

TECHNICAL INFORMATION RELEASE

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A Technical Information Release is designed to provide immediate information of changes in tax laws administered by the Department or the policy positions of the Department as a service to taxpayers and practitioners. A Technical Information Release represents the position of the Department on the limited issues discussed herein based on current law and Department interpretation. For the current status of any tax law, practitioners and taxpayers should consult the source documents (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.). Questions should be directed to Customer Service at (603) 271-2191.

2005 Statutory Changes For Real Estate Transfer Tax, Communication Services Tax, and for the Administration of Taxes by the Department of Revenue Administration

Communication Services Tax

The purpose of this bulletin is to provide notice of the affect of the federal *Internet Tax Nondiscrimination Act* on the imposition of the Communication Services Tax, RSA 82-A, on telecommunication charges incurred by Internet service providers to provide Internet access.

I. INTERNET TAX NONDISCRIMINATION ACT

In 1998, Congress enacted the Internet Tax Freedom Act ("ITFA") that imposed a temporary moratorium on certain state taxes of Internet Access. The original ITFA was amended in November of 2001 to extend the original moratorium to November 2003. On December 3, 2004, the President signed into law the Internet Tax Nondiscrimination Act (P.L. 108-435), which put in place a moratorium of certain state taxes and amended and clarified certain sections of the ITFA. The Department has adopted the following position with respect to the federal Internet Tax Nondiscrimination Act and its affect on New Hampshire:

The Act extended the moratorium for imposing tax on Internet Access originally put in place by the Internet Tax Freedom Act (P.L. 105-277, amended by P.L. 107-75), and also made clear that the definitions of Internet access and Internet access service include telecommunications services that are purchased, used or sold by a provider of Internet access to provide Internet access. The Internet Tax Nondiscrimination Act provided two grandfather provisions that allow states to continue to impose taxes up to November 1, 2005 or November 1, 2007, based on certain requirements. New Hampshire falls under the November 1, 2007 provision and will continue to impose communication services tax on telecommunications charges incurred by an Internet service provider to provide Internet access. The provision that grandfathers New Hampshire's taxation of telecommunications charges incurred by an Internet service provider to provide Internet access will expire on November 1, 2007.

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the N.H. Department of Revenue Administration, 45 Chenell Drive, Concord, NH 03301 or by contacting them at (603) 271-2318.