**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2011-003** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Charges to customers for wireless (3G) broadband connection services.** |
| **Keywords:** |  |
| **Approval Date:** | **05/03/2011** |

**Body:**

Office of Policy & Research

May 3, 2011

XXXXXXXXXXXXXX
XXXXXXXXXXXXXXX
XXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXX

Dear XXXXXXXX,

This letter is in response to your letter dated November 1, 2010. In your letter, you inquire whether “charges to . . . customers for wireless (3G) broadband connection services are taxable as a communications service?” and whether “these charges [are] taxable if they are bundled with other taxable items or services?”

Under the Federal Internet Tax Freedom Act (F-ITFA), Kansas is prohibited from taxing customer charges for accessing the internet. “Internet access service” means the service of providing customers with the ability to access the Internet or World Wide Web. Internet access service does not include charges for accessing restricted websites, downloading information, or similar on-line services that are utilized after the network has been accessed. Regardless, these types of services are not subject to Kansas tax unless they include the delivery of prewritten computer software.

However, according to Kansas Department of Revenue Information Guide EDU-71R, under F-ITFA, Kansas may impose tax on otherwise exempt Internet access charges if the access charges are bundled with charges for taxable services, provided that “(A) the Internet access charges are not separately stated on the customer’s bill or invoice; and (B) the access provider’s business records cannot identify and reasonably establish its costs that are associated with providing Internet access services.”

Hence, in order to ensure that the Internet access charge remains tax exempt, it is advised that your company list the Internet access charge separately on your customer’s invoice and maintain business records to ensure that the costs associated with providing Internet access services are identifiable and reasonably established.

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 in the future by the operation of law without further department action if there is a change in the statutes, administrative regulations, or case law, or published revenue ruling, that materially effects this private letter ruling.

Sincerely,

Mark D. Ciardullo
Tax Specialist

**Date Composed: 05/10/2011 Date Modified: 05/10/2011**