



COLORADO

Department of Revenue

Taxation Division

Office of Tax Policy
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GIL 26-004

June 29, 2026

XXXXXXXXXX
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Via Electronic Mail: XXXXXXXXXX

Re: Digital Photography Provided via Online Gallery

Dear XXXXXXXXXX:

You submitted a request for a general information letter regarding the application of sales tax to digital photography provided via an online gallery. The Colorado Department of Revenue ("Department") issues general information letters and private letter rulings. A general information letter provides a general overview of the relevant tax issues but 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, and requires payment of a fee. For more information about general information letters and private letter rulings, please see 1 CCR 201-1, Rule 24-35-103.5.

Issues

1. Whether retail sales where a client pays for a photoshoot and a license to use photos and subsequently obtains access to those photos through an online gallery are subject to sales tax.
2. Whether retail sales where a third party purchases a stand-alone, extended use license for access to the same online gallery referenced in the issue above are subject to sales tax.

Discussion

Colorado generally levies sales tax on the retail sale of tangible personal property and those services expressly enumerated in statute.¹ In the case of services rendered in the creation of custom-made goods, Colorado imposes tax on "the full purchase price of articles sold after manufacture or after being made to order" including the cost of services provided used to create or produce the item.² Services that are inseparable from the creation of the item offered for sale are treated as part of the taxable sale.³ Tangible personal property subject to sales tax includes

¹ Section 39-26-104(1)(a), C.R.S. See *A.D. Store Co., Inc. v. Executive Dir. of Dept. of Rev.*, 19 P.3d 680, 683 (Colo. 2001).

² Section 39-26-102(12), C.R.S.; 1 CCR 201-4, Rule 39-26-102(12).

³ *A.D. Store*, 19 P.3d at 683-84.

digital goods, which are “any item of tangible personal property that is delivered or stored by digital means.”⁴ Methods of delivery for digital goods “include but are not limited to compact disc, electronic download, and internet streaming.”⁵

Special Rule 34.5 addresses photography services and provides that they are not taxable when such service “is specifically bargained for without regard to the tangible personal property involved, and if the value of the service is greater than the [value of the] property transferred. . . .”⁶ Accordingly, when the photographs are an expressly bargained-for component of a photography services transaction, the conditions of Special Rule 34.5 are not met.⁷

As discussed above, the retail sale of digital goods, like photographs stored in an online gallery, is a sale of tangible personal property.⁸ A sale is any transaction whereby a person, in exchange for any consideration, transfers or agrees to transfer all or part of an interest in tangible personal property to another person.⁹ The grant of a license to use or possess tangible personal property constitutes the transfer of a partial interest in such property.

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 on any of the issues raised, and the Department is not bound by this general information letter.

The Department administers state and state-administered local sales and use taxes. This letter does not address sales and use taxes administered by self-collected home-rule cities. You may wish to consult with those local governments that administer their own sales or use taxes about the applicability of those taxes. Visit our website at Tax.Colorado.gov for more information about state and local sales taxes.

Thank you for your request.

Sincerely,

Office of Tax Policy
Colorado Department of Revenue

⁴ Section 39-26-102(15)(b.5)(II), C.R.S.

⁵ Section 39-26-102(15)(b.5)(I), C.R.S.

⁶ 1 CCR 201-5, Special Rule 34.5.

⁷ Section 39-26-104(1)(a), C.R.S.

⁸ Section 39-26-104(1) and (15)(b.5)(II), C.R.S.

⁹ 1 CCR 201-4, Rule 39-26-102(10).