

# STATE OF COLORADO



**DEPARTMENT OF REVENUE**  
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GIL-2007-20

Bill Ritter, Jr.  
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Executive Director

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December 4, 2007

Re: Taxability of commercial furniture dealership

Dear XXXXXXXXXXXXX:

This letter is in response to your letter to the Colorado Department of Revenue, dated September 7, 2007 re: taxability of furniture dealership. We apologize for the time it has taken to respond to your inquiry.

## Issues

Are the services and goods taxable in Colorado under the circumstances described below?

## Background

Your company sells and installs products in Colorado. Your business operations include a variety of services. You ask what services are taxable under a variety of circumstances, outlined below.

## Discussion

Colorado levies sales tax on the sale of tangible personal property. §39-26-104(1)(a), C.R.S. Services, in general, are not subject to sales or use tax. However, the consideration paid for services that are inseparable from the sale of the goods is included in the calculation of the sales or use tax. §39-26-102(12), C.R.S. *A.D. Stores v Department of Revenue*, 19 P3d 680 (Colo. 2001).

It is not clear whether your client custom builds product and then installs the product or your client purchases pre-fabricated product and installs the product. The taxability of such sales and services are explained in detail in the Department's Special Regulation 10 (Contractors). You can view and download this special regulation by visiting our web site at:

[www.revenue.state.co.us/taxstatutesregs/3926regSR10Contractors.html](http://www.revenue.state.co.us/taxstatutesregs/3926regSR10Contractors.html)

You list several services and ask if tax applies. The responses below are premised on the assumption that your client is a retailer, not a contractor. See Special Regulation 10, above, for a full discussion of this distinction. Please also consider FYI Sale 82 regarding credit for taxes paid to another state.

Resells furniture products – Dealership must collect tax if this is a sale to the end user. No tax applies if this is a sale for resale to another retailer.

Receives products at warehouse, which are then delivered and installed – See Special Regulation 10 regarding taxability of installation. Delivery charges are presumably not taxable, unless they are separable and separately stated on the invoice. In determining whether a delivery charge is separable from the purchase of the property, the department will consider, among other things, whether the buyer has a realistic option to purchase the product without using the lessor to provide the transportation service (e.g., buyer has the option of hiring a third-party to transport the property).

Unloads and installs products that were shipped directly from manufacturer to the project site – Same as 2, above.

Labor to reconfigure or dismantle previously installed products – not taxable, unless the service is not optional or not separately stated on the invoice.

Labor to repair, refinish and reupholster products – if the dealership owns the product and sells the repaired, refinished or reupholstered product, then the tax applies to both the product and labor costs for repairing, refinishing, or reupholstering. If the client owns the product, then the labor costs are not taxable. See, FYI Sales 54. (Special Regulation 42 re: Upholsterers).  
[www.revenue.state.co.us/taxstatutesregs/3926regSR42Upholsterers.html](http://www.revenue.state.co.us/taxstatutesregs/3926regSR42Upholsterers.html)

Storage of client's products – costs incurred by retailer as part of the sale of a product are included in the purchase price and are taxable, unless the cost is separable and separately stated on the invoice. In determining whether a cost is separable, the department will consider, among other things, whether the service is offered after the sale occurs and whether the buyer has a realistic option to acquire the product without the service.

Freight in bound to an installer's warehouse or direct to a client's site – Freight in charges are generally taxable. See, Special Regulation 18 ("Intermediate or 'Freight in' charges. Transportation charges incurred in connection with transporting tangible personal property from the place of production or the manufacturer to the seller or to the seller's agent or representative, or to anyone else acting in the seller's behalf, either directly or through a chain of wholesalers or jobbers or other middlemen, are deemed "freight -in" charges and are not a transportation charge exempt from tax.").

Provides design and space planning – Same as 6, above.

Prepares design drawings for installers – Same as 6, above.

Provides on site project manger to coordinate and direct installation – Same as 6, above.

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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