



**COLORADO**  
**Department of Revenue**

Taxation Division

Office of Tax Policy  
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Denver, CO 80217-0087

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GIL 22-005

October 7, 2022

XXXXXXXXXXXXXXXX  
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XXXXXXXXXXXXXXXX  
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Via Electronic Mail: XXXXXXXXXXXXXXXX

Re: Sales of alcoholic beverages to state institutions of higher education for official functions.

Dear XXXXXXXXXX:

You submitted a request for a general information letter regarding whether sales of alcoholic beverages to a governmental entity are subject to sales tax. 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**

Whether sales of alcoholic beverages to state institutions of higher education for official functions are exempt from sales tax.

**Discussion**

Unless a specific exemption applies, Colorado imposes a sales tax on the amount paid for prepared food and drink that is served or furnished by a dining establishment, which includes catering and hotel dining.<sup>1</sup> The plain meaning of the term “drink” includes alcoholic beverages.

However, all sales made to the United States government and the state of Colorado, including its departments, institutions, and political subdivisions (“governmental entity”) are exempt from sales tax when the purchase is made in the governmental entity’s governmental capacity.<sup>2</sup>

To qualify for this sales tax exemption, the following four conditions must be met: 1) The purchaser must be a governmental entity; 2) The purchaser must be acting only in its governmental capacity; 3) The purchase must be made using a prescribed government form or

<sup>1</sup> Section 39-26-104(1)(e), C.R.S., 1 CCR 201-4, Rule 39-26-102(4.5)(2)(c).

<sup>2</sup> Section 39-26-704(1), C.R.S.; 1 CCR 201-4, Rule 39-26-704–1.

purchase order; and 4) The governmental entity must pay for the purchase directly with governmental funds.<sup>3</sup> Qualifying governmental entities include the United States government, the state of Colorado, departments and institutions of the state, and political subdivisions of the state.<sup>4</sup> A number of educational institutions are constitutionally declared to be state institutions of higher education.<sup>5</sup>

As noted above, the governmental purchase exemption applies to all sales. For purposes of this exemption, alcohol is treated the same as any other purchase as neither the statute, nor the Department's rules, specifically exclude sales of alcohol from the exemption for governmental purchases. In other words, if some portions of a sale are tax exempt under the governmental purchase exemption, then sales of alcohol included in the sale are also tax exempt.

### **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 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.

Thank you for your request.

Sincerely,

Office of Tax Policy  
Colorado Department of Revenue

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<sup>3</sup> Section 39-26-704(1), C.R.S.; 1 CCR 201-4, Rule 39-26-704-1. See also 1 CCR 201-4, Rule 39-26-105-3 (regarding documenting exempt sales).

<sup>4</sup> Section 39-26-704(1), C.R.S.

<sup>5</sup> CO. Const. art. VIII, § 5.