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New Hampshire ends its communications services taxation of internet access charges and precludes enforcement on existing assessments

Authored by: Jennifer Jensen and Kate Thurber

In brief

After almost 14 years of enjoying grandfathered status under the federal Internet Tax Freedom Act of 1998 and its extensions (the Internet tax moratorium), effective June 21, 2012, New Hampshire ceased imposing its communications services tax on Internet access charges. Further, existing assessments on Internet access charges are unenforceable. Per enacted H.B. 1418, the New Hampshire Department of Revenue Administration must withdraw all such pending assessments and can no longer issue any additional assessments with respect to such charges. Taxpayers with outstanding communications services tax audits should review their assessments in order to remove taxes imposed on Internet access, and taxpayers purchasing Internet access on or after June 21, 2012 should not pay communications services tax on the applicable charges.

In detail

Effective June 21, 2012, New Hampshire reversed its position on the imposition of its communications services tax on Internet access charges. Previously, charges for Internet access services were subject to the tax. New Hampshire was allowed to tax Internet access as one of the few states grandfathered under the Internet tax moratorium. However, H.B. 1418 amends current law to specifically exclude charges for Internet access services from the communications services tax. [[H.B. 1418](#), effective 6/21/2012]

In addition, the legislation directs the Department of Revenue Administration to stop enforcing any existing assessments of communications services tax on charges for Internet access, to promptly withdraw all such pending assessments, and to not issue any additional assessments with respect to such charges.

The legislation adopts the definition of 'Internet access' as it is defined in the Internet Tax moratorium. Internet access includes services that enable users to connect to the Internet to access content, information, or other services as well as the purchase, use, or sale of communications services sold to an Internet access provider used to provide Internet access. Internet access does not include voice, audio, or video programming, or other products and services that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated from the Internet access charge.

Actions to think about

Taxpayers purchasing Internet access in New Hampshire should consider doing the following:

1. Ensure that communications services taxes are no longer being added to your purchases of Internet access effective June 21, 2012. This may be difficult if your communications invoices do not separately state the items purchased. If this is the case, check to see if your communications provider can identify on its books and records the portion of your invoices that apply to Internet access and has stopped imposing the tax on the Internet access charges. Note: Internet access charges often are described as data plans by wireless carriers.
2. Review any assessments from ongoing audits to remove any communications services tax on Internet access that may have been included in the assessments. Note: Going forward, the department can no longer issue any additional assessments on Internet charges, even for periods prior to June 21, 2012.
3. Internet service providers should confirm that they are not paying communications services tax on their purchases of communications services used in providing end user access to the Internet.
4. Internet service providers should also confirm that they are not charging their customers tax on the provision of Internet access services.

Let's talk

If you have questions about New Hampshire's H.B. 1418, please contact one of the following individuals:

Brian Goldstein
Principal
(646) 471-0520
brian.goldstein@us.pwc.com

Jennifer Jensen
Director
(202) 414-1741
jennifer.jensen@us.pwc.com

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