

STATE OF COLORADO

DEPARTMENT OF REVENUE

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Bill Ritter, Jr.
Governor

Roxanne Huber
Executive Director

GIL-2008-29

October 23, 2008

XXXXXXXXXX
Attn: XXXXXXXX
XXXXXXXXXX
XXXXXXXXXX

Re: Leased property

Dear XXXXXXXX,

This letter is in response to your letter of August 22, 2008 to the Colorado Department of Revenue. I apologize that it has taken so long to reply to your request. The department recently acquired the staff needed to respond to these types of requests. The department also recently enacted a regulation governing requests for tax advice. We issue both private letter rulings and general information letters. See, §24-35-103.5, C.R.S. and Department regulation 24-35-103.5. Private letter rulings are issued in response to tax questions relating to specific factual settings and are binding on the department. General information letters are issued in response to general tax questions and are not binding on the department. You can view this regulation on-line at:

<http://www.revenue.state.co.us/taxstatutesregs/3921reg24-35-103.5.html>

I am initially treating your request as a request for a general information letter. As noted above, general information letters are general discussions of tax law and do not fully develop the tax treatment of any set of facts. If you would like a private letter ruling, please take a moment to review the regulation and resubmit your request with the necessary information.

Issue

1. Do city and county sales taxes or special district use taxes apply to tangible personal property and motor vehicles delivered by an out-of-state retailer, which has no business location in Colorado, to a customer within a state-collected city or county?

2. What are the sales tax consequences of leased tangible personal property and leased motor vehicles that move among states?

Background

You set forth three factual scenarios and their tax consequences regarding state and local taxes on leases by a company that does not have a business location in Colorado.

3. **Tangible Personal Property.** Assume Company A obtains permission from the Department to collect retailer's use tax on the lease of motor vehicles and tangible personal property. The lease for tangible personal property is executed in Colorado. Only Colorado's retailer's use tax and applicable special district use taxes are collected. Local sales taxes are not collected.
4. **Motor Vehicles.** The lease for the motor vehicle is executed in Colorado and Lessor and Lessee are located in the same local jurisdiction. Lessor collects the local use taxes. Lessee subsequently moves to a different local jurisdiction within Colorado. Lessor does not collect local taxes of new local jurisdiction. Lessee pays use tax, if any of the new local jurisdiction when it titles the vehicle in the new local jurisdiction.
5. **Tangible Personal Property and Motor Vehicles That Move Among States.** Same assumptions as Scenario No. 1. Lessee subsequently moves the property out-of-state. Lessor continues to collect Colorado's retailer's use tax to the extent that the use tax rate, if any, of the new state does not exceed the Colorado tax rate.

Discussion

Colorado FYI Sales 56 sets forth the Department's current approach to the tax consequences of leased tangible personal property and motor vehicles in each of the three scenarios you describe. I should also note that the department is evaluating FYI Sales 56 and may make such modifications as it determines are consistent with state law.

Pursuant to state law and department regulation 24-35-103.5, noted above, 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. I hope this is helpful. Please feel free to contact me if you have any questions.

Sincerely,

Neil L. Tillquist
Colorado Department of Revenue