

STATE OF COLORADO

DEPARTMENT OF REVENUE
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GIL-2007-3

Bill Ritter, Jr.
Governor

Roxy Huber
Executive Director

XXXXXXXXXXXXXXXXXX
Attn: XXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

December 4, 2007

Re: remediation services

Dear XXXXXXXXXXXX,

This letter is in response to your letter to the Colorado Department of Revenue, dated June 7, 2007, re: sales tax liability of crime scene property remediation work. We apologize for the time it has taken to respond to your inquiry.

Issues

Is the company's crime scene remediation work taxable in Colorado?

Background

You represent a foreign corporation which specializes in crime scene property remediation work. Specifically, the corporation remediates property that has become contaminated with blood or other biohazardous substances. The company performs a number of tasks, including: chemical wipe down of walls, etc.; removal of flooring; and thermo-fogging of property to remove odors caused by the contamination.

Discussion

You state that you do not believe that the company is subject to Colorado sales tax because: (1) the company provides a non-taxable service, (2) the company does not sell at wholesale or retail any tangible personal property, and (3) the property used by the company are purchased in [State] and [State] sales tax is paid on those purchases..

To determine whether a company is providing a service during which tangible personal property is conveyed to the customer, or selling tangible personal property that is subject to sales tax, the Department will look whether the "true object" of the transaction is primarily a service or primarily the sale of tangible personal property. See Special Regulation 40 (Service Enterprises). For example, a contractor who purchases tangible personal property and incorporates it into a building is considered to be providing the service of construction and is considered the consumer of the building material, even though the building material is ultimately conveyed to the property owner. See Special Regulation 10 (Contractors).

Based on the limited facts set forth in your letter, it appears that the true object of the company's business is the provisioning of a service that is not subject to sales tax, even though some tangible personal property (flooring) is conveyed to the customer. The company is the consumer of the tangible personal property (e.g., chemicals, building materials, equipment) used in the performance of its services.

The company will be liable for Colorado use tax for tangible personal property it uses, stores, or consumes in Colorado. Specifically, §39-26-204(1)(a), C.R.S. provides:

Every person subject to the provisions of this part 2 who uses, stores, or consumes tangible personal property in the conduct of a business in this state, which property is purchased either inside or outside this state, and who has not paid the sales or use tax imposed by this article to a retailer shall make a return and remit the tax imposed by this part 2 to the executive director of the department of revenue for the preceding period covered by the remittance on forms prescribed by him, showing in detail the tangible personal property stored, used, or consumed by said person in the conduct of his business within the state in the preceding period covered by the remittance and on which property the said sales or use tax has not been paid. Every person subject to the provisions of this part 2 shall maintain monthly records of the amount of tax due. At such time as the cumulative tax due at the end of any month is in excess of three hundred dollars, such person shall make a return and remit the tax due before the twentieth day of the following month. If the total tax due in a calendar year is less than three hundred dollars, such person shall make a single return and remittance for such calendar year before January 20 of the following calendar year.

The company is entitled to a credit against this use tax liability in an amount equal to the [State] sales tax. §24-60-1301, C.R.S.

Please note that there are a number of cities, counties, and special districts that impose both sales and use tax. The department administers the sales taxes of state-administered cities, counties, and special districts. Sales and use taxes of home-rule cities and counties are not administered by the department. In addition, use taxes levied by state-administered cities and counties are not administered by the department. You should contact these jurisdictions for more information about their use taxes. The department does administer both the sale and use taxes of special districts. For a list of all cities, counties, home-rule cities and counties, and special districts, see department's publication DR 1002. You can view and download this publication at: www.revenue.state.co.us (go to Taxation > Forms > Businesses > Sales Tax).

Finally, the Department makes a good faith effort to provide accurate and complete answers to questions posed to it by taxpayers. However, the information and answers provided here are not binding on the Colorado Department of Revenue, nor do they replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having authority to bind the Department, has not formally reviewed and/or approved this response.

Respectfully,

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