



COLORADO
Department of Revenue

Taxation Division
Office of Tax Policy Analysis
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GIL 21-003

June 28, 2021

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Re: Prefabricated Housing Manufactured Outside Colorado

Dear XXXXXXXXXXXX:

You submitted a request for a general information letter regarding sales tax collection on the sale of prefabricated housing by your company, XXXXXXXXXXXX (“Company”). The Colorado Department of Revenue (“Department”) issues general information letters and private letter rulings. A general information letter provides a general overview of the relevant tax issues, but 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, and requires payment of a fee. For more information about general information letters and private letter rulings, please see 1 CCR 201-1, Rule 24-35-103.5.

Issue

Is Company required to collect sales tax on the sale of prefabricated housing manufactured outside of Colorado if it does not have an office, distribution facility, salesroom, warehouse, storage place or other similar place of business in Colorado and customers arrange for their own third-party shipping?

Discussion

Every retailer doing business in Colorado is responsible for the collection and payment of state and state-administered local sales tax for all retail sales made in Colorado.¹ A retailer is “doing business in Colorado” if the retailer sells, leases, or delivers tangible personal property into Colorado and has the requisite economic nexus.² A retailer has economic nexus with Colorado for the entire calendar year if the retailer made more than \$100,000 in retail sales in Colorado in the preceding calendar year.³

A retail sale is considered to be made in Colorado if it is sourced to Colorado in accordance with Colorado law.⁴ A retail sale is generally sourced to the location where the purchaser receives the property.⁵ The term “receive” does not include possession by a shipping company on behalf of the

¹ Sections 39-26-105(1)(a) and 39-26-106(2), C.R.S.

² Section 39-26-102(3)(c), C.R.S. A retailer is also doing business in Colorado if the retailer transacts business by maintaining in Colorado, directly or indirectly, or by a subsidiary, an office, distribution facility, salesroom, warehouse, storage place, or other similar place of business, including the employment of a Colorado resident who works from a home office in Colorado. *Id.* at (3)(a).

³ Section 39-26-102(3)(c), C.R.S.; *see also* 1 CCR 201-4, Rule 39-26-102(3). A retailer also has economic nexus with Colorado on and after the first day of the month after the 90th day the retailer has made in excess of \$100,000 in retail sales in Colorado regardless of the prior year’s sales. Section 39-26-102(3)(c)(I)(B), C.R.S.

⁴ Section 39-26-104(3), C.R.S.

⁵ *See* section 39-26-104(3)(a), C.R.S.

purchaser.⁶ If the property is delivered to the purchaser at a location other than the seller's business location, the sale is sourced to the location the purchaser receives the purchased property.⁷

Colorado statute details the application of sale and use tax to prefabricated housing.⁸ The statute exempts 48% of the purchase price of prefabricated housing from state sales tax.⁹ Any subsequent sale is fully exempt from state use tax.¹⁰ These exemptions also apply to state-administered local sales taxes.¹¹

Miscellaneous

This letter represents the good faith opinion of Department personnel who are knowledgeable on state taxes issues. However, the Department does not make a specific determination on any of the issues raised and the Department is not bound by this general information letter.

The Department administers state and state-administered local sales and use taxes. This letter does not address sales and use taxes administered by self-collected home-rule cities. You may wish to consult with those local governments that administer their own sales or use taxes about the applicability of those taxes. Visit our website at tax.colorado.gov for more information about state and local sales taxes.

Sincerely,

Office of Tax Policy Analysis
Colorado Department of Revenue

⁶ Section 39-26-104(3)(a) and (d)(II), C.R.S.

⁷ Section 39-26-104(3)(a)(II) and (d)(II), C.R.S.

⁸ Sections 39-26-721 and 39-26-208, C.R.S.

⁹ Section 39-26-721(1), C.R.S.

¹⁰ Section 39-26-721(2), C.R.S.

¹¹ See section 29-2-105(1)(d), C.R.S. (listing the exemptions from state sales tax that are subject to local option at the city and county level).