



COLORADO
Department of Revenue

Taxation Division
Physical Address:
1375 Sherman Street
Denver, CO 80203

Mailing Address:
P.O. Box 17087
Denver, CO 80217-0087

GIL 18-012

August 21, 2018

XXXXXX
Attn: XXXXXX
XXXXXX
XXXXXX

Re: Sales tax on electric car charging stations

Dear XXXXXX,

You submitted a request for guidance on behalf of XXXXXX (“Company”) regarding the applicability of sales tax to electric car charging stations.

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 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 Rule 1 CCR 201-1, 24-35-103.5.

The Department treats this request as a general information letter. It is important to remember that general information letters, such as this one, are general discussions of tax law and are not binding on the Department. If Company would like the Department to issue a private letter ruling on the issue raised here, Company can submit a request and pay the fee in compliance with Department Rule 1 CCR 201-1, 24-35-103.5.

Issues

Must Company collect and remit sales tax on the following transactions;

1. the sale of electric car charging stations;
2. an annual network fee charged to Owners; or
3. maintenance contracts for the electric car charging stations.

Background

Company sells electric car charging stations to Owners. Company ships the stations from a location outside Colorado to locations in Colorado. Company charges owners a network fee to allow Owners to charge customers for use of the stations to recharge their electric cars. Company also sells to Owners a maintenance contract that applies after the Company's warranty to Owners expires. In some cases, Company owns the stations and charges electric car customers a fee to recharge their cars based on kilowatt usage or time. These stations are located on property owned by third-parties and Company pays the third-party either by reimbursing the third-party of the cost of energy or sharing the fee charged to customers.

Discussion

There are several issues raised in this request for guidance. The following is a general overview of the tax issues and tax law applicable to these facts.

1. *Sale of electric charging stations*

Colorado imposes sales tax on sales of tangible personal property at retail.¹ Colorado also imposes a compensatory use tax on the storage, use, or consumption of tangible personal property purchased at retail.² Tangible personal property is broadly defined in statute and by regulation.³

2. *Network Fees*

The sale of services is generally not subject to sales or use taxes. There are two exceptions to this general rule. First, charges for services sold in connection with the sale of taxable tangible personal property are generally included in the purchase price if the service charge is not separately stated or the buyer is required to buy the service as part of its purchase of the property.⁴ Second, charges for telephone and mobile telecommunications service may be subject to tax under certain circumstances.⁵

3. *Maintenance contracts*

A charge for maintenance contracts sold in connection with the rental or sale of taxable tangible personal property is included in the calculation of sales tax of the rental or purchase of the goods, unless the maintenance charge is both separately stated and

¹ § 39-26-104(1)(a), C.R.S.

² § 39-26-202(1), C.R.S. While the property subject to sales and use tax are the same for the state and for certain local taxing jurisdictions, other local jurisdictions have a more limited range of items subject to use tax. *Compare* § 39-26-202(1), C.R.S., *and* § 29-2-109(1), C.R.S.

³ § 39-26-102(15), C.R.S.; *see also* 1 Colo. Code. Regs. 201-4, § 26-102.15.

⁴ § 39-26-105(4), C.R.S.; *see also* 1 Colo. Code. Regs. 201-4, § 26-105.2.

⁵ § 39-26-104(1)(c), C.R.S.

the buyer has the option not to purchase the maintenance contract as part of its rental or purchase of the taxable goods, although tangible personal property used to perform the service may be taxed.⁶

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 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/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,

Colorado Department of Revenue
Office of Tax Policy & Analysis

⁶ See, e.g., GIL 17-006. See 1 Colo. Code Regs. 201-4, § 26-105.2; see *also* 1 Colo. Code Regs. 201-5, SR-28 (discussing treatment of service contracts unrelated to a sale of tangible personal property). § 39-26-105(4), C.R.S.