



Private Letter Ruling No. 03-004

Redacted Version

Taxability of DSL Services

April 4, 2003

This private letter ruling involves a determination whether charges for DSL Services, which provide a high-speed connection to the Internet, are subject to the Louisiana sales and use tax. The facts of the case are presented below.

Facts

Company offers its customers a DSL-based high-speed Internet access service. Customers who subscribe to this service pay a monthly fee and in return, receive unlimited Internet access, personal web page space, e-mail accounts, a customizable start page, access to newsgroups and Internet tools. While Company sells DSL transport service to third-party Internet service providers and other customers, this ruling request only addresses Company's use of DSL technology to provide high speed Internet access to end users.

The DSL technology allows telephone signals, which are traditionally used for voice and data transmission, and high-speed signals (used for Internet access and other high speed applications) to be transmitted over existing copper-wire telephone lines. The same lines transmit normal and high-speed signals by transmitting the normal signals at a lower frequency and the high-speed signals at a higher frequency. Thus, through the frequency differential, the high-speed channel is separated from the low-speed channel. This high-speed DSL channel is capable of several uses, but customers purchasing Company's DSL Internet access are only able to utilize this channel for Internet access. Customers purchasing DSL Internet access are only purchasing Internet access and are not purchasing voice communication services. Charges for DSL Internet access are separate from those for voice communication services.

In order for customers to utilize the DSL technology, the signal from the customer's home must be converted to a higher frequency by a DSL modem located at the customer's premises. High-speed signals originating in the customer's home are transmitted to the appropriate Company central office where a piece of equipment called a "splitter" separates the normal and high-speed signals traveling over the line from the customer's premises. The low frequency signals are directed to the public switched telephone network while the high frequency signals are directed to the packet switch and then to Company's Internet routers.

This method of accessing the DSL Internet service varies from "dial-up" or narrowband Internet access. In narrowband Internet access, the digital data signals from the customer's computer are converted to analog signals through a conventional modem. The converted analog signals travel over the public switched network to another modem at the ISP's point of presence. This is the same manner that a conventional telephone call using the normal lower frequency channels functions. Thus, in this "dial-up" or narrowband Internet access, the customer's modem establishes a connection with the ISP's modem by "dialing" its telephone number. The ISP's

modem then converts the analog signals back into digital signals, which are then directed to the Internet.

Issue

Are Company's charges for DSL Internet access service subject to the Louisiana sales and use tax?

Ruling

Digital Subscriber Line "DSL" is a broadband service that uses existing phone lines to send high-speed signals. Company utilizes this DSL technology to provide consumer end users access to the Internet at speeds that are much faster than the traditional "dial-in" or analog connection. Customers subscribing to this service retain their traditional local telephone service for voice communications and pay an additional charge, which is separate from their home telephone bill, to utilize DSL's high-speed signals to reach the Internet through Company's server or router.

Prior to the development and widespread marketing of broadband technologies, such as DSL, telephone lines and computer-telephone modems were the traditional mediums through which a connection to the Internet was accomplished. In that scenario, two separate events were necessary in order for a consumer to access the Internet. First, a subscription had to be paid to an Internet service provider for Internet access services, which, beginning October 1, 1998, became exempt from state taxation under the provisions of the Internet Tax Freedom Act. Second, the consumer had to obtain a telephone connection to enable the Internet connection. This local telephone service was subject to taxation in Louisiana as a sale of a telecommunication service.

In the case of this DSL Internet service, Company has combined the physical connection to the Internet with its own Internet access service into one transaction. This results in an appealing product that allows customers high-speed access to the Internet. A customer subscribing to this service only receives Internet access. Thus, the essence of this transaction is an "Internet access service," a transaction protected from state sales and use taxation by the Internet Tax Freedom Act ("ITFA"), Pub. L. No. 105-277.¹

Section 1101(e)(3)(D) of ITFA defines "Internet access service" as, "...a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers..." Because Company's DSL Internet access is a service that only allows customers the ability to be routed to the Internet through Company's server or router, these charges are properly included in the category of "Internet access services," the sales taxation of which is prohibited by ITFA.

¹ In November 2001, Congress enacted the Internet Tax Nondiscrimination Act, H.R. 1552, 107th Cong., 1st Sess. (2001), which retroactively extended ITFA from October 1, 1998, to November 1, 2003.

As noted above, this ruling only addresses those instances where DSL technology is offered to consumer end users for accessing the Internet. Other applications of digital subscriber line service may result in a different analysis and conclusion.

Summary

Company's DSL Internet access charges are not subject to the Louisiana sales and use tax. These access charges are for "Internet access service" as that term has been defined in ITFA. Because Company's DSL Internet access service falls within the ITFA definition of "Internet access," the State of Louisiana cannot impose its sales and use tax on this service.

If you have any questions or need additional information, please contact the Policy Services Division at (225) 219-2780.

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Secretary

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