



COLORADO
Department of Revenue

Taxation Division

Physical Address:
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Denver, CO 80203

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P.O. Box 17087
Denver, CO 80217-0087

GIL-17-012

July 28, 2017

XXXXXX
XXXXXX
Attn: XXXXXX
XXXXXX
XXXXXX

Re: Software and Related Services

Dear XXXXXX,

You submitted on behalf of XXXXXX (collectively referred to as the “Company”) a request for guidance relating to software and related services.

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.

Issue

Does sales tax apply to the various products and services listed?

Background

Company provides the products and services set forth below.

Discussion

You ask whether any of the listed activities are a “taxable event.” Our responses below are limited to sales taxes. We are not providing guidance here on the question of whether the listed activities create for Company an income tax liability or any tax liability other than sales tax. The facts provided are limited and our responses are accordingly limited. Our

responses below are only guidance and are not binding on the Department. It is Company's obligation to determine its tax liabilities.

1. *Software licenses.* Sales tax applies to sales of tangible personal property. § 39-26-104, C.R.S. Software that is delivered electronically is not tangible personal property. See, § 39-26-102(15), C.R.S.
2. *SAS / hosting services.* Charges for software delivered via an application service provider are not subject to sales tax. § 39-26-102(15), C.R.S.
3. *Accounting services.* Charges for accounting services are generally not subject to sales tax. § 39-26-104, C.R.S.
4. *Conversion services.* Charges for conversion services are generally not subject to sales tax. § 39-26-104, C.R.S.
5. *Customer services (labor).* Charges for services are generally not taxable unless the retailer requires the buyer to purchase the services as part of the sale of taxable tangible personal property or the charge for the service is not separately stated on an invoice from the sale of taxable tangible personal property.¹
6. *Forms /scanners / hardware sales.* Charges for the sale of tangible personal property are subject to sales tax. § 39-26-104, C.R.S. A retailer who is doing business in Colorado, must collect, report, and remit sales or retailer's use tax. §39-26-102(3), C.R.S. We do not determine here whether Company is doing business in Colorado.
7. *Maintenance / support.* If the sale of the computer software is taxable, then charges for the sale of maintenance and support fees are also subject to sales tax unless the buyer has the option to not purchase the maintenance and support as part of its purchase of the taxable software and if the charge for such service is separately stated on an invoice.²
8. *Custom programming.* Software is not taxable tangible personal property unless it is prepackaged for repeated sale or license and has a non-negotiable license. § 39-26-102(15), C.R.S.
9. *On-site training / consulting.* See response to 5.
10. *On-site travel reimbursement.* Reimbursement of expenses is not a sale of tangible personal property.
11. *Phone training from outside Colorado.* See response to 5.
12. *Training conference in Colorado.* No. Charges for training services are not subject to sales tax, except as stated in response to 5.

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.

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.

¹ See, e.g., Private Letter Ruling (PLR) 12-006

² See, e.g., General Information Letter (GIL) 16-003

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,

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