

STATE OF COLORADO

DEPARTMENT OF REVENUE
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Bill Ritter, Jr.
Governor

Roxanne Huber
Executive Director

GIL-2009-007

May 13, 2009

XXXXXXXXXXXXXX
Attn: XXXXXXXXX
XXXXXXXXXXXXXX
XXXXXXXXXXXXXX

Re: Taxability of room accommodations/exempt entities

Dear XXXXXXXXXX,

This letter is in response to your request for guidance on the taxability of living accommodations furnished to a church group. I apologize for the delay in responding to your request.

The Department issues two types of written guidance: general information letters and private letter rulings. A general information letter provides a general overview of the applicable tax law and is not binding on the department. A private letter ruling is a determination of the applicability of tax to a specific set of circumstances and is binding in the department. A party requesting a private letter ruling must provide certain information and remit a fee. For more information about general information letters and private letter rulings, please refer to the Department's regulation 24-35-103.5, C.R.S., which is available on our web site at: www.colorado.gov/revenue/tax.

We will initially treat your request as one for a general information letter. You may resubmit this request for a private letter ruling.

Issue

Are living accommodations of less than 30-days provided to a church group on a skiing trip exempt from sales tax?

Background

You provide the following information. Your company rents condominiums to a church group from another state. The members of the church who are renting the condominiums are a youth group and are skiing and holding meetings in the evening.

Discussion

Colorado imposes sales tax on the furnishing of rooms or accommodations for less than thirty consecutive days. §§39-26-104(1)(f), 102(11), 704, and department regulation (39)26-102.11. However, all sales to a charitable organization, including churches, are exempt when the sale is "in the conduct of their regular charitable functions and activities." §39-26-718(1)(a), C.R.S. The department has a number of publications available to retailers. For example, Department FYI Sales 1, address the taxability of lodging furnished to churches. In part, it states,

For example, a church that has tax-exempt status would have to pay applicable sales and lodging taxes to a hotel or motel if church members are on a ski vacation, even if the lodging services are paid with a church check. If, however, the church members are attending a religious seminar, the lodging would be tax exempt if paid with a church check or credit card bearing the church's name, and individuals are not reimbursing the church. See *Security Life & Accident Co. v. Temple*, 492 P.2d 63 (Colo. 1972) and *Colorado Department of Revenue v. City of Aurora*, 32 P.3d 590 (Colo. App. 2001).

Exemptions from taxation are generally narrowly interpreted. In general, the department will critically examine claims for exemption where the primary activity is not directly related to the exempt entity's principal charitable function. In cases where it is unclear whether tax should be collected, the retailer should collect the tax and the lodger should submit a claim for refund (Form 0137). You should also be aware that, in order to qualify as an exempt purchase when the price is more than \$100, the buyer must pay with the charitable organization's own check or credit card, and not with cash or personal check or personal credit card. See, FYI Sales 1.

Miscellaneous

Pursuant to state law and department regulation 24-35-103.5, the Department will make public a redacted version of this letter. Your letter requesting this general information letter is not made public. I enclose a proposed redacted version of this letter. Please contact me within 60 days from the date of this letter if you have any questions, comments, or objection concerning the redacted letter.

We hope this is helpful. As noted earlier, you may request a private letter ruling which will provide a determination regarding your specific circumstances.

Sincerely,

Neil L. Tillquist
Colorado Department of Revenue