

Seattle Rule 5-502 Taxation of information services and computer-related services.

- (1) Introduction.** This rule explains the business license tax and utility tax treatment of activities related to information services and computer-related services.

Examples included in this rule identify facts and then state a general conclusion; they should be used only as a general guide. The tax consequences of all situations must be determined after a review of all facts and circumstances. Additionally, each fact pattern in each example is self-contained (i.e., "stands on its own") unless otherwise indicated by reference to another example. Examples concluding that business license tax applies to the transaction assume that no exclusions or exemptions apply, and the sale is sourced to Seattle.

**(2) Definitions.**

- (a) Data warehousing service. "Data warehousing service" means the service of a provider offering server space for a customer to store its data and to access, retrieve, or use the data as needed.
- (b) Information services. "Information services" means every business activity, process, or function by which a person transfers, transmits, or conveys data, facts, knowledge, procedures, and the like to any user of such information through any tangible or intangible medium.

"Information services" does not include, however, any sale of standard information available to any customer that is delivered through any tangible storage medium or through electronic download. The sale of such standard information available to any customer is considered a retail sale of tangible personal property subject to tax under the retail sales and retail services classification. "Information services" does not include telephone business as defined under Seattle Municipal Code 5.30.060.

- (c) Internet. "Internet" means the myriad collection of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by electronic transmissions through electronic or radio infrastructure.
- (d) Internet access provider. "Internet access provider" means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet.
- (e) Internet access services. "Internet access services" means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier. See Seattle Rule 5-300 for more information regarding telecommunications services.
- (f) Internet service. "Internet service" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, hosting of information for retrieval over

the Internet, and other services as part of a package of services offered to users. The term “Internet service” does not include telecommunications services. See Seattle Rule 5-300 for more information regarding telecommunications services.

- (g) Intranet service. “Intranet service” means the service of providing a private or intra-company network used by a person to facilitate the sharing or accessing of internal information by the person’s employees or other authorized parties.
- (h) Network system support. “Network system support” activities include analyzing and interpreting problems using diagnostic software, monitoring network to ensure network availability to users, and performing network system configurations. Network system support activities may be performed through remote telephone support or onsite consulting.
- (i) Proprietary subscriber network. “Proprietary subscriber network” means proprietarily or corporately owned network in which its services are available to the public for fees. Proprietary subscriber network does not include intranets.
- (j) Website development service, website hosting service. “Website development service” means the design and development of a website provided by a website developer to a customer. “Website hosting service” means the service of a provider offering server space to host a customer’s website.

**(3) Taxable activities under the service and other business activities classification of the Business License Tax.**

- (a) Sales of information services. The gross income received for providing information services is subject to tax under the service and other business activities classification. Gross income from providing standard information that is available to all customers is subject to tax under the retail sales and retail services classification. The maintaining of a place of business or a server within Seattle creates taxing responsibility for Seattle tax purposes. Below are some examples of taxing information services:

Example 1. XY Statistical Data Inc. maintains an information supplying operation located in Seattle and sells statistical data at the specific request of each customer. XY does not compile such statistical information to be available for all customers. Instead, each customer submits its own request for statistical information based on its needs. XY compiles, analyzes, and summarizes the statistical information it gathers and sends the information to customers in a tangible medium. XY is subject to tax under the service and other business activities classification for the sales of statistical information because XY is providing an information service at the specific request of each customer.

Example 2. YY Statistical Data Inc. maintains an information supplying operation located in Seattle and sells standardized statistical data to customers. Any customer would receive the same standardized statistical data through electronic download. Customer W purchases standardized statistical data from YY. YY is subject to tax under the retail sales and retail services classification on the sale of tangible personal property. Standardized statistical data is considered to be tangible personal property whether it is delivered in hard copy or through electronic download or transmitted in any other way. See Rule 5-503 for information on Digital Automated Services.

Example 3. ZZ Statistical Data Inc. maintains an information operation in Seattle and allows its customers to perform online research of statistical information through its database. ZZ bills its customers a monthly fee for having online access to the database for research. Its customers may or may not download the information onto their computers. ZZ is providing digital automated service and is subject to tax under the retail sales and retail services classification.

Example 4. WW Travel Inc. maintains an information operation within Seattle and provides information services online to its customers. WW bills its customers a monthly fee for having online access to a travel reservation system that includes a charge for dedicated telephone lines. WW is selling a digital automated service and is subject to tax under the retail sales and retail services classification for providing access to its travel information services in Seattle. The provider of dedicated telephone lines to WW must pay Seattle's telephone business utility tax on the sale of telephone or telecommunications service to WW. WW is the consumer of the telephone business services.

~~(i) Telephone Inc. maintains an operation within Seattle and provides a satellitebased tracking and communications system that includes instant messaging and position reporting between its vehicles in transit and their dispatch centers. Both the vehicles and the dispatch centers are operated by customers and information is both generated and received by customers. is subject to telephone business utility tax on the sale of network telephone service in Seattle. This is not a sale of information services. The true object of the transaction is the transmission of data between the vehicles and the dispatch centers through~~

(b) Sales of Internet access services. After June 30, 2008, Gross income received for Internet access services is exempt from tax. The following are some examples of taxation of other activities distinguished from Internet access services.

~~(i)~~ Example 5. LOA Inc. is an Internet service provider that provides customers with access to the Internet. LOA does not furnish any telephone lines to its customers. LOA maintains Internet operations within Seattle. Customer Q is charged a monthly Internet access fee from LOA for access to the Internet. LOA's gross income from Internet access services is exempt from the City of Seattle Business License tax.

~~(ii)~~ Example 6. Same facts as ~~(i)~~ Example 5, except that LOA provides customers with access to the Internet using its own telephone lines. Customer Q, located in Seattle, is charged a combined monthly fee for telephone services and access to the Internet using LOAs telephone lines. LOA is subject to Seattle's telephone utility tax for the

combined fee, If LOA separates out the Internet service charge from the telephone line usage charge, or can reasonably distinguish the value of the two activities, then LOA would report the telephone line usage charge under the telephone classification of Seattle's utility tax and LOA's gross income from Internet access would be exempt from the business license tax.

(iii) Example 7. DD Computers Inc. provides access to information through its website for which it charges the users a fee. DD maintains its website in Seattle. DD charges Customer Z, an out-of-state customer, a transaction fee to use DD's website to search and retrieve real estate appraisal information. DD is not providing Internet service because DD is not an ISP and does not provide customers with access to the Internet. DD, however, is providing Z access to its website for informational search and retrieval, which is subject to tax under the retail sales and retail services classification. See Seattle Rule 5-503 for more information regarding digital products.

(c) Sales of network system support services. Gross income received for network system support services ~~are~~ is subject to tax under the service and other business activities classification.

(d) Sales of website development or hosting services. Gross income received for website development or hosting services are subject to tax under the service and other business activities classification.

(e) Sales of online advertising services. Gross income received for online advertising services ~~are~~ is subject to tax under the service and other business activities classification.

~~For example:~~

Example 8. BB.com Inc. is located in Seattle and engaged in the business of selling souvenir items through the Internet. BB.com also provides online advertising services for third parties. Income received for online advertising services on its website is subject to tax under the service and other business activities classification.

(f) Sales of data warehousing services. Gross income received for data warehousing services are subject to tax under the service and other business activities classification.

~~For example:~~

Example 9. HH Recovery Inc. provides substitute computer systems in Seattle so that its customers may access HH Recovery's computer facilities for disaster recovery purposes or for unplanned computer system failures. Customer K pays a monthly subscription fee for this service. HH is subject to tax under the service and other business activities classification on the sale of data warehousing services to K.

**(4) Sales of intranet services are subject to the telecommunications services or telephone business utility tax.** Gross proceeds of sales of intranet services in Seattle are sales of telephone business activities as such term is defined under SMC 5.30.060, and as such subject to Seattle's telephone business utility tax. See Seattle Rule 5-300 (Telephone business, telecommunications, and telephone service.) for more information.

**(5) Distinguishing between sales of tangible personal property and sales of information services.**

In deciding under which business license tax classification to report, the taxpayer must determine whether the true object of a sale is the sale of tangible personal property or the sale of information services. If services are performed such that the only tangible personal property in the transaction is the paper or medium on which the information is printed or carried, the activity constitutes the rendering of a service, and the transaction is taxable under the service and other business activities classification. If, on the other hand, the true object of a sale is the sale of tangible personal property, the transaction is taxable under the retail sales and retail services classification.

Retail sales of downloaded music, videos, books, and other written works are sales of digital goods subject to tax under the retail sales and retail services classification. The downloaded music, videos, books, and other written works are tangible personal property because they are electronic representations of items that would be tangible personal property if they were delivered in hard copy form. These are not one-of-a-kind products; they are meant to be mass produced and distributed. See Seattle Rule 5-503 for more information regarding sales of digital goods.

The following are some examples:

- ~~(a)~~ **Example 10.** ML Computers Inc. maintains its operation in Seattle and sells online music to customers. Customers purchasing music online may download the music and keep the downloaded music in perpetuity. Customer H, a customer located within Seattle, purchases music online from ML. The sale to customer H is subject to the retail sales and retail services business license tax.
- ~~(b)~~ **Example 11.** Same facts as ~~(a)~~Example 10, except that customers can only keep the downloaded music as long as they maintain their periodic subscription. Once the subscription ends, the right of MLs customers to listen to the music ends. ML is subject to tax under the retail sales and retail services classification on the sale of downloaded music.
- ~~(c)~~ **Example 12.** Same facts as ~~(a)~~Example 10, except that customers cannot download the music and can listen to an unlimited amount of music as long as the subscription is maintained. ML is subject to tax under the retail sales and retail services business activities classification because ML is providing a digital automated service to H for listening to music online.
- ~~(d)~~ **Example 13.** OST Inc. a Seattle business, organizes customer records for microfiche and sells the microfiche to its customers. OST charges Customer J for the purchase of the microfiche based on the number of sheets of microfiche made. Microfiche is tangible personal property. OST delivers the microfiche to J in Seattle. OST is subject to tax under the retail sales and retail services classification on the sale of microfiche in Seattle. OST is also subject to tax under the manufacturing classification and may subsequently take a multiple activities tax credit (MATC).
- ~~(e)~~ **Example 14.** Same facts as ~~(e)~~13, except, OST organizes customer records for J and sends the summarized data directly into J's computers. OST charges J a fixed monthly

fee for its work. OST is subject to tax under the service and other business activities classification because OST is providing data processing service to J.

DIRECTOR'S CERTIFICATION

I, Jamie Carnell, \_\_\_\_\_, City of Seattle Interim City Finance Director, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Office of City Finance.

DATED this \_\_\_\_\_ day of August 2023.

CITY OF SEATTLE, a Washington municipality

Effective date: August \_\_, 2023.

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