

STATE OF COLORADO

DEPARTMENT OF REVENUE
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John Hickenlooper
Governor

Roxanne Huber
Executive Director

GIL-11-010

June 1, 2011

XXXXXXXXXXXXXXXXXX
ATTN: XXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Re: Taxability of Liquor-filled Candy

Dear XXXXXXXXXXXX,

You submitted on behalf of XXXXXXXXXXXX ("Company") a request for guidance on the application of sales tax on liquor-filled candies. The department issues general information letters and private letter rulings. A general information letter provides a general overview of the relevant tax issues and is not binding on the department. A private letter ruling provides a specific determination for a specific set of facts, is binding on the department but not the taxpayer, and requires payment of a fee. For more information about general information letters and private letter rulings, please see Department regulation 24-35-103.5 at www.taxcolorado.org > FYI/Publication > Rulings.

The department initially treats your request as one of a general information letter. If you would like the department to issue a private letter ruling on the issues you raise, you can resubmit a request and fee in compliance with regulation 24-35-103.5. It is important to remember that general information letters, such as this one, are general discussions of tax law and are not a determination of the tax consequence of any particular action or inaction.

Issue

Does Colorado sales tax apply to liquor-filled candies?

Background

Company operates retail stores in Colorado and sells, among other things, liquor-filled candies.

Discussion

Colorado exempts from state sales and use tax the sale of food for domestic home consumption. In order to qualify for this exemption, the food product must qualify as "food" in 7 U.S.C §2012(g) (federal food stamp program) and (Women, Infants, and Children program). See, §39-26-102(4.5), C.R.S. Liquor-filled candy does not qualify as food under these federal programs and, therefore, does not qualify as exempt food for state sales and use taxes and state-administered local sales tax purposes.

Miscellaneous

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