



COLORADO
Department of Revenue

Taxation Division

Office of Tax Policy
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GIL 22-002

April 14, 2022

XXXXXXXXXXXXX

Via Electronic Mail: XXXXXXXXXXXXX

Re: Posting total, "out-the-door" prices that include sales tax

Dear XXXXXXXXXXXXX:

You submitted a request for a general information letter regarding whether a vendor is allowed to post total, "out-the-door" prices that include sales tax in a store or on marketing materials. 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

Whether a retailer is allowed to post total, "out-the-door" prices that include the sales tax on marketing materials or on signage in the store, if the retailer provides a receipt with each sale that shows the purchase price and the applicable tax imposed as separate and distinct items.

Discussion

Colorado imposes a sales tax on retail sales of tangible personal property and certain services.¹ The consumer is required to pay the sales tax, and the retailer is required to collect it.² The retailer is liable to the Department for all sales tax collected and for any tax not collected.³ If sales tax is collected in error, the consumer has a right to claim a refund from the Department.⁴

With respect to statements made by retailers to consumers regarding sales tax, Colorado imposes two obligations on retailers, one affirmative and one negative. First, statute provides that the retailer is required to add the tax imposed to the purchase price, showing the tax as a separate and distinct item.⁵ The Department's rule clarifies that if the retailer issues the consumer a receipt, invoice, or other document setting forth the purchase price, the retailer must separately state the sales tax or retailer's use tax on the document.⁶ If the retailer does not issue such a document,

¹ Section 39-26-104(1), C.R.S.

² Section 39-26-106(2)(a), C.R.S. and *J.A. Tobin Constr. Co. v. Weed*, 407 P.2d 350 (Colo. 1965).

³ Sections 39-26-105(1)(a)(I)(A), 39-26-115, 39-26-118, C.R.S.

⁴ Section 39-26-703(2)(c.5), C.R.S.

⁵ Section 39-26-106(2)(a), C.R.S..

⁶ 1 CCR 201-4, Rule 39-26-106-1 (1).

then the retailer must disclose the tax of each item on signage clearly visible to the purchaser.⁷ Merely stating the tax rate on a document is not sufficient.⁸

Second, a retailer may not, directly or indirectly, advertise to the public or to a consumer that the retailer will assume or absorb sales tax, that the retailer will not add sales tax to the purchase price, or, if added, that the retailer will refund the sales tax.⁹ Both obligations must be met, and meeting one obligation does not permit a retailer to avoid the second.

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.

Thank you for your request.

Sincerely,

Office of Tax Policy
Colorado Department of Revenue

⁷ 1 CCR 201-4, Rule 39-26-106-1 (1).

⁸ 1 CCR 201-4, Rule 39-26-106-1 (1).

⁹ Section 39-26-108, C.R.S. Whether any particular marketing material or signage violates this requirement would require the analysis of all relevant facts. which cannot be done in a general information letter.