



COLORADO
Department of Revenue
Taxation Division

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GIL-11-008

December 8, 2010

XXXXXXXXXXXXXXXXXXXX
Attn: XXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Re: General Information Letter re: printers / bi-weekly newspapers

Dear XXXXXXXXXXXXXXX,

You submitted a request for guidance on the application of Colorado sales and use tax to charges for printing of a bi-weekly newspaper. The department issues two types of guidance: general information letters and private letter rulings. A general information letter is a general discussion of taxes but is not a determination with respect to any specific set of facts. A private letter ruling is a determination with respect to a specific set of facts, and is binding on the department but not on the taxpayer. Pursuant to statute, the department must charge a fee for a private letter ruling, which is \$500 for most rulings. For more information about general information letters and private letter rulings, see regulation 24-35-103.5 which can be viewed on our web site at <http://www.colorado.gov/revenue/tax> and select FYI > Publications > Rulings. I will initially treat your request as one for a general information letter, but you may resubmit the request at any time as one for a private letter ruling.

Issue

Must a printer charge sales tax on its charge for printing a bi-weekly newspaper owned by another company and distributed by that company without charge to the public?

Background

Your company ("Company") produces and distributes a daily newspaper in Colorado. Company also prints a bi-weekly newspaper owned by a third-party who distributes the newspaper in Colorado without a charge to readers.

Discussion

Colorado imposes sales or use tax on the sale, use, storage or consumption of "tangible personal property." Tangible personal property is defined as corporeal personal property. Newspapers are corporeal personal property and, therefore, would otherwise qualify as

tangible personal property. However, tangible personal property is defined by statute not to include newspapers that qualify as a "legal publication," as defined in §24-70-102.¹ As such, these qualifying newspapers are exempt from sales and use tax.

The statute defining a "legal publication" sets forth a list of qualifying newspapers, which are generally classified by the frequency of distribution (e.g., daily, five days a week, etc.). A newspaper distributed every two weeks does not qualify as a "legal publication" and, consequently, does not qualify as a "newspaper" that is exempt from Colorado sales and use taxes.

Although a bi-weekly newspaper is tangible personal property, the question then arises whether the charge for printing such a newspaper for another creates a sales or use tax liability. Department Special Regulation (FYI Sales 47) (Printers and Printing) addresses a printer's tax obligation for printing material for another who distributes the material for free to readers.

Sales of catalogues, books, letterheads, bills, envelopes, folders, advertising circulars, and other printed matter are taxable retail sales if the purchaser does not resell the articles but uses or consumes them as by distributing them free.

In other words, the fee charged by a printer to a distributor is not an exempt sale-for-resale (i.e., exempt wholesale sale), but, rather, is a taxable retail sale because the distributor does not resell the material to the reader. See, also, Department FYI Sales 44 (Newspapers, Magazines and Other Publications) (sets forth the full definition of a "legal publication"). As a retailer of tangible personal property, a printer must collect sales tax from the distributor of a non-exempt newspaper.

Similarly, a distributor who has not paid sales tax on the fee charged by a printer for printing a non-exempt newspaper must pay use tax. See, FYI Sales 44 ("Organizations which produce and distribute free trade publications, etc. are deemed to be purchasers for their use or consumption and are subjected to tax based on the purchase price of the tangible personal property used."). For example, a distributor who distributes a non-exempt newspaper in Colorado must pay Colorado use tax on printing charges paid to an out-state printer.

I hope this is helpful. Please feel free to contact me if you have any other questions.

Miscellaneous

Please note that this letter addresses only sales and use taxes administered by the Department. It does not address sales and use taxes administered by home-rule cities and counties. We encourage you to contact home rule jurisdictions to discuss the application, if any, of their sales and use taxes. For a complete list of department administered tax jurisdictions and home-rule jurisdictions, please visit our web site at www.taxcolorado.org and select "Tax Forms" > "Sales" > "Tax Rates."

Enclosed is a redacted version of this letter. Pursuant to statute and regulation, this redacted version of the letter will be made public within 60 days of the date of this

¹ "Tangible personal property means corporeal personal property. The term shall not be construed to include newspapers, as legally defined by section 24-70-102, C.R.S., preprinted newspaper supplements ..." §39-26-102(15), C.R.S.

letter. Please let me know in writing within that 60 day period whether you have any suggestions or concerns about this redacted version of the letter.

Sincerely,

Office of Tax Policy
Colorado Department of Revenue