



**COLORADO**  
Department of Revenue  
Taxation Division  
Office of Tax Policy Analysis  
P.O. Box 17087  
Denver, CO 80217-0087  
dor\_taxpolicy@state.co.us

GIL 21-001

January 20, 2021

XXXXXXXXXX  
Via Electronic Mail: XXXXXXXXXXXX

Re: Sales Tax Exemption for Residential Energy Use

Dear XXXXXXXXXXXX:

You submitted a request for a general information letter regarding the sales tax exemption for residential energy use. 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, and requires payment of a fee. For more information about general information letters and private letter rulings, please see 1 CCR 201-1, Rule 24-35-103.5.

### **Issue**

Does the use of electricity in common areas, such as swimming pools, onsite fitness centers, yoga rooms, and clubhouses, in apartment complexes qualify for the sales tax exemption authorized by section 39-26-715(1)(a)(II), C.R.S., for residential energy use?

### **Discussion**

Colorado imposes sales tax on commercial consumption of electricity,<sup>1</sup> but exempts electricity sold for residential use.<sup>2</sup> “Residential use” that qualifies for exemption is defined, in pertinent part, as “the use of electricity ... for domestic purposes, including powering [various] domestic items that require power ... in a residence.”<sup>3</sup> For the purpose of the exemption, the statute defines a “residence,” in pertinent part, as “a separate dwelling in a multi-unit apartment.”<sup>4</sup> The statutory definition of “residence,” for the purpose of the exemption does not include any areas in a multi-unit apartment other than the separate dwellings therein and the exemption therefore does not apply to electricity used in any such areas.

### **Miscellaneous**

This letter represents the good faith opinion of Department personnel who are knowledgeable

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<sup>1</sup> § 39-26-104(1)(d.1), C.R.S.

<sup>2</sup> § 39-26-715(1)(a)(II), C.R.S. State-administered cities and counties also have the option to exempt electricity sold for residential use. § 29-2-105(1)(d)(I)(B), C.R.S. Refer to Department publication DR 1002 for a listing of jurisdictions that exempt gas, electricity, and other specified fuels for residential use.

<sup>3</sup> § 39-26-715(1)(a)(II)(C), C.R.S.

<sup>4</sup> § 39-26-715(1)(a)(II)(B), C.R.S.

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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 self-collected home-rule cities. You may wish to consult with those local governments that administer their own sales or use taxes about the applicability of those taxes. Visit our website at [tax.colorado.gov](http://tax.colorado.gov) for more information about state and local sales taxes.

Sincerely,

Office of Tax Policy Analysis  
Colorado Department of Revenue