STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES
25 Sigourney Street
Hartford CT 06106-5032

SN 2003(15)

SPECIAL NOTICE

2003 Legislation Imposing the Gross Earnings Tax on Companies Providing One-Way Transmission of Video Programming by Satellite to Subscribers

Purpose: This Special Notice discusses 2003 legislation imposing the gross earnings tax on companies providing one-way transmission of video programming by satellite to subscribers (satellite companies).

Effective Date: September 1, 2003, and applicable to quarterly periods beginning on or after September 1, 2003.

Statutory Authority: Conn. Gen. Stat. §12-256, as amended by 2003 Conn. Pub. Acts 1, §92 (June 30 Spec. Sess.).

Satellite Companies Now Subject to Gross Earnings Tax: For each calendar quarter beginning on or after September 1, 2003, satellite companies are subject to gross earnings tax and must file **Form 211 SATV**, *Satellite Companies Gross Earnings Tax Return*. The tax is measured by a satellite company's gross earnings from the one-way transmission of video programming by satellite to subscribers in Connecticut. No deduction is allowed from gross earnings for commissions, rebates, or other payments, except refunds arising from errors or overcharges. The tax rate is 5%.

Form 211 SATV is due the last day of the month following the end of each calendar quarter. **Form 211 SATV** must be signed by the person performing the duties of treasurer or by an authorized agent or officer of the company. The period beginning September 1, 2003, and ending December 31, 2003, will be treated as a calendar quarter, and the return for the quarter is due January 31, 2004.

Companies Required to Apportion Gross Earnings. Any satellite company carrying on business inside and outside Connecticut is required to apportion its gross earnings from the one-way transmission of video programming by satellite to subscribers. The apportionment fraction is computed as follows: The numerator of the fraction is the sum of the company's number of subscribers in Connecticut on the first day and on the last day of the calendar quarter, divided by two. The denominator of the fraction is the sum of the company's number of subscribers both inside and outside Connecticut on the first day and on the last day of the calendar quarter, divided by two.

Example: A satellite company has 300 subscribers in Connecticut on the first day of the quarter and 350 subscribers on the last day of the quarter. The same satellite company has 1200 subscribers both inside and outside Connecticut on the first day of the quarter and 1400 subscribers on the last day of the quarter.

Compute the numerator:

Add the number of Connecticut subscribers on the first day of the quarter and on the last day of the quarter (300 + 350 = 650). Divide the total by 2 (650/2 = 325). This is the average number of subscribers in Connecticut during the quarter.

Compute the denominator:

Add the number of subscribers inside and outside Connecticut on the first day of the quarter and on the last day of the quarter (1200 + 1400 = 2600). Divide the total by 2 (2600/2 = 1300). This is the average number of subscribers inside and outside Connecticut during the quarter.

The apportionment fraction is 325/1300 = .250000.

Bills to Subscribers: Satellite companies must remember the following in billing their subscribers for Connecticut taxes:

Gross earnings tax. The legal incidence of the gross earnings tax is on satellite companies, not their subscribers. While a satellite company is not prohibited from passing the economic burden of the tax on to its subscribers, a satellite company may not misrepresent on whom the law imposes the tax. Should a satellite company choose to pass the economic burden of the gross earnings tax to its subscribers (and to identify the burden as such), "reimbursement for gross earnings tax" will be acceptable to DRS as not misrepresenting on whom the law imposes the tax. However, any separately identified charge for the gross earnings tax is includible in a satellite company's gross earnings for gross earnings tax purposes. See *Texaco Refining and Marketing Co. v. Commissioner of Revenue Services*, 202 Conn. 583, 522 A.2d 771 (1987).

Example: A satellite company bills a subscriber $40.00 for monthly satellite television services and adds a separately identified charge of $2.00 as reimbursement for gross earnings tax. The amount of the satellite company's gross earnings for gross earnings tax purposes is $42.00. However, the sales tax that the satellite company bills to the subscriber is not included in the satellite company's gross earnings for gross earnings tax purposes.

Sales tax. The legal incidence of the sales tax is on the subscribers of the satellite company because retailers (including retailers of taxable services such as satellite companies) are required by law to collect sales tax from their retail customers. Only the product of (A) the amount that is subject to sales tax *multiplied by* (B) the 6% sales tax rate may be billed to, and collected from, a subscriber as sales tax. Also, any amount billed to, and collected from, a subscriber as sales tax is held in trust for the State of Connecticut by the satellite company and must be either paid over to DRS as sales tax or refunded to the subscriber if erroneously collected. No amount billed and collected as sales tax may be applied toward a satellite company's gross earnings tax liability.

Expenses of a satellite company (such as the gross earnings tax) that are passed to subscribers are part of the sales price of the services on which sales tax must be collected by the satellite company.

Example: A satellite company bills a subscriber $40.00 for monthly satellite television services; and adds a separately identified charge of $2.10 as reimbursement for gross earnings tax. The satellite company must also collect and bill the 6% sales tax on $42.10 from the subscriber ($42.10 multiplied by 6% = $2.53). Therefore, the total bill to the subscriber is $44.63 ($42.10 + $2.53).

Effect on Other Documents: None affected.

Effect of This Document: A Special Notice announces a new policy or practice in response to changes in State or federal laws or regulations or to judicial decisions. A Special Notice indicates an informal interpretation of Connecticut tax law by DRS.

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.
- **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (in-state) and select **Option 2** from a touch-tone phone.

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