

Sales Tax Information Bulletin Relating to the Application of Sales and Use Tax to Telephone Calls Using Voice Over Internet Protocol or VOIP Telecommunications Services

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Definition of Voice Over Internet Protocol or VOIP

Voice Over Internet Protocol or VOIP is defined as real-time audio or data transmitted and/or received in a digital format through the use of Internet Protocol data packet transmission, or any similar or successor protocol transmission. Calls may be made between users of the same VOIP service as well as between VOIP users and those with landline or mobile telephone service. Some VOIP services work only over a computer or special VOIP telephone but others allow use of a traditional telephone with an adapter.

Imposition of tax

Telecommunications service is defined as:

Any one-way transmission or any two-way, interactive transmission of sounds, signals or other intelligence converted to like form which effects or is intended to effect meaningful communications by electronic or electromagnetic means via wire, cable, satellite, light waves, microwaves, radio waves *or other transmission media*. The term includes all types of telecommunication transmissions, such as local, toll, wide-area or any other type of telephone service; private line service; telegraph service; radio repeater service; wireless communication service; personal communications system service; cellular telecommunication service; specialized mobile radio service; stationary two-way radio service; and paging service. (emphasis added). 72 P.S. § 7201(rr).

Clearly, VOIP falls under this statutory definition.

Discussion

☼ Enhanced telecommunication services are not included in the definition of telecommunications service. Enhanced telecommunications services are:

- (i) Services, offered over a telecommunications network, which employ computer processing applications that include one or more of the following:

(A) Acts on the format, content, code, protocol or similar aspects of the purchaser's transmitted information.

(B) Provides the purchaser additional, different or restructured information.

(C) Involves the purchaser's interaction with stored information.

(ii) Examples of enhanced telecommunication services include electronic publishing, Internet access, voice mail and electronic mail services. Services utilizing any of the computer processing applications in subparagraph (i) solely for the management, control or operation of a telecommunications system or the management of a telecommunications service is not an enhanced telecommunication service.

61 Pa. Code § 60.20.

Since VOIP utilizes computer-processing applications solely for the management, control or operation of a telecommunications system or the management of a telecommunications service, it does not come within the enhanced telecommunication service exclusion from sales and use tax. VOIP utilizes Internet Protocol that permits the transmission of packeted data across a network or across multiple networks, but does not interact with the information it transmits; it merely serves to address and route the information.

☼ The federal moratorium, the Internet Tax Non-Discrimination Act P.L. 108-435, or ban on taxing Internet access specifically excludes VOIP, freeing states to tax it as a telecommunication service.

☼ The Federal Communications Commission (FCC) has ruled that digital voice is not subject to state public utility regulation, however, the FCC has expressed no opinion on state taxation of the service.

Conclusion

VOIP is a taxable telecommunication service subject to Pennsylvania state and local sales tax.