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STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

PS 2004(2)

POLICY STATEMENT

**Sales and Use Taxes on Internet Access Services and
On-Line Sales of Goods and Services**

Purpose: This Policy Statement describes Internet access services, sales and purchases of taxable services and tangible personal property by means of computers, and the sales and use tax obligations of retailers that do business by means of computers. It also clarifies the definitions of computer and data processing services.

Effective Date: Applies to all open tax periods.

Statutory Authority:

Conn. Gen. Stat. §§12-407(a)(2)(A); 12-407(a)(2)(I); 12-407(a)(37)(A); 12-408(1)(C) and 12-411(1)(D) as amended by PA 03-1, §§95 and 96 (June 30 Spec. Sess.); and Conn. Agencies Regs. §12-426-27(b)(1).

Definitions: As used in this Policy Statement:

- **Internet access services** means providing customers with the ability to access any portion of the Internet or the World Wide Web (whether or not the customers actually obtain access), including any technical support provided with the services, such as telephone user support or consulting. Internet access service charges are usually made on a monthly or other periodic basis and may also include initial one-time setup charges. Internet access services do not include charges customers incur after they have accessed the Internet, such as charges for access to restricted web sites, downloading information, purchasing software, or purchasing any other goods or services.
- A **Connecticut retailer** is a retailer having any physical presence in Connecticut, including, generally, owning or leasing real or tangible personal property in Connecticut, maintaining an office in Connecticut, or having agents or employees present in Connecticut to perform any services for or on behalf of the seller either before or after a sale. Arrangements for the dedicated use of telecommunications lines or to

maintain web sites in Connecticut do not, by themselves, constitute owning or leasing property in Connecticut for purposes of this definition.

Charges for Internet Access Services: Retailers that provide customers with Internet access services are providing computer and data processing services enumerated in Conn. Gen. Stat. §12-407(a)(37)(A). Internet access services are part of the broad category of *providing access to information* as the term is used in the definition of computer and data processing services in Conn. Agencies Regs. §12-426-27(b)(1).

Internet access services are no longer subject to tax as of July 1, 2001. However, other aspects of providing access to information remain subject to tax. (See the definition of Internet access services.) The tax on other computer and data processing services was reduced to 1% on July 1, 2001.

On-Line Purchases of Tangible Personal Property:

A Connecticut retailer that accepts orders for tangible personal property by computer and ships or delivers the items to Connecticut addresses must charge and collect Connecticut sales or use tax on the sales. Examples are items such as books, canned or prewritten computer software, computer hardware and equipment, or any other goods not specifically exempt from sales and use taxes.

A Connecticut purchaser of taxable tangible personal property on which the retailer charges no tax must self-assess and remit use tax at the rate of 6% on the purchases. The amount on which tax is calculated includes shipping and handling charges. The tax on tangible personal property sold over the Internet was not reduced and remains taxable at the full 6% rate.

Electronically Delivered Software: When a purchaser downloads software and there is a charge for downloading the software, but the retailer provides no tangible personal property to the purchaser and delivers the software electronically, the charge is for computer and data processing services and not for the sale of tangible personal property. (The sale is *not* a taxable sale of Internet access services, however.) Likewise, when a retailer installs software for a purchaser but leaves no tangible personal property for the purchaser after the installation, the charge is for computer and data processing services and not for the sale of tangible personal property.

A Connecticut retailer of downloaded software is a retailer of computer and data processing services and must register, collect, and remit sales or use tax on the sales at the 1% rate. Connecticut purchasers of downloaded software on which the retailer does not charge tax must self-assess and remit use tax on the purchases.

Creation and Maintenance of Web Sites: Under Conn. Gen. Stat. §12-407(a)(37)(A), taxable computer and data processing services do not include:

services rendered in connection with the creation, development, hosting or maintenance of all or part of a web site which is part of the graphical, hypertext portion of the Internet, commonly referred to as the World Wide Web.

This exclusion applies to all computer and data processing services (such as programming, data entry, scanning, computerized graphic design, software installation, software maintenance, and hosting fees), when the services are provided to a service recipient in connection with the service recipient's Internet web site. The exclusion does not apply to charges for access to web sites maintained by others.

The sale of prewritten software necessary to create a web site is taxable at the rate of 6% when tangible personal property is provided to the purchaser by the retailer, but is excluded from tax when the retailer provides no tangible personal property to the purchaser and the software is delivered electronically.

Web Site Providers May Be Agents for Sellers: Companies that maintain web sites for retailers of tangible personal property may sometimes perform other services for the retailers, such as billing the retailers' customers, collecting payments from the customers, or otherwise acting as agents for the sellers in connection with sales.

A retailer of tangible personal property is not a Connecticut retailer, as defined in this Policy Statement, merely because the company that maintains its web site is physically located in Connecticut. However, if a company that maintains a web site for an out-of-state retailer of tangible personal property performs services for the retailer in addition to maintaining the retailer's web site, such as billing or collecting and remitting payments for the seller, and the company does so from a physical location in Connecticut, the retailer of tangible personal property is a Connecticut retailer by virtue of having an agent located in Connecticut performing services in connection with its sales. A Connecticut retailer must collect and remit use tax on its sales of tangible personal property to persons located in Connecticut.

A company located outside Connecticut that maintains a web site for a Connecticut retailer may sometimes perform services for the retailer in addition to maintaining the retailer's web site, such as billing or collecting and remitting payments for the retailer from a physical location outside Connecticut. A web site provider physically located outside Connecticut is not a Connecticut retailer merely because it performs these services for a Connecticut customer.

Promotional Items: A Connecticut retailer that sends promotional items of tangible personal property, such as computer software or printed material, free of charge to Connecticut addressees is using or consuming those items in Connecticut, is subject to Connecticut use tax at the 6% rate, and must pay the use tax to the Department of Revenue Services (DRS) based on the amount the retailer paid for the items it gives away.

Effect on Other Documents: This Policy Statement modifies and supersedes **Policy Statement 2003(2), Sales and Use Taxes on Access to the Internet and Other On-Line Sales of Goods and Services.**

Effect of This Document: A Policy Statement explains in depth a current DRS position, policy, or practice affecting the tax liability of taxpayers.

For Further Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (in-state), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

Forms and Publications: Forms and publications are available anytime by:

- **Internet:** Preview and download forms and publications from the DRS Web site at www.ct.gov/DRS
- **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu. Only forms (not publications) are available through TAX-FAX.
- **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (in-state) and select **Option 2** from a touch-tone phone.

Paperless Filing Methods (fast, easy, free, and confidential):

- **For business returns:** Use *Fast-File* to file sales and use taxes, business use tax, room occupancy tax, estimated corporation tax, business entity tax, or withholding tax returns over the Internet. Visit the DRS Web site at www.ct.gov/DRS and click on *File/Register OnLine*.
- **For resident income tax returns:** Use *WebFile* to file personal income tax returns over the Internet. Visit the DRS Web site at www.ct.gov/DRS and click on *File/Register OnLine*.

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