



COLORADO

Department of Revenue

Taxation Division

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

DOR_TaxPolicy@state.co.us

GIL-17-020

December 29, 2017

XXXXXX

Attention: XXXXXX

XXXXXX

XXXXXX

Re: Taxability of Orthodontic Supplies

Dear XXXXXX,

You submitted a request for guidance on behalf of XXXXXX (“Company”) to determine the taxability of orthodontic 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 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

Are materials and components of orthodontic braces subject to sales tax?

Discussion

Colorado levies sales tax on the sale of tangible personal property.¹ Some tangible personal property, such as medical materials, are exempt from sales or use tax if they satisfy the statutory requirements for the exemption. The sale of medical materials, when furnished by a licensed provider² as part of professional services provided to a patient are exempt from taxation.³ The exempt item must be furnished to the patient by the provider and either leave the facility with the patient or be consumed by the patient at the medical facility.⁴

Sales of medical materials may also be exempt as a sale for resale. Purchases by a licensed provider of nonprescription materials are exempt as a sale for resale when the licensed provider charges tax on the materials when resold to the patient. These purchases are not required to be separately stated on a patient's invoice.⁵ Purchases of non-medical materials may also be exempt as a sale for resale only if the tax is collected when resold to the patient and the items are separately stated on the patient's invoice.⁶

Sales of medical materials that will be consumed by the licensed provider are not exempt as medical materials or as a sale for resale, and Company must collect sales tax for the materials sold to the Orthodontist in such cases.⁷

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

¹ §39-26-104 C.R.S.

² §39-26-717(3), C.R.S.

³ §39-26-717(1)(k), C.R.S.

⁴ Reg 39-26-717(1)(f)(i)(A)

⁵ Reg 39-26-717(1)(f)(i)(D)(i)

⁶ Reg 39-26-717(1)(f)(i)(D)(ii)

⁷ Reg 39-26-717(1)(f)(i)(D)(iii)

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