

SC REVENUE INFORMATIONAL BULLETIN #02-3

- SUBJECT:** Internet Access/Electronic Commerce Moratorium
- DATE:** January 14, 2002
- SUPERSEDES:** SC Information Letters #99-9 and #98-25 and all previous documents and any oral directives in conflict herewith.
- REFERENCE:** S. C. Code Ann. Section 12-36-910 (Supp. 2001)
S. C. Code Ann. Section 12-36-1310 (Supp. 2001)
- AUTHORITY:** S. C. Code Ann. Section 12-4-320 (Supp. 2001)
S.C. Code Ann. Section 1-23-10(4) (Supp. 2001)
SC Revenue Procedure #99-4
- SCOPE:** A Revenue Informational Bulletin is a written statement issued to the public by the Department to announce general information useful in complying with the laws administered by the Department. A Revenue Informational Bulletin has no precedential value, and is not binding on the public or the Department.

On October 21, 1998, Congress enacted the Internet Tax Freedom Act to provide that no state or political subdivision shall impose from October 1, 1998 to October 21, 2001 any of the following taxes: (1) taxes on Internet access, unless such tax was generally imposed and actually enforced (i.e. collected) prior to October 1, 1998 and (2) multiple or discriminatory taxes on electronic commerce. In November 2001, President Bush signed into law the Internet Nondiscrimination Act to extend this tax moratorium until November 1, 2003.

The term “electronic commerce” is defined in the Act to mean “any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.” With respect to “electronic commerce,” the Act also defines the terms “multiple tax” and “discriminatory tax.”

The term “Internet access” is defined in the Act to mean “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, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.”

As a result of this moratorium, the Department will not enforce collection of sales and use taxes during October 1, 1998 to November 1, 2003 with respect to Internet access.

In the department's opinion, the South Carolina sales and use tax is not a "multiple tax" or a "discriminatory tax" as defined under the Internet Tax Freedom Act. Therefore, the department will handle the assessment or collection of sales or use tax for sales via the Internet in the same manner as any other transaction subject to sales or use tax in South Carolina.

Questions concerning the application of this law should be directed to the Department's Contact Center at 803-898-5709.