



COLORADO
Department of Revenue

Taxation Division

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GIL-15-024

October 20, 2015

XXXXXXXXXXXXXXXXXX
Attn: XXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Re: Tax Exempt Certificates

Dear XXXXXXXXXXXXX,

You submitted on behalf of XXXXXXXXXXXXX (“Company”) a request for guidance to determine from which taxes a person holding a tax exempt certificate is exempt. 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 Regulation 24-35-103.5 at www.colorado.gov/revenue/tax > Tax Library > Rulings.

The Department treats this request as one for 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 fee in compliance with Department Regulation 24-35-103.5.

Issue

From which taxes is a person holding a sales and use tax exempt certificate exempt?

Background

Company is beginning a construction project for a client who holds an “exemption from state sales/use tax only” certificate. The client is a 501(c)(3) nonprofit corporation. Specifically Company would like clarification on whether the certificate applies only to state sales or use tax or does this exemption certificate also apply to special district, city or county taxes.

Discussion

In general, the purchase of tangible personal property is subject to sales and use taxes.¹ However, Colorado exempts all purchases of construction and building materials by contractors and subcontractors for use in the building, erection, alteration, or repair of structures owned and used by government entities, charitable organizations and schools.²

¹ § 39-26-104, C.R.S.

² § 39-26-708(1), C.R.S.

Pursuant to §§ 32-9-119 (2) (a) and 32-13-107 (1)(a), C.R.S., any item that is taxable or exempt under that state sales tax is also taxable or exempt from any state-administered special district sales tax. In addition, with certain exceptions not applicable here, state-administered cities and counties exempt the same transactions that are exempt at the state level.³ Therefore, all sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration, or repair of structures owned and used by a charitable organization are exempt from state, special district and state-administered city and county sales taxes.⁴

Finally, the Department does not administer the sales and use taxes of home rule cities and counties. You can find a list of home rule cities and counties on the Department's Website at www.Colorado.gov/revenue/tax > Forms > Sales Tax > Form DRP 1002. We encourage you to contact the home rule city if you have questions about how their sales and use taxes may apply to you.

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.

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 L. Tillquist
Colorado Department of Revenue

³ § 29-2-105(1)(d), C.R.S.

⁴ Statutory cities and counties collect and administer their own use tax on construction and building materials. However, "the storage, use, or consumption of tangible personal property by the United States government, or the state of Colorado, or its institutions, or its political subdivisions in their governmental capacities only or by religious or charitable corporations in the conduct of their regular religious or charitable functions are not subject to use tax." § 29-2-109(1)(d), C.R.S.