

Minnesota Department of Revenue

Revenue Notice #26-04: Sales & Use Tax – Telecommunications Services – Exemption for Purchase of Telecommunications Equipment – Voice over Internet Protocol Services and Internet Service Providers – Revocation and Replacement of Revenue Notices #02-14 and #05-03.

Introduction:

Minnesota Statutes, section 297A.61, subdivision 3(i), provides that the furnishing for a consideration of telecommunications services constitutes a sale or purchase for purposes of Minnesota sales and use tax. *Minnesota Statutes*, section 297A.61, subdivision 24(a), provides that “telecommunication services” means “the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.”

Minnesota Statutes, section 297A.61, subdivision 24(b), provides that telecommunications services “include transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as Voice over Internet Protocol services or is classified by the Federal Communications Commission as enhanced or value added.”

Minnesota Statutes, section 297A.61, subdivision 24(c) provides that telecommunications services **do not** include “Internet access service,” or “data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an electronic transmission to a purchaser when the purchasers’ primary purpose for the underlying transaction is the processed data or information.”

Minnesota Statutes, section 297A.68, subdivision 35a, provides a sales tax exemption for purchases of machinery and equipment. For the exemption to apply, the machinery and equipment must be used “directly by a telecommunications or pay television services provider primarily in the provision of telecommunications or pay television services that are ultimately to be sold at retail.”

Voice over Internet Protocol (VoIP)

VoIP is a telecommunications service as defined in *Minnesota Statutes*, section 297A.61, subdivision 24, that is subject to the Minnesota sales and use tax. For purposes of the Minnesota sales and use tax, VoIP is not an exempt information service since it uses computer processing applications solely for the management, control, or operation of a telecommunications system or for the management of a telecommunications service. Although VoIP uses Internet protocol that allows the transmission of packeted data across a network, it primarily serves to address and route the voice, data, or audio. The primary purpose of VoIP is not the processing of data or information.

As a provider of telecommunications services, a VoIP provider qualifies for the sales tax exemption in *Minnesota Statutes*, section 297A.68, subdivision 35a, when it purchases machinery and equipment.

Internet Service Providers (ISPs)

Telecommunications services is defined for sales tax purposes in *Minnesota Statutes*, section 297A.61. Pursuant to subdivision 24(c)(6), “[t]elecommunications services do not include...Internet access service.” As such, ISPs that only provide Internet access services are not providing a telecommunications service for the purpose of Minnesota sales tax.

Further, since Internet access services are specifically excluded from the definition of “telecommunications services,” ISPs that only provide Internet access services and/or are purchasing equipment to be used principally in the furnishing of Internet access do not qualify for the telecommunications equipment exemption found in *Minnesota Statutes*, section 297A.68, subdivision 35a.

Entities that provide both Internet access services and other telecommunications services should review the “Multiuse Equipment” section to determine whether the telecommunications equipment exemption applies to their purchases.

Multiuse Equipment: Telecommunications and Internet Access

Some entities provide both telecommunications services and Internet access. These entities may purchase equipment that is used to provide both taxable telecommunications services and non-taxable Internet access. *Minnesota Statutes*, section 297A.68, subdivision 35a requires equipment to be used “primarily in the provision of telecommunications or pay television services that are ultimately to be sold at retail.” To receive the exemption, a provider must demonstrate, through books, records, or other relevant documentation, that the equipment purchased is to be used primarily to provide telecommunications or pay television services. If the equipment is to be used primarily to provide Internet access, then the exemption does not apply. Finally, if a provider cannot provide sufficient documentation to support the use of its claimed equipment, the exemption will not apply.

Revocation of Previous Notices:

This revenue notice revokes and replaces Revenue Notices #02-14 and #05-03.

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