per month overdue	0.00
	3I.	Prescriptions, etc.	<	>	11.	<b>Total tax, penalty and interest due (add lines 9 and 10)</b>	0.00
	3J.	Sales below tax minimum	<	>	12.	Deduct authorized credit: attach credit notice	< 0.00 >
3.	<b>Total Deductions (Total lines 3A thru 3J)</b>	<	0.00	>	13.	<b>Total Due and Payable to City of Boulder</b>	
4.	<b>Total City Net Taxable Sales &amp; Service (2B minus 3)</b>	0.00			Please include account number on check.		
						Change of Address	<input type="checkbox"/>
						Closure	<input type="checkbox"/>
							0.00

**CITY OF BOULDER, DEPARTMENT OF FINANCE, SALES / USE TAX DIVISION  
P.O. BOX 791, BOULDER CO 80306-0791 (303) 441-3050**

**RECREATIONAL MARIJUANA SALES / USE TAX RETURN**

Period Covered \_\_\_\_\_ Thru \_\_\_\_\_ Due Date \_\_\_\_\_ Account # \_\_\_\_\_ Business Name \_\_\_\_\_

1. Gross Sales & Service			5A. Amount of CITY SALES TAX 3.86% of line 4	
2A. Bad Debts Collected			5B. Amount subject to REC MJ SALES TAX \$	
2B. Total of lines 1 and 2A			5C. Amount of city REC MJ SALES TAX 3.5% of line 5B	
D E D U C T I O N S	3A. Non-taxable Service and Sales	< >	6. Excess Tax Collected	
	3B. Sales to Other Licensed Dealers for Purpose of Taxable Resale	< >	7. Total Sales Tax (Add lines 5A, 5C, and 6)	
	3C. Bad debts charged off	< >	8A. Amount subject to CITY USE TAX \$	
	3D. Returned Goods	< >	8B. Amount of CITY USE TAX 7.36% of line 8A	
		< >	9. Total Tax Due (add lines 7 and 8)	
		< >	10. If filed after due date then add penalty & interest Penalty is 10% of line 9 Interest is 1% of line 9 per month overdue	
		< >	11. Total tax, penalty and interest due	
		< >	12. Deduct authorized credit: attach credit notice	< >
		< >	13. Total Due and Payable to City of Boulder Please include account number on check.	
	3 Total Deductions (Total lines 3A thru 3D)	< >		Change of Address <input type="checkbox"/>
4. Total City Net Taxable Sales & Service (2B minus 3)			Closure <input type="checkbox"/>	

**CITY OF BOULDER, DEPARTMENT OF FINANCE, SALES / USE TAX DIVISION  
P.O. BOX 791, BOULDER CO 80306-0791 (303) 441-3050**

**RECREATIONAL MARIJUANA CULTIVATION FACILITY  
EXCISE / USE TAX RETURN**

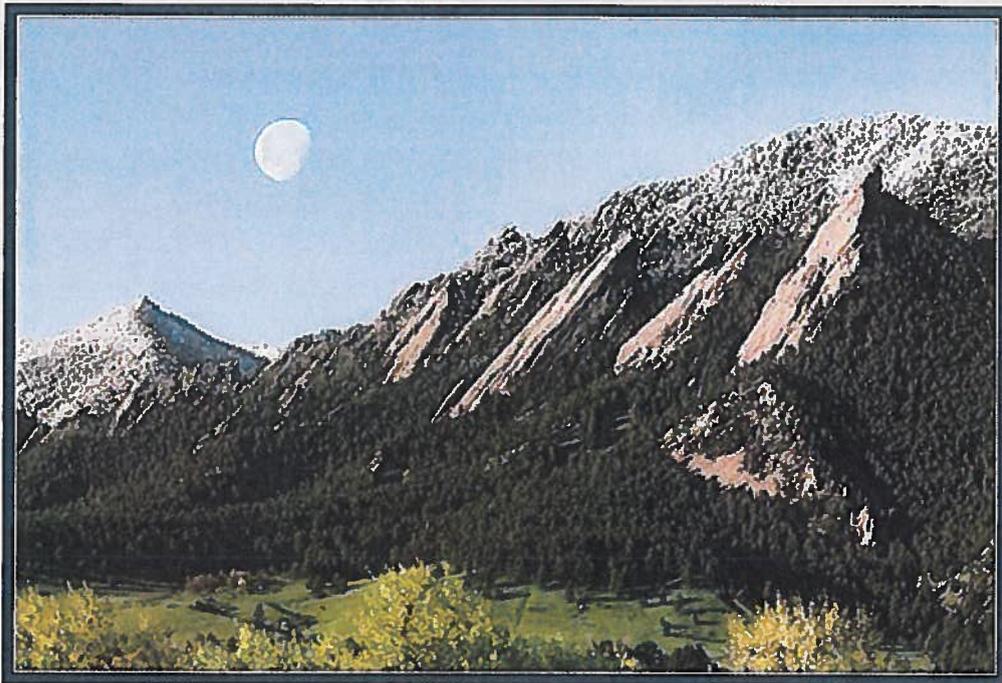
Period Covered \_\_\_\_\_ Thru \_\_\_\_\_ Due Date \_\_\_\_\_ Account # \_\_\_\_\_ Business Name \_\_\_\_\_

1A. Gross Valuation Bud @ \$ _____ per lb			5. Amount of CITY EXCISE TAX 5 % of line 4		
1B. Gross Valuation Trim @ \$ _____ per lb					
1C. Gross Valuation Clones @ \$ _____ per plant					
1D. Total Taxable Valuation (Total lines 1A and 1B)					
2A. Bad Debts Collected		< >	6. Excess Tax Collected		
2B. Total of lines 1D and 2A		< >	7. Total Excise Tax (Add lines 5A, 5C, and 6)		
DEDUCTIONS	3A. Non-taxable Service and Sales		< >	8A. Amount subject to CITY USE TAX \$	
	3B. Bad debts charged off		< >	8B. Amount of CITY USE TAX 7.36% of line 8A	
	3C. Returned Goods		< >	9. Total Tax Due (add lines 7 and 8)	
			< >	10. If filed after Due Date then add penalty & interest Penalty is 10% of line 9 Interest is 1% of line 9 per month overdue	
			< >	11. Total tax, penalty and interest due	
		< >	12. Deduct authorized credit: attach credit notice		< >
3 Total Deductions (Total lines 3A thru 3C)		< >	13. Total Due and Payable to City of Boulder Please include account number on check.		
4. Total City Net Taxable Valuation (2B minus 3)					
			Change of Address <input type="checkbox"/>		
			Closure <input type="checkbox"/>		

# Tax Returns

- If return is filed past due date, add the following late charges:
  - Penalty: 10% of tax due
  - Interest: 1% of tax due for every month late
- If no sales & use tax is due, a zero tax return must still be filed.
- Initial Use Tax Return – Report initial purchases of equipment and supplies.
- License Account closure – contact licensing department or indicate “ceased business operations” date on return.

Questions?



**THANKS FOR  
ATTENDING!**

# Revenue/Sales Tax Contacts

- Delinquent Tax Notices
  - Mary Kay Hammerle, Revenue Compliance & Collection Agent
    - 303-441-4026
    - [hammerlem@bouldercolorado.gov](mailto:hammerlem@bouldercolorado.gov)
- Sales & Use Tax Processing
  - Kristin Jensen, Revenue & Sales Tax Operations Specialist
    - 303-441-3050
    - [SalesTaxDivision@bouldercolorado.gov](mailto:SalesTaxDivision@bouldercolorado.gov)
- Answers to tax questions that are not found on this website
  - Mishawn Cook, Licensing and Collections Administrator
    - 303-441-3010
    - [CookM@bouldercolorado.gov](mailto:CookM@bouldercolorado.gov)
  - Patrick Brown, Revenue and Licensing Officer
    - 303-441-3921
    - [BrownP@bouldercolorado.gov](mailto:BrownP@bouldercolorado.gov)

# Revenue/Sales Tax Contacts

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- Audit Questions
  - Fadel Berthe, Tax Auditor
    - 303-441-4017
    - [BertheF@bouldercolorado.gov](mailto:BertheF@bouldercolorado.gov)
  - Amy Hildebrandt, Tax Auditor
    - 303-441-3053
    - [HildebrandtA@bouldercolorado.gov](mailto:HildebrandtA@bouldercolorado.gov)
  - Trish Terry, Tax Auditor
    - 303-441-3015
    - [TerryT@bouldercolorado.gov](mailto:TerryT@bouldercolorado.gov)
  - Kelsi Garwood, Tax Auditor
    - 303-441-1894
    - [GarwoodK@bouldercolorado.gov](mailto:GarwoodK@bouldercolorado.gov)