



COLORADO
Department of Revenue

Taxation Division

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Denver, CO 80203

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Denver, CO 80217-0087

PLR 18-004

July 19, 2018

XXXXXXXXXXXXXXXXXX
Attn: XXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Re: private letter ruling

Dear XXXXXXXXXXXXX,

You submitted a request for a private letter ruling on behalf of your client, XXXXXXXXXXXX XXXXXXXXXXXX (“Taxpayer”), to the Colorado Department of Revenue (“Department”) pursuant to Department 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 Department 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. Is printed information provided as part of billing and other financial services subject to sales and use tax?
2. Are postage charges to deliver printed billing or other financial information service subject to sales or use tax?

Conclusions

1. Taxpayer’s charges for billing and related services are not subject to sales tax even though printed information provided as part of billing and other financial services is transferred to billing recipients.
2. Charges for postage to deliver the printed billing or other financial information service are not subject to sales or use tax.

Background

Taxpayer provides payment solutions and accounts receivable management products to clients. Taxpayer offers a number of services including secure document creation and delivery, data analytics and hygiene, electronic billing and archival services, and online payment tools. The majority of the Colorado sales relate to customization, validation, and creation of personalized billing or other financial communications

primarily delivered via printed documents mailed via the United States Postage Service. Taxpayer also offers optional services that provide customers with analytics and workflow tools. Postage is a separately stated cost on customers' invoices. A few clients elect to have their customer communications delivered via email, SMS, or other electronic methods.

Discussion

Colorado sales tax applies to the sale and use of tangible personal property and, in general, does not apply to the sale of services.¹ When a vendor transfers tangible personal property to a customer as part of services performed by the vendor for the customer, the application of sales tax will depend on whether the sale of property and services are separable and, if not, whether the customer's "true object" is to acquire the tangible property, in which case the transaction is subject to tax, or to receive the service, in which case the transaction is a non-taxable service.

Colorado courts have identified several factors to determine the customer's true object, including a comparison of the value of the property in relation to the value of the service, whether there is an alternative method of transferring the property, the length of time the property has value, constraints on the customer's use of the property, how the customer uses the property, whether the property represents the finished product, and the skill and expertise needed to produce the property.² Ultimately, the question is resolved by whether the transaction is commonly understood to be one for service or for the sale of property.

The Department concludes that the generation of invoices is most commonly understood to be a service. Taxpayer performs services similar to what is commonly referred to as bookkeeping or billing services. The service is converting raw financial and related data into accurate billing information and to transmit that information to the client's customers. The paper on which the information is sent is incidental to the client's true object of transmitting billing information to customers.³ Therefore, the Department rules that Taxpayer's charges are for services and, therefore, are not subject to sales or use tax.⁴

Taxpayer requests a ruling on the application of sales tax to postage. Mail service is a form of transportation service.⁵ Transportation service is presumptively a non-taxable service. Moreover, charges for transportation service are not taxable if the property being delivered is not part of a taxable sale. The postage in this case is a transportation charge for delivering paper bills that are not, themselves, being sold by clients to their customers. Therefore, Taxpayer's charge to its clients for postage is not subject to tax.

Miscellaneous

¹ §39-26-104(1), C.R.S.

² *City of Boulder v. Leanin' Tree, Inc.*, 72 P. 3rd 361 (Colo. 2003)

³ The Department reached a similar conclusion in PLR 16-003.

⁴ The Department has not been requested to rule on the application of sales or use tax on Taxpayer's purchase of paper, ink, and other tangible personal property used by Taxpayer to perform its services. See, generally, PLR 16-003 for a discussion of this issue.

⁵ 1 CCR 201-5:SR-18. Transportation charges (e.g., charges for postage)

This ruling is premised on the assumption that Company has completely and accurately disclosed all material facts and that all representations are true and complete. The Department reserves the right, among others, to independently evaluate Company's representations and assumptions. The ruling is null and void if any such assumption or representation is incorrect and has a material bearing on the conclusions reached in this ruling and is subject to modification or revocation in accordance to Department Regulation 24-35-103.5.

This ruling is binding on the Department to the extent set forth in Department Regulation 24-35-103.5. It cannot be relied upon by any taxpayer other than the taxpayer to whom the ruling is made.

Enclosed is a redacted version of this ruling. Pursuant to statute and regulation, this redacted version of the ruling 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 version of the ruling.

Sincerely,

Neil L. Tillquist
Colorado Department of Revenue
Office of Tax Policy & Analysis

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