**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-55** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Internet access charges.** |
| **Keywords:** |  |
| **Approval Date:** | **01/15/1999** |

**Body:**

Office of Policy & Research
January 15, 1999

X X X X
X X X X
X X X X

RE: Your letter of December 22, 1998

Dear X X X X:

I have been asked to answer your letter that we received last month. Your company provides
telephone services to customers located in rural Kansas and in small Kansas towns. Your
telephone company bills internet services to your telephone customers. These services are
performed by another company that provides internet access services. You divide these receipts
with the internet access provider. This arrangement allows you to be reimbursed for your taxable
intrastate long distance costs and the internet provider to be reimbursed for their non-taxable
services. One of your customers has complained that internet access charges are not subject to
Kansas sales tax. You ask whether you should be collecting sales tax on these charges.

Internet access charges are not subject to sales tax. Kansas sales tax law has never enumerated
internet access services as being a taxable service. Recent federal legislation prohibits any new
state taxes on internet access. However, telephone transmission related services that are billed to
internet service providers are subject to Kansas sales tax. See K.S.A. 79-3603(b). These
services often include dedicated telephone numbers and connections that are paid for by the
internet provider rather than the internet user. These telephone services link the internet user to
the internet access providers' equipment and are subject to sales tax just like any other telephone
service.

Telephone calls sometimes allow the internet users to access internet service providers at
distance locations. These calls are charged to the consumer and taxed just like any other long
distance call. These telephone charges are not exempted by federal law or Kansas law.

In your case, you act as a collection agent for the internet provider and bill your customers a
single, bundled charge that provides compensation to you for the cost of the telephone services
and compensation to the internet access provider for the non-taxable internet access services.
Because these charges are bundled and the telephone services are an incidental part of the
internet services, it is inappropriate for you to charge your customers sales tax on lump sum
amount. Charging tax on these bundled charges means that you are billing customers sales tax on
services that should not be taxed.

You have a number of options for correctly remitting the tax that is due on the telephone portion
of the bundled charge. One is to unbundle the charges and bill your customers separately for the
internet access services and for the intrastate telephone usage that connects them with the internet
service provider. Another is to treat your company as acting as a collection agent for the internet
company and retaining the appropriate portion of the receipts as payment to you by the internet
provider for their use of your telephone services and for your collection of their billing for
internet access. The appropriate amount of the receipts for the telephone services would then be
taxed as a charge being billed to the internet provider for telephone usage. This approach is
similar to a telephone company billing sales tax to an internet provider for the use of dedicated
lines and for other charges. It should recognize your costs as a bill collection agent for the
internet provider and exclude them from tax.

The terms of your contract with the internet provider may allow you to factor the tax due from
your receipts. Factoring is done by first dividing the receipts by one plus the state and local sales
tax rate stated as a decimal. The sales tax that should be paid to the state is the difference
between the receipts for the telephone charges minus the result of the division. The approach
that you choose will depend on the terms of your contract with the internet service provider.
Hopefully, the contract fixes responsible for any additional taxes that are due under your
business arrangement.

This is a private letter ruling pursuant to K.A.R. 92-19-59. It is based solely on the facts
provided in your request. If it is determined that undisclosed facts were material or necessary to
an accurate determination by the department, this ruling is null and void. This ruling will be
revoked by operation of law without further department action if there is a change in the
controlling statutes, administrative regulations, revenue rulings or case law that materially effects
this determination. Please call me if you wish to discuss this matter further.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 04/27/1999 Date Modified: 10/11/2001**