

STATE OF COLORADO

DEPARTMENT OF REVENUE

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Bill Ritter, Jr.
Governor

Roxanne Huber
Executive Director

GIL-2009-030

June 30, 2009

XXXXXXXXXXXXXXXXXX.
Attn: XXXXXXXXXXXXX
Emailed to: XXXXXXXX

Re: taxability of VOIP

Dear XXXXXXXXXXXXX,

You request guidance regarding whether Voice over Internet Protocol ("VoIP") is subject to sales tax. The Department issues general information letters and private letter rulings. A general information letter provides a general overview of the applicable tax law, does not provide a specific determination, 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.

I will treat your request as one for a general information letter because the request does not contain the information necessary for a private letter ruling. You may resubmit this request as a request for a private letter ruling.

Issue

Are charges for VoIP subject to sales tax?

Discussion

VoIP is a service that enables subscribers to send and receive telephone messages using the internet. Voice messages are converted into a "packetized data" format delivered over a data network such as the public Internet or a privately operated IP network and reassembled into a voice message at the destination.

Colorado imposes sales tax on the sale of telecommunications services. §39-22-

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104(c)(l), C.R.S. Specifically, this tax is levied on “telephone ... services, whether furnished by public or private corporations or enterprises for all intrastate telephone ... services.” Telecommunications is broadly construed. Department regulation (39)26-104.1(c)(l)(a) defines telecommunications to include, but is not limited to,

On or after August 1, 2002, all telephone and telegraph services except those services defined as mobile telecommunications services under 4 United States Code section 124(7), which are intrastate telephone and telegraph service are subject to the tax imposed by C.R.S. 39-26-106, whether furnished by public, private, mutual, cooperative, or governmental corporations or agencies. The term “service” includes but is not limited to additional listings, joint-user service, non-talking circuits, leased circuits and facilities, local exchange service (whether on a flat or measured basis), information charges, service connection charges, and any other charges assessed or passed on to the consumer with the exception of charges for installation or repair which are taxed according to the Special Regulation on Contractors. Telephone service is taxable whether either local or toll calls are made or telegrams are sent from telephone pay stations.

VoIP and telephone service provided over a traditional switched network are functionally the same service. We are aware that there is some argument that VoIP does not constitute intrastate service because a VoIP provider may route a VoIP call that originates and terminates in Colorado over a circuit that may leave and re-enter the state. Intrastate telecommunication is typically understood and defined by considering where the call originates and where it terminates. The route by which the provider chooses to provide the call does not determine whether the call is an intrastate call.

Miscellaneous

Enclosed is a redacted version of this ruling. Pursuant to statute and regulation, this redacted version of the ruling will be made public within 60 days of the date of this letter. Please let me know in writing within that 60 day period whether you have any suggestions or concerns about this redacted version of the ruling.

Sincerely,

Neil L. Tillquist
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