**Private Letter Ruling**

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| **Ruling Number:** | **P-2014-003** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Internet Freedom Act (ITFA) moratorium on state taxation of customer charges for internet access services.** |
| **Keywords:** |  |
| **Approval Date:** | **08/26/2014** |

**Body:**

Office of Policy & Research

August 26, 2014

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RE: Your letter dated August 8, 2014

Dear XXXXXX:

Thank you for your recent letter. The Internet Freedom Act (ITFA) imposes a Federal moratorium on state taxation of customer charges for internet access services. ITFA was first passed by Congress in 1998 and has been extended three times, in 2001, 2004, and 2007. The current ITFA moratorium is set to expire on November 1, 2014. (11/1/2014).

K.S.A. 79-3603(b) imposes Kansas sales tax on charges for telecommunication services. K.S.A. 79-3602(aaa)(6) defines "telecommunication service" and specifically excludes "internet access services" from its meaning. This express exclusion defeats any suggestion that another Kansas imposition on services can be construed as taxing charges for internet access services. Charges for internet access services sourced to a Kansas location are not and will not be subject to Kansas sales tax as long as K.S.A. 79-3602(aaa)(6) remains in place. Because charges for internet access services are exempted by Kansas law, any amendments to ITFA will not affect the Department's ongoing exemption of internet access charges.

The current ITFA moratorium prohibits states from taxing telecommunication services that internet service providers buy and use to provide their services to customers. It also prohibits states from taxing customer charges for a variety of other services, including electronic mail, video clips, and personal electronic storage capacity, among others. Unlike internet access services, K.S.A. 79-3606(aaa) does not exclude any of these services from the definition of "telecommunications services."

If the current ITFA moratorium expires on 11/1/2014 without Congressional action, please be advised that no changes will be required in the taxes to be collected or remitted with respect to charges for internet access, as defined by the ITFA section 1105(5)(A), telecommunications purchased, used, or sold to provide internet access, as described in ITFA section 1105(5)(B), and the services described in ITFA section 1105(C) and (E) (including a home page, electronic mail and instant messaging, video clips, and personal electronic storage capacity).

This guidance shall remain in effect for at least 60 days after the Department publishes notice on its website that such guidance has been withdrawn.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

cc: Nick Jordan

**Date Composed: 08/27/2014 Date Modified: 08/27/2014**