

STATE OF COLORADO

DEPARTMENT OF REVENUE
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Bill Ritter, Jr.
Governor

Roxanne Huber
Executive Director

GIL-2009-006

January 15, 2009

XXXXXXXXXXXXXXXXXX
Attn: XXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Re: Inspection fee

Dear XXXXXXXXX,

This letter is in response to your request for guidance on the taxability of meter reading fee. 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

Is a fee for reading meters located on propane tanks subject to sales tax?

Background

You provide the following information. Your company sells propane fuel to both residential and commercial customers. Some of the installations have a meter on the tank. The company is considering charging a fee to go to their premises and read the meter. The fee will be separately stated on the invoice.

Discussion

Colorado levies sales and use tax on gas service for commercial consumption. 39-26-104(1)(d.1), C.R.S. Colorado exempts from such taxes the sale, use, storage or

consumption of natural gas, including propane, used for residential purposes.¹ Tax is calculated on the purchase price paid by the consumer. §39-26-104(1)(a), C.R.S. In some instances, a retailer will provide services (which are not otherwise taxable) in connection with the sale of taxable goods. Services that are “separable” from the sale of the taxable product are not included in the calculation of sales tax. See, *AD Stores v Department of Revenue*, 19 P3d 680 (Colo. 2001). It is not always easy to determine whether a service is “separable,” but the department will generally ask whether the consumer has a realistic alternative to forgo the service or to obtain the service from another party. For example, the cost to a utility for reading gas meters as part of its taxable natural gas service is typically recovered in the price charged for natural gas service. The utility generally cannot avoid tax on this cost or other overhead costs by separately charging fees for such costs. In any event, tax is not due on the meter reading fee if the sale of gas is exempt from tax (as in the case of sales for residential purposes).

The department generally does not provide in general information letters a determination regarding specific factual scenarios. Moreover, there is insufficient information to determine whether the fee charged by the company is separable. As noted above, you may request a private letter ruling in which we will provide a binding determination regarding the specific circumstances of your company.

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
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Tele: (303)866-5627
Email: ntillquist@spike.dor.state.co.us

¹ Colorado exempts “all sales and purchase of ...gas ..., but not for resale, to occupants of residences, whether owned, leased, or rented by said occupants, for the purpose of operating residential fixtures and appliances that provide light, hear, and power for such residences...” 39-26-715(1)(a)(II) and (2)(c), C.R.S.