



COLORADO

Department of Revenue

Taxation Division

Office of Tax Policy
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GIL-12-012

November 6, 2012

XXXXXXXXXXXXXXXXX
ATTN: XXXXXXXXX
XXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXX

Re: Non-resident Leases of Passenger Cars

Dear XXXXXXXXXXXX,

You submitted on behalf of XXXXXXXXXXXX ("Company") a request for guidance to determine the applicability of Colorado sales and use tax on leases of passenger car for greater than twenty-four months to non-residents of Colorado.

The Colorado Department of Revenue ("Department") issues general information letters and private letter rulings. A general information letter provides a general overview of therelevant tax issues and is not binding on the Department. A private letter ruling provides a specific determination for a specific set of facts, is binding on the Department but not on the taxpayer, and requires payment of a fee. For more information about general information letters and private letter rulings, please see Department regulation 24-35-103.5 at www.colorado.gov/revenue/tax > Tax Library > Rulings.

The Department initially treats your request as one of a general information letter. If you would like the Department to issue a private letter ruling on the issues you raise, you can resubmit a request and fee in compliance with regulation 24-35-103.5. It is important to remember that general information letters, such as this one, are general discussions of tax law and are not a determination of the tax consequence of any particular action or inaction.

Issue

Are leases of passenger cars for greater than twenty-four months to non-residents of Colorado subject to sales or use tax?

Background

Company finances long-term lease agreements of motor vehicles through Colorado dealerships. Within this process, Company becomes the titleholder of the vehicle. When contracting with non-residents of Colorado, lessees will generally take possession of their

vehicle at the Colorado dealership and drive to their respective state where they will register the car.

Discussion

Colorado levies sales and use tax on the sale and lease of motor vehicles. §§39-26-104(1)(a) (tax applies to sale of tangible personal property), 102(23) (tax applies to lease payments for tangible personal property), and 113(1) (no motor vehicle registration without payment of all sales or use taxes), C.R.S.¹

The place where the vehicle is registered will determine which state and local taxes apply. See, *FYI 56 Sales (Sales Tax on Leases of Motor Vehicles and Other Tangible Personal Property)* and *FYI Sales 62 (Guidelines for Determining When to Collect State-Collected Local Sales Tax)*.² Company/dealer must collect the sales taxes for the tax jurisdictions (state, city, county, special district) it shares in common with lessee. If Company and purchaser are not in the same local tax jurisdiction, then the county clerk for the county in which the vehicle is registered will collect local use tax, if any, at the time the vehicle is registered to the purchaser. If the person leasing the vehicle is, at the time the lease is executed, a non-resident of Colorado and immediately takes the vehicle to another state for use outside of Colorado, then Company/dealer is not liable to collect any taxes on the leased vehicle. §39-26-113(5)(a), C.R.S. (sale of motor vehicle in Colorado to non-resident for use outside Colorado is exempt from sales tax).

When the lessee and lessor are both located in Colorado and the lease of the motor vehicle is more than thirty-six months, the dealer/lessor must collect and remit sales tax on the lease payments. When both the lessor and lessee are located in Colorado and the lease is less than thirty-six months, the lessor may either pay the sales tax when purchasing the vehicles or may collect the tax from the customer through the lease payments. Once the lessor chooses which method to remit the tax, the lessor must continue to use that method, regardless of the duration of the lease contract, for each vehicle leased. If the lessor chooses to collect the tax from the lessee, the lessor must obtain permission from the Department by submitting an application for a Permit to Collect Sales Tax on the Rental or Lease Basis (DR 0440) for each business location. This permit is available at no charge and entitles the lessor to purchase the property without paying state or state-collected local sales tax on the purchases to be leased. §39-26-102(23) and 713(1)(a), C.R.S.

Miscellaneous

This letter represents the good faith opinion of Department personnel who are knowledgeable on state taxes issues. However, the Department does not make a specific determination here on any of the issues raised and the Department is not bound by this general information letter.

¹ Statutes can be viewed by going to the Department's web page: www.colorado.gov/revenue/tax > Tax Library > Statutes

² FYIs can be viewed at www.colorado.gov/revenue/tax > Tax Library > FYI Publications > Sales

The Department administers state and state-administered local sales and use taxes. This letter does not address sales and use taxes administered by home-rule cities and home-rule counties. You may wish to consult with local governments which administer their own sales or use taxes about the applicability of those taxes. Visit our web site at www.colorado.gov/revenue/tax for more information about state and local sales taxes.

Enclosed is a redacted version of this letter. Pursuant to statute and regulation, this redacted letter will be made public within 60 days of the date of this letter. Please let me know in writing within that 60 day period whether you have any suggestions or concerns about this redacted letter.

Sincerely,

Office of Tax Policy
Colorado Department of Revenue