



Friday, June 19, 2009  
8:30 am – 10:00 am

## Sales and Use Tax Treatment of Services and Mixed Transactions

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# Sales Tax

- First imposed in the United States in the 1930's
- Generally levied on a narrow list of goods
- Designed to apply principally to tangible personal property



Sales taxes have been expanded in most states to apply to all sales of tangible personal property and certain services, especially services involving the transfer of tangible personal property.

# Pure Service

- Freight billed by Common Carrier
- No Tangible personal property exchange
- Usually non-taxable



# Installation Charges

In many states, ancillary services, such as installation, are not taxable if the charges for the services are stated separately from the sale of the tangible personal property.



Big Screen TV	\$1,000
Installation	200
Sales tax (\$1,000 @ 6%)	60
Total	<hr/> \$1,260

# Bundled Transactions

A bundled transaction is when there is a single charge for the entire transaction.



Big Screen TV with installation	\$1,200
Sales tax (\$1,200 @ 6%)	72
Total	<hr/> \$1,272

# “True Object” Test

What is the “true object” desired by the customer -

the tangible personal property

or

the service?



Example: **Contract drafted by an attorney**

The true object desired by the client is the attorney’s professional service rather than the paper on which the contract is written.

# General Rules on Service

- Employer Services Exemption
- Service transaction between affiliated entities may be exempt



# Enumerated Services

Services which are “listed” in the statute as taxable services . . .

- Admissions to amusements
- Club fees and dues
- Memberships
- Telecommunications services
- Cable and Satellite television
- Personal services
- Utilities



# Professional & Organizational Services

- Printing, Design & Graphic Services
- Credit Reporting Services
- Temporary Labor
- Business Management & Consulting Services
- Training Services



# Shipping and Handling Charges

- Most states take the position that a charge for “shipping and handling” is taxable, presumably because that charge is tainted by the handling component.
- Handling may be characterized as a service that is integrally related to the underlying sale of tangible personal property.



# Architectural Services

It is common for architects to provide blueprints as a parcel of their design services. In most states, blueprints provided as a part of the design service are not a taxable item. The architect would owe tax on the cost of the material used to create the blueprint.

Exception: South Dakota



# Computer Hardware, Software and Related Services

- Is the company selling property, services or a combination thereof?
- If the object of the transaction is to obtain a service, is the service subject to tax?

# Computer Hardware, Software and Related Services

- ➔ Which state has authority to tax the service?
  - ❖ The state in which the service is rendered, or
  - ❖ the state in which the consumer obtains the benefit of the service?

# Computer Hardware, Software and Related Services

- Does the taxability of the transaction change when the property is transferred by intangible means?

# Computer Hardware Maintenance Contracts

Maintenance contracts are purchased to ensure that the hardware continues to function properly.

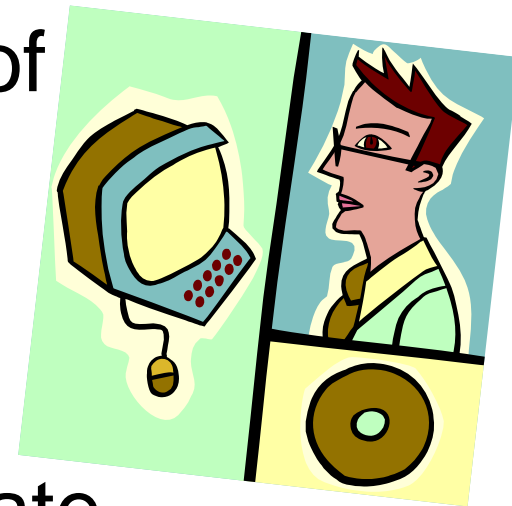


The taxation of hardware maintenance contracts usually depends on whether the repair or maintenance of tangible personal property is taxable in the state.

# Computer Software “Help Lines”

Most states do not tax these services due to the fees not involving the transfer of property, tangible or intangible.

Purchasers of computer software “help line” services can communicate with company consultants who will assist the purchaser with computer software problems.



# Telecommunications Services

The fact that a service is included in a state's definition of telecommunications services does not mean the service is subject to sales/use tax.

Many states only impose a tax on intrastate services (services originating and terminating within the state).



The first step is to ascertain whether the services include an intrastate, interstate or international service.

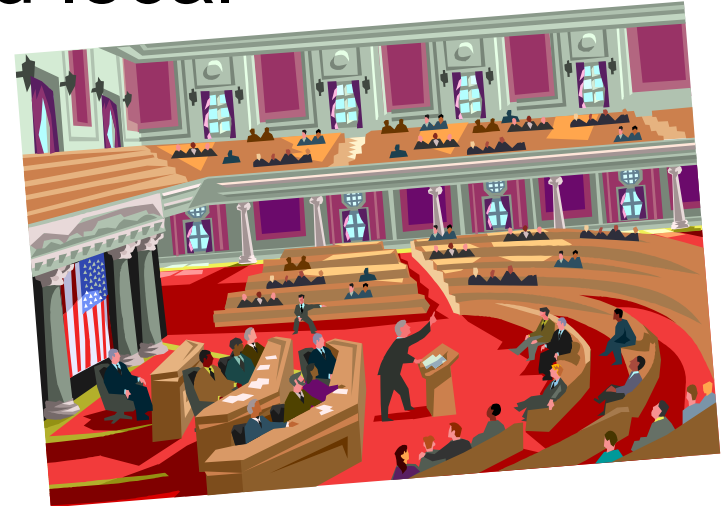
# Miscellaneous Telecommunications Services

- Pagers and cell phone use
- Access to 900 numbers
- Data retrieval systems
- E-mail and voice mail
- Faxes and reports received via modem



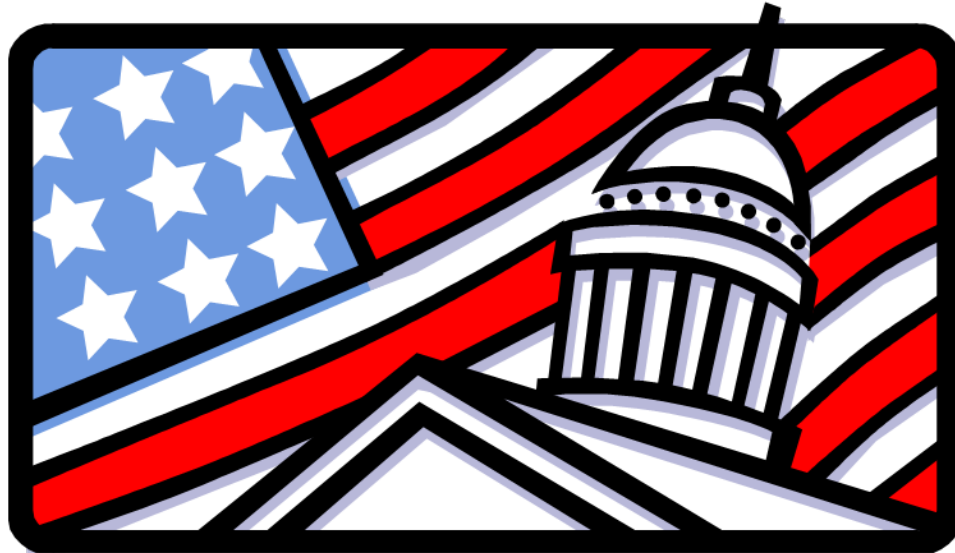
# Internet Tax Freedom Act (IFTA)

The Act provided a state and local moratorium on certain internet-related services and activities.



- ➔ Grandfather provision for states that had already imposed a tax upon access charges.

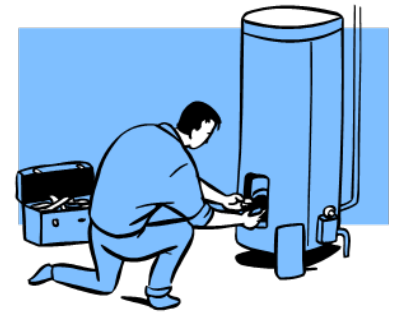
# Streamlined Sales Tax



Where is it?

# Services Related to Property

- Landscape
- Janitorial
- Window Cleaning
- Pest Control
- Security
- Painting
- Other Repairs (building, maintenance, plumbing)



# Data Processing Services

“Contractual Agreements” to access (either by batch or on-line) to receive services from a computer owned and operated by another” (Idaho Rule 27.09)

- Examples of DP services that are taxed in some states:
- ❖ Compiling and producing records of transactions
  - ❖ Maintaining information
  - ❖ Entering and retrieving information
  - ❖ Word processing
  - ❖ Payroll
  - ❖ Business accounting
  - ❖ Converting files from one type of storage media to another



# Advertising

## Taxability of services used to create promotional materials

→ Printing Services

→ Photography

→ Lettershop Services (on vehicles, signs, etc.)

→ List Rental

→ Creative Services (logos and consulting)



**Questions ?**

**Save  
money.  
Live  
better.**