



COLORADO

Department of Revenue

Taxation Division

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

DOR_TaxPolicy@state.co.us

GIL 18-014

December 11, 2018

XXXXXX

Attn: XXXXXX

XXXXXX

XXXXXX

Re: Sales tax on catering by charitable organization

Dear XXXXXX,

You submitted a request for guidance on behalf of XXXXXX ("Company") regarding the applicability of sales tax to rentals of Company's facility and charges for catering.

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

Does sales tax apply to the rental of a facility owned by a charitable organization and to sales of catering services by the organization?

Background

Company is a private non-profit 501(c)(3) corporation that provides services and support to individuals with XXXXXX. In an effort to provide additional training and employment opportunities for individuals in their services, Company began operating catering services to the local community. Company rents its facility and offers catering services for weddings, banquets, graduation, etc. Company anticipates catering between 15 and 20 events each year.

Discussion

Colorado imposes sales tax on the sale of food or drink served or furnished by caterers.¹ However, Colorado exempts occasional sales by charitable organizations, including sales of food and drink, if the sales satisfy each of the following criteria:

1. The sales are for fundraising purposes,
2. There are no more than 12 occasional sales in the calendar year, and
3. The net proceeds from such sales do not exceed \$25,000 during the calendar year.²

Colorado does not impose sales tax on the rental of real property, such as the facility.³ However, the rental of a facility is subject to sales tax if (1) the charge for the rental is not separately stated from the charge for catering, or (2) the customer is required to rent the facility in order to purchase the catering 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 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

¹ § 39-26-104(1)(e), C.R.S.

² § 39-26-718(1)(b), C.R.S. See, also, regulations 39-26-718, (39-)26-102(4.5) and Special Regulation Sales 13 and 24

³ Sales tax applies only to the sale or lease of tangible personal property. § 39-26-104(1), C.R.S.

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