



COLORADO

Department of Revenue

Taxation Division

Office of Tax Policy
P.O. Box 17087
Denver, CO 80217-0087

DOR_TaxPolicy@state.co.us

GIL-15-021

September 9, 2015

XXXXXXXXXXXXXXXXXX
Attn: XXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Re: Medical Equipment and Supplies

Dear XXXXXXXXXXXXXXX,

You submitted on behalf of XXXXXXXXXXXXXXX (“Company”) a request for guidance on medical equipment and supplies. 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, the retailer can resubmit a request and fee in compliance with Department Regulation 24-35-103.5.

Issue

1. Is the purchase of various types of equipment subject to sales or use tax?
2. Is the lease of real property by a lessee who uses it to conduct business activities subject to sales or use tax?

Background

Company is a for-profit business that procures and distributes human tissue to clients who use the tissue for medical, research and educational purposes. Company utilizes a variety of equipment and supplies and categorizes these as either “medical equipment” (e.g., surgical saws, autoclaves, gurneys), “medical supplies” (e.g., gauze, bandages, surgical instruments), “cleaning supplies”, and “shipping supplies” (e.g., cardboard boxes, foam, dry ice). Company also charges rent to third parties for client meetings and educational events at Company’s facility.

Discussion

Colorado exempts from sales and use tax certain types of medical equipment and supplies. However, in order to qualify for the exemptions, the property must be either purchased pursuant to a prescription or furnished by a licensed provider as part of professional services to a patient or

client.¹ Although the equipment and supplies listed by Company often qualify for these exemptions, they likely do not qualify in this context because they are neither purchased by Company pursuant to a prescription nor are they furnished by a licensed provider as part of their professional service to a patient.

Cleaning supplies are not exempt from sales or use tax.

Containers and shipping cases used by manufacturers and compounders are exempt from tax.² Company's shipping boxes appear to be exempt. However, we read this exemption narrowly and may not extend it to dry ice or even foam packing materials.

In general, Colorado does not impose sales or use tax on the rental or lease of real property. The only exception is for charges for short term living accommodations (thirty days or less).

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,

Office of Tax Policy
Colorado Department of Revenue

¹ See generally § 39-26-717, C.R.S. and Department Regulation 39-26-717.

² § 39-26-102(20)(a), C.R.S.