



COLORADO
Department of Revenue
Taxation Division

Office of Tax Policy
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PLR 26-003

March 16, 2026

XXXXXXXXXX
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Via Electronic Mail: XXXXXXXXXX

Re: Flash Title Transfers in Payment Processing

Dear XXXXXXXXXX:

You submitted a request for a private letter ruling on behalf of XXXXXXXXXX ("Company"), to the Colorado Department of Revenue ("Department") pursuant to 1 CCR 201-1, Rule 24-35-103.5. This letter is the Department's private letter ruling. This ruling is binding on the Department to the extent set forth in 1 CCR 201-1, Rule 24-35-103.5. It cannot be relied upon by any taxpayer other than the taxpayer to whom the ruling is made.

Issues

1. Whether the true object of Model A transactions was Company's services.
2. Whether Company is a retailer making sales under section 39-26-102(10), C.R.S., insofar as it participates in Model A or Model B transactions.
3. Whether Company is a retailer doing business in Colorado under section 39-26-102(3), C.R.S., insofar as it participates in Model A or Model B transactions.
4. Whether Company is a marketplace facilitator, insofar as it participates in Model A or Model B transactions.
5. Whether Company is a consignee or auctioneer, insofar as it participates in Model A or Model B transactions.
6. Whether Company is a salesperson, representative, or peddler, insofar as it participates in Model A or Model B transactions.

Conclusions

1. The Department declines to answer the question of whether the true object of Model A transactions was Company's services.
2. Company is not a retailer making sales under section 39-26-102(10), C.R.S., insofar as it participates in Model A or Model B transactions.
3. Company is not a retailer doing business in Colorado under section 39-26-102(3), C.R.S., insofar as it participates in Model A or Model B transactions.
4. Company is not a marketplace facilitator, insofar as it participates in Model A or Model B transactions.

5. Company is not a consignee or auctioneer, insofar as it participates in Model A or Model B transactions.
6. Company is not a salesperson, representative, or peddler, insofar as it participates in Model A or Model B transactions.

Background¹

Company is organized in XXXXXXXXXX and is engaged in business in providing card payment processing services and fraud detection to international e-commerce merchants (“Merchants”) who sell their merchandise or services to end-customers (“Customer”) in countries other than the Merchant’s home countries.

Company previously provided its card processing services under two different legacy models – Model A and Model B. These models were implemented in order to meet requirements imposed by payment card networks.

As Company was providing a new type of payment localization service, the way Company facilitated international payments did not clearly fit into any available account designations offered by the payment networks within their frameworks. Lacking a clear option, and needing to be categorized within the already-existing scheme, Company concluded that the “merchant account” categorization of the payment networks most closely aligned with its payment flow model. Company’s models were, therefore, tailored to comply with the applicable merchant rules (e.g., merchant account holders were required to take title to goods) so that Company could continue to accept payment methods offered by the payment card networks. Notwithstanding this, Company’s actual role in the sales by Merchants to Customers was largely limited to merely acting as a traditional payment processor.

The main differentiator between the two models for purposes of this request is that, under Model A, Company took title for a very brief time (“flash title”) to the goods sold by Merchants to Customers. In contrast, under Model B, Company did not hold title at any time to any goods being sold and merely acted as a payment collection agent.

Below is a summary of the key relevant characteristics of Company’s relationship with the Merchants that are applicable to both models:

1. Company’s service agreements with Merchants included a paragraph stating that the Merchants were responsible for collecting, remitting, and otherwise administering any and all sales or use taxes.
2. Company did not have a website where Customers could browse, select, and purchase a Merchant’s goods or services. Company was not in the business of making sales itself—other than sales of its payment processing service. Company did not engage in any solicitation of the items owned by the Merchants via any communication medium for the purpose of effecting the sale of such items.
3. Company had no control over Merchants’ e-commerce platforms for purposes of correctly applying sales tax based on sourcing rules, collecting or maintaining exemption documentation, or otherwise administering sales taxes in any way. Company was provided with some transaction level data, but not 100% of the time and not enough to make an informed tax assessment of the products or services sold.
4. Company had no responsibility for Merchant’s websites displaying the goods available for sale, integrating systems for the catalog of products, pricing, establishing and maintaining customer

¹ Paragraph (4)(b)(ii) of 1 CCR 201-1, Rule 24-35-103.5 requires the request for a private letter ruling to include a statement of facts. This section generally recites the statement of facts provided in the initial request or in any supplement or amendment thereto, which is not an indication that the Department found such facts relevant to its analysis. Some relevant facts may be redacted or omitted to ensure confidentiality as required by section 24-35-103.5(5), C.R.S. The terms used in this section to describe the factual background are generally those of the requester.

accounts, applying discounts and promotions, receiving and processing orders (aside from the payment processing services provided by Company), liability for defective products, or any other aspects of the retail relationship with the end customer. The Merchant was solely responsible for the accuracy of all product information displayed on Merchants' websites.

5. Company's name was not on any invoice or bill of lading for the items sold by the Merchants, and Company was not listed as an exporter or importer of record for such transactions. The only documentation related to the payments processed where Company's name was mentioned was in regard to the payment card networks and was generally listed along with the Merchant's name.
6. Company never had any actual or constructive possession of the goods or inventory that were the subject of the sales by the Merchants. The Merchants handled all shipping and fulfillment of the goods and were responsible for all fees associated with inaccurate orders or replacements.
7. Company had the risk of fraud for the transactions but had no other responsibility to the Customer or Merchant's banks for refunds, shipping, replacing the products, or risk for delays or cancelled orders.
8. Company did not control, participate in, assist with, facilitate, or otherwise have any involvement in any of the activities that were typical of a retail vendor making retail sales to customers.

A typical transaction under either Legacy Model would generally function as follows:

1. A Customer selects the products they wish to purchase from the Merchant and puts them in a digital shopping cart on the Merchant's website. In the Merchant's digital shopping cart, applicable taxes and delivery fees would be added to the total purchase price. However, pursuant to service agreements between Merchant, determination of tax collection obligations is made by each Merchant independently.
2. In response to an electronic request by a Merchant for a transaction, Company routes the requested transactions through their systems.
3. The Customer then enters their payment information into the Merchant's website. When the Customer enters their information, a notice (referred to as a "badge") appears to notify the Customer that they are transacting via Company. This badge is no different from what Customer would see if they were transacting with another payment facilitator. Once the Consumer's payment information is verified by Company, the transaction is deemed to be executed.
4. The Merchant then ships the goods to the Customer and handles all product-related needs that may follow.
5. Once the transaction has been settled, Company is paid by the Merchant based on a percentage of the volume of sales processed by Company. The percentage can vary depending on the payment type and the countries that the transaction is dealing in.

Company's Technology and the Customer Experience

In this section, relevant components of Company's technology are described to show how the technology operated in the background of the Merchant's website and what the Customers experienced.

Generally, Company's payment processing system platform integrates with the Merchant's e-commerce platform, but only to the extent it is necessary for Company to provide its payment processing services. Customers have little knowledge that Company is involved in the transactions, as shown by how the Customers pay, what the Customers see on their bank statements, and the lack of Customer support activities provided by Company.

Company provides Merchants with an application programming interface (API) that integrates with the Merchant's e-commerce platform. Once integrated, the API can then identify certain transactions where Company's services are applicable and apply the relevant foreign exchange rates to the products in the Customer's home currency. When a Customer navigates to a Merchant's website, Company's API identifies what country the Customer is in and what country the Merchant is in. Utilizing Company's API,

the Merchant's website then displays the prices of the Merchant's products in the Customer's home currency using information provided by Company. Although Company's API is integrated with the Merchant's e-commerce platform to identify and route certain transactions for the purpose of currency conversion, this does not allow Company control over the Merchant's e-commerce system or pricing in any way.

Once a Customer has selected the products they want to purchase and are ready to check out, they will be directed to the Merchant's digital shopping cart. After the Customer has entered a delivery address, the Merchant will then add any applicable sales tax and delivery fees to the total. This total amount due, which includes taxes and fees, is part of the information that is sent to Company so they may help facilitate payment for the transaction. According to agreements between Merchant and Company, the Merchant is solely responsible for determining the application of sales taxes to the transactions as it is the only party that has the full set of information necessary to make such a determination (e.g., taxability, exemption documentation, etc.) and control over the Merchant's digital shopping cart to be able to add sales tax to the transaction. This is the case for both Legacy Models.

When the Customer comes to the point where they are required to pay the Merchant for the goods, the Customer enters their payment details via the Merchant's website which are then forwarded on to Company to process the payment via Company's API. On the Merchant's checkout page, there is a hyperlink labeled "Terms of Service" at the bottom that, if clicked on, would bring the Customer to Company's terms of service. Customers can choose to view Company's terms of service if they wish but are not required to view or acknowledge Company's terms of service to complete the transaction. Once the transaction is complete, a charge will appear on the Customer's billing statement with information about both Company and the Merchant.

In the payment card industry, there are what's known as "hard descriptors" and "soft descriptors," which collectively comprise the line of text explaining a transaction on a Customer's billing statement. The hard descriptor is required to indicate the owner of the bank account to which the Customer's funds are sent. Because Company owns the bank account where the Customer's payment is initially sent, Company appears on the Customers' credit card statement as a hard descriptor. For most of Company's history, the hard descriptor used for transactions processed by Company was Company's name abbreviated as "CO."

A soft descriptor will appear on a Customer's credit card statement almost immediately after the charge has been made. This soft descriptor is subject to changes and shows a pending amount and preliminary description. This preliminary description generally lists the Merchant as the vendor of the products or services instead of who owns the bank account where the payment is sent to. In Company's case, the soft descriptor would show the Merchant's name whose website the Customer ordered from.

Once the transaction is settled, the description appearing on a Customer's billing statement will include Company's hard descriptor ("CO") first followed by the Merchant's soft descriptor name. For example, a purchase from a Merchant named "ABC Company" using Company's payment processing services would appear on the Customer's billing statement as "CO - ABC Company (CA-555-666-7788)."

After a Customer receives the products shipped by the Merchant, they may wish to return the item, seek a refund, or require some other support from the Merchant regarding their purchase. Under both Legacy Models, the Merchants are solely responsible for all customer service matters, other than payment related queries, including approving and issuing refunds as well as all fees related to returning the item. Other times, a Customer will dispute a charge on their credit card due to fraud and the charge will be reversed. This reversing of a charge is what is known as a "chargeback." Company is only liable for chargebacks that are the result of fraud.

If a Customer has a question about their order, they may call a customer service line. Company is required to provide telephone support to comply with payment card network protocols. However, because Company is not involved in the fulfillment of orders and has little knowledge of what was sold, Customers

are immediately re-routed to the Merchant's customer service support telephone number to resolve any and all issues related to the transaction.

Throughout this process, Company's role and existence is largely invisible to the Customer but for the Terms of Service hyperlink on the Merchant's payment page and what they see on their credit card billing statement. The Customer proceeds through the transaction with the understanding that they are doing business with the Merchant. While Company's contract with the Merchant may describe a more substantial role in the transaction, it is important to understand that contractual language is merely present to conform to payment card network rules but does not reflect Company stepping into the role of the retailer in any way.

Discussion

Insofar as Company participates in Model A or Model B transactions, Company is not a retailer and is not liable and responsible for collecting and remitting state sales tax. A retailer is "a person doing business in this state known to the trade and public as such, and selling to the user or consumer, and not for resale."² Colorado imposes a sales tax on most sales of tangible personal property at retail, as well as certain services.³, and retailers are generally liable and responsible for collecting and remitting this tax.⁴

Under the facts presented by Company, Company is not doing business in this state and is not known to the trade and public as a retailer insofar as it participates in either Model A or Model B transactions. Company is, consequently, neither a retailer making sales under section 39-26-102(10), C.R.S., nor a retailer doing business in Colorado under section 39-26-102(3), C.R.S. Therefore, Company is not liable and responsible, pursuant to section 39-26-105(1)(a)(I)(A), C.R.S., for collecting and remitting the tax imposed by section 39-26-106(1)(a)(II), C.R.S. Because Company is not a retailer insofar as it participates in the Model A transactions, the Department declines to address whether the true object of Model A transactions was Company's services.

Insofar as Company participates in Model A or Model B transactions, Company is also not a marketplace facilitator, a consignee, or an auctioneer, nor is it a salesperson, representative, or peddler. Marketplace facilitators, consignees, and auctioneers are retailers for the purposes of collecting and remitting the state sales tax.⁵ A marketplace facilitator operates a marketplace and contracts with marketplace sellers to collect and transmit payment.⁶ Because Company does not operate a marketplace, Company is not a marketplace facilitator, even if it contracts with third-parties to collect and transmit payment.⁷ Based on Company's facts, neither Model A nor Model B transactions qualify as auction sales, and therefore Company is not acting as an auctioneer insofar as it participates in them.⁸ Similarly, we conclude that company is not a consignee, salesperson, representative, or peddler based upon the facts presented. The payment processing activities described above are not sufficient to classify Company as such.

Miscellaneous

This ruling is premised on the assumption that Company has completely and accurately disclosed all material facts, that all representations are true and complete, and that Company has otherwise complied with the requirements of section 24-35-103.5, C.R.S., and the rules promulgated pursuant thereto. The Department reserves the right, among others, to independently evaluate Company's facts, representations, and assumptions. The ruling is null and void if any such fact, representation, or assumption is incorrect and has a material bearing on the conclusions reached in this ruling. This ruling is

² Section 39-26-102(8), C.R.S.

³ See section 39-26-104, C.R.S.

⁴ Section 39-26-105, C.R.S.

⁵ Sections 39-26-102(8) and 39-26-105(1.5)(a), C.R.S.; 1 CCR 201-5, Special Rule 8.; Section 39-26-102(1.3).

⁶ Section 39-26-102(5.9)(a), C.R.S.

⁷ Section 39-26-102(5.9)(a), C.R.S.

⁸ Section 39-26-102(1.3), C.R.S.

binding on the Department, and is subject to modification or revocation, in accordance with 1 CCR 201-1, Rule 24-35-103.5.

Thank you for your request.

Sincerely,

Office of Tax Policy
Colorado Department of Revenue

This ruling cannot be relied upon by any other taxpayer other than the taxpayer to whom the ruling is made.