



COLORADO

Department of Revenue

Taxation Division

Office of Tax Policy
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Denver, CO 80217-0087

DOR_TaxPolicy@state.co.us

GIL-2009-005

May 13, 2009

XXXXXXXXXXXXXXXXXXXX
Attn: XXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Re: sales tax responsibility for motor vehicle leases

Dear XXXXXXXXXXXXXXX,

You have requested guidance regarding whether the XXXXXXXXXXXXXXXXXXXXXXXX ("Company"), who is a lessor and seller of motor vehicles, has responsibility for collecting sales or use tax on the sale and purchase of a motor vehicle to the lessee/purchaser at the expiration of the motor vehicle lease.

The Department issues general information letters and private letter rulings. A general information letter provides a general overview of the applicable tax law, does not provide a specific determination, and is not binding on the department. A private letter ruling is a determination of the applicability of tax to a specific set of circumstances and is binding in the department. A party requesting a private letter ruling must provide certain information and remit a fee. For more information about general information letters and private letter rulings, please refer to the Department's regulation 24-35-103.5, C.R.S., which is available on our web site at: www.colorado.gov/revenue/tax.

I will initially treat your request as one for a general information letter because the request does not contain the information necessary for a private letter ruling. You may resubmit this request as a request for a private letter ruling.

Issue

Is the Company, as a lessor/seller of a motor vehicle, responsible for collecting sales or use tax when it sells a motor vehicle to the lessee/purchaser at the expiration of the motor vehicle lease?

Background

The Company is equipment and registered motor vehicle lessor. The Company leases motor vehicles for a period of twelve months or more. At the expiration of a lease, the lessee has the option to purchase at the fair market value the vehicle from the Company. The Company holds title to the motor vehicle during the term of the lease.

Discussion

Colorado levies sales and use tax on the lease and sale of motor vehicles. §§39-26-104(1)(a), 102(23), 713(1)(a), and 113, C.R.S. Sales tax is due on the sale of the motor vehicle at the expiration of the lease. The Company, as the seller, is responsible for collecting state sales tax. If the Company and purchaser are located in the same local jurisdiction (e.g., a statutory city, county, and/or special district), then the Company must also collect the local sales taxes levied by such jurisdictions. If the Company and purchaser are not in the same local jurisdiction, then the county clerk for the county in which the vehicle is registered by the purchaser will collect local use tax, if any, at the time the vehicle is registered to the purchaser. See, Department publications FYI Sales 56 (Sales Tax on Leases of Motor Vehicles and Other Tangible Personal Property) and 62 (Guidelines for Determining When to Collect State-Collected Local Sales Tax).

The Department has a number of resources available to retailers on the Department's web site, including Department publication DRP 1002 (listing of all local jurisdictions that levy sales and use tax and their rates), automated systems that list local sales tax rates, forms, as well as a variety of FYIs and regulations on sales and use tax issues. You can easily access these at: www.revenue.state.co.us > Tax.

Miscellaneous

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,

Office of Tax Policy
Colorado Department of Revenue