

Sales/Use/Indirect:

Colorado: Online Marketplace's Subscription-Based Membership Fees for Free Delivery Services are Not Taxable

Private Letter Ruling PLR-23-006, Colo. Dept. of Rev. (12/1/23). In a recently posted private letter ruling, the Colorado Department of Revenue (Department) held that based on the provided facts involving an online marketplace that connects purchasers with third-party retailers that sell goods and independent third parties that provide delivery and related services, the fee that the online marketplace charges for a subscription-based membership is *not* subject to Colorado sales or use tax. Under the facts, the primary benefit of the subscription-based membership is to provide the purchaser with free delivery on future orders that meet specific conditions. Moreover, the nature of the delivery and other services provided in exchange for the membership remained the same whether contracted for at the time of purchase or at a later date, and the services could be contracted for at the time of the customer's initial purchase or at a later time. Under these facts, the Department reasoned that because the membership is invoiced separately on either a monthly or yearly basis, the fee for the membership is both separable and separately stated and is not an enumerated taxable service subject to Colorado sales or use tax. Please contact us with any questions.

URL: <https://tax.colorado.gov/sites/tax/files/documents/PLR-23-006.pdf>

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