



This Week in State Tax (TWIST)

29th January 2024



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Colorado: Delivery fee not subject to sales tax

The Colorado Department of Revenue recently released a private letter ruling addressing the taxability of a separately stated delivery fee charged by an online retailer of motor vehicles. The fee at issue was charged to deliver the vehicle to the customer's chosen location. In lieu of paying the fee, customers could opt to pick up their vehicles at one of the taxpayer's pick-up locations. Many customers opted to do so. The taxpayer requested a ruling as to whether the delivery fee was subject to state sales tax. Under Colorado law, transportation of goods between a retailer and a purchaser is generally not subject to sales tax if (1) the service is separable from the sales transaction and (2) the charge for the service is stated separately on a written invoice or contract. A service is generally "separable" when the nature of the service remains the same whether contracted for at the time of purchase or later, and when the service can be contracted for at the initial purchase or at a later time. Charges for transportation services are separable from the sales transaction if the services are performed after the taxable property or service is offered for sale, and the seller allows the purchaser the option to use either the seller's transportation services or alternative transportation services. The Department concluded that the delivery fee at issue was separable from the sale of the motor vehicle because delivery was performed after the taxable property was offered for sale and was optional. Second, the fee was clearly separately identified in the written retail purchase agreement issued in connection with the car sale. Because the delivery service was separable and the charge for the delivery service was separately stated, the fee was not subject to state sales tax. Please contact Steve Metz with questions on PLR 23-007.

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