**Opinion Letter**

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| **Letter Number:** | **O-1999-13** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Internet related telecommunications questions.** |
| **Keywords:** |  |
| **Approval Date:** | **06/04/1999** |

**Body:**

Office of Policy and Research

June 4, 1999

XXXXXXXXXXX
XXXXXXXXXXXX
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XXXXXXXXXXXXX

Dear XXXXXXXXX:

I have been asked to respond to your letter of March 18, 1999. In it, you ask about the sales and use tax responsibilities of your client in regard to telecommunications and the Internet.

In your letter you described the following scenario:

An Internet user, on a worldwide web, would like further information on the company or product shown on a specific web page. There is an icon on the screen whereby the user can click their mouse on this icon, thus generating a screen requesting a phone number where the user can be reached. Once the telephone number has been given, the user has your option of receiving a return phone call immediately or schedule it for another time.

Upon completing these actions, a message is sent to X’s switch that a call needs to be initiated. X’s switch contacts the owner of the web page and informs them of the call. Upon connection with the web page owner, the switch that establishes a call with the Internet user.

X’s invoices its customers, the web page owner, on a per minute basis for the call that is connected between the web page owner and the Internet surfer.

X also provides a voice mail service that can be used in connection with a call initiation. If the web surfer requests the call during non-business hours, the Internet user has the option to leave a voice mail message. The voice mail messages are kept on X’s computer systems.

X invoices its customers, the web page owner, on a per minute basis for the call between the Internet surfer and the voice mail server. The voice mail server is housed in XXX, Florida.

Voice mail messages can be retrieved by directly dialing a toll telephone number into the voice mail network. There is no charge to the customer for this type of access. If the customer is located in the United States, messages may also be retrieved by dialing a toll free number. The customer will be charged a fee on a per minute basis.

If the customer is located outside the United States, the customer may access a web page with an icon that will initiate a call between the customer and the voice mail network. The customer is billed on a per minute basis.

X also offers a service where web page owners can be reached by calling his personal toll free number or XXX, Fla. exchange. Internet users can speak, page, fax, leave a voice mail.

X invoices its customers on a per minute basis for the call that is connected. There is a one time set up fee charged to the customer for placing the icon on the web page. There is also a monthly recurring fee for the services described above.

Kansas law imposes Kansas retailers’ sales tax on “the gross receipts from intrastate telephone or telegraph services. . . interstate telephone service. . .” K.S.A. 79-3603(b). Kansas also imposes sales tax on “the gross receipts received for telephone answering services, including mobile phone services,
beeper services and other similar services. . .” K.S.A. 79-3603(t).

It is the opinion of the Kansas Department of Revenue that the services described in your letter do not constitute telephone or telephone answering services as contemplated by Kansas law and are not subject to Kansas sales tax. Your client is providing nontaxable service. Your client is the consumer of all tangible personal property and services consumed in Kansas and must pay or accrue sales or compensating tax on all taxable purchases of tangible personal property or taxable services.

Sincerely,

Mark D. Ciardullo
Tax Specialist

MDC

**Date Composed: 06/22/1999 Date Modified: 10/10/2001**