



COLORADO

Department of Revenue

Taxation Division

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

DOR_TaxPolicy@state.co.us

GIL-17-013

July 31, 2017

XXXXXX
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XXXXXX

Re: Market Reports

Dear XXXXXX,

You submitted a request for guidance on behalf of XXXXXX ("Company") regarding the application of sales tax to charges for digital reports.

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

Is the charge for digital information subject to sales tax?

Background

Taxpayer is engaged in the business of collecting and selling information in an electronic format to customers. The data is gathered from government entities and sold to customers. The data is sent electronically and downloaded by the customer. The data is not customized for particular customers.

Discussion

Colorado levies sales tax on the sale of tangible personal property. Tangible personal property is property that has a physical existence, in contrast to intangible property which is merely conceptual in nature.

The Department has previously given guidance that the sale of digital goods, such as music, books, movies, and photographs, are tangible personal property because these goods are not merely conceptual but have a physical existence that can be measured and physically manipulated.

This request raises the question of whether taxpayer is selling a service or tangible personal property. The Department has previously given guidance that the sale of market reports, such as those described here, are not the sale of a service if the report is not customized for a particular customer. For example, the sale of a market report of car sales is not the sale of a service if the report is made available for general consumption; but a market report of car sales prepared for a particular buyer is treated as a service.

Based on the information provided, the sale of the Company's digital reports are the sale of tangible personal property. Therefore, the Department will likely treat the sale of Company's digital reports as tangible personal property and not the sale of a service.

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