



COLORADO

Department of Revenue

Taxation Division

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

DOR_TaxPolicy@state.co.us

GIL 24-005

December 18, 2024

XXXXXXXXXXXXX
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Via Electronic Mail: XXXXXXXXXXXXX

Re: Taxability of Franchise Fees

Dear XXXXXXXXXXXX:

You submitted a request for a general information letter regarding the taxability of franchise fees charged by municipalities. 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 franchise fees charged by municipalities are subject to sales tax.

Discussion

Colorado charges sales tax on the purchase price of commercial gas and electric services.¹ Sales tax is calculated on the full purchase price.² The purchase price is the price paid or charged to the consumer.³ The following specific taxes and fees are not included in the purchase price: any direct tax imposed by the federal government, any direct tax imposed by article 26 of title 39, C.R.S., or any retail delivery fee and enterprise retail delivery fee imposed or collected as specified in section 43-4-218, C.R.S.⁴ Any fees not specifically excluded from the purchase price are generally subject to tax.

Franchise fees are imposed by municipalities on utility companies for the utility company’s use of alleys, streets, and rights-of-way. The municipality determines the amount of the fee, usually a percent of the utility’s gross revenues. The utility company may pass that fee on to customers

¹ Section 39-26-104(1)(d.1); section 39-26-715, C.R.S.

² Section 39-26-104(1)(a), C.R.S.

³ Section 39-26-102(7)(a), C.R.S.

⁴ *Id.*

located within the service boundaries of that municipality. As franchise fees are not among the list of fees excluded from the purchase price, franchise fees are subject to state sales tax as part of the purchase price.

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 for more information about state and local sales taxes.

Thank you for your request.

Sincerely,

Office of Tax Policy
Colorado Department of Revenue