DEPARTMENT OF REVENUE

**Taxation Division**

**SALES AND USE TAX**

**1 CCR 201-4**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Rule 39-26-102(15). Tangible Personal Property.

**Basis and Purpose.** The statutory bases for this rule are sections 39-21-112(1), 39-26-102(15), and 39-26-122, C.R.S. The purpose of this rule is to provide clarification on the definition of tangible personal property.

(1) Tangible personal property embraces all goods, wares, merchandise, products and commodities, and all tangible or corporeal things and substances which are dealt in, capable of being possessed and exchanged, except newspapers excluded by the law.

(2) Tangible personal property does not include:

(a) Real property, such as land and buildings, nor tangible personal property that loses its identity when it becomes an integral and inseparable part of the realty, and is removable only with substantial damage to the premises. Property severed from real estate becomes tangible personal property.

(b) Intangible personal property constituting mere rights of action and having no intrinsic value, such as contracts, deeds, mortgages, stocks, bonds, certificates of deposit or membership, or uncancelled United States postage or revenue stamps sold for postage or revenue purposes.

(c) Water in pipes, conduits, ditches or reservoirs, but does include water in bottles, wagons, tanks or other containers.

(3) An advertising supplement included in a newspaper is considered part of the newspaper and is exempt. See Special Rule 32 Newspapers, Magazines and Other Publications.

(4) The method of delivery does not impact the taxability of a sale of tangible personal property. Examples of methods used to deliver tangible personal property under current technology include, but are not limited to, the following: compact disc, electronic download, and internet streaming.

(a) Example 1: Purchaser buys a movie on a VHS tape. Sales tax is due on the purchase price of the movie.

(b) Example 2: Purchaser buys a movie on a compact disc. Sales tax is due on the purchase price of the movie.

(c) Example 3: Purchaser buys a movie through the internet, and then downloads the movie to the purchaser’s computer. Sales tax is due on the purchase price of the movie.

(d) Example 4: Purchaser buys a movie, which purchaser accesses through an internet browser. Purchaser does not save a copy of the movie to purchaser’s computer. Sales tax is due on the purchase price of the movie.

(5) The purchase of a subscription that provides the purchaser with access to any tangible personal property that can be streamed, downloaded, or delivered by any other method constitutes a sale of tangible personal property. The purchase price paid for a periodic subscription is subject to tax if the property accessed or received via the subscription is subject to tax. Each periodic payment is a separate sale.

(a) Example 5: Purchaser pays a monthly fee, which allows purchaser to stream movies and television shows from a library of available titles. Sales tax is due on the monthly fee.