



STATE OF SOUTH CAROLINA  
DEPARTMENT OF REVENUE

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SC REVENUE RULING #16-5

**SUBJECT:** Streaming of Television Programs, Movies, Music, Etc.  
(Sales and Use Tax)

**EFFECTIVE DATE:** Applies to all periods open under the statute.

**MODIFIES:** SC Revenue Ruling #06-8

**REFERENCES:** S.C. Code Ann. Section 12-36-910 (2014)  
S.C. Code Ann. Section 12-36-1310 (2014)  
S.C. Code Ann. Section 12-36-60 (2014)  
S.C. Regulation 117-329 (2012)

**AUTHORITY:** S.C. Code Ann. Section 12-4-320 (2014)  
S.C. Code Ann. Section 1-23-10(4) (2005)  
SC Revenue Procedure #09-3

**SCOPE:** The purpose of a Revenue Ruling is to provide guidance to the public. It is an advisory opinion issued to apply principles of tax law to a set of facts or a general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

Question:

Are charges paid by a customer for streaming television programs, movies, music, and other similar content subject to South Carolina sales and use tax?

Conclusion:

Charges paid by a customer for streaming television programs, movies, music, and other similar content are charges for communication services and are therefore subject to South Carolina sales and use tax whether paid for as part of a subscription service, per item, or per event.

## Introduction:

Communications technology continues to change rapidly, and new methods of delivering media content such as television programs, movies and music are constantly being developed. In past decades, cable television and satellite television began replacing traditional network television as a new means of distributing media content resulting in a wider variety of viewing options for customers. These providers began offering customers access to movies over their television on a pay-per-movie basis, making it unnecessary for a customer to rent a DVD or video tape. Additional methods of providing access to television programs, movies and music have been developed as the Internet has allowed customers to watch movies and television shows on demand and on different types of devices. In some instances, providers might use a combination of methods to provide media content.

One method of delivering content is through the use of on-demand streaming. This method allows customers to connect to content providers to watch television programs, movies, and more at a time of their choosing and through different methods. Consumers can access live and delayed video programming on televisions, computers, streaming media players, phones, tablets, and other devices, and can watch programs in “real time,” which is often referred to as “streaming media”.

Streaming media services may be purchased in a number of ways as well, including as part of a subscription service, which allows a customer to view an entire library of media content provided by the service for a single price or by a per-item charge which allows a customer to either view a single television episode, series, or movie for a specific period of time or pay to watch a particular live event, such as boxing or wrestling match.

As a result of changing communications technologies, questions have arisen as to how streaming media services are taxed for sales and use tax purposes. The purpose of this ruling is to discuss the taxability of streaming of television programs, movies, music, and other similar content.

## Law and Discussion:

Code Section 12-36-910(A) reads:

A sales tax, equal to [six]<sup>1</sup> percent of the gross proceeds of sales, is imposed upon every person engaged or continuing within this State in the business of selling tangible personal property at retail.

Code Section 12-36-1310(A) reads:

A use tax is imposed on the storage, use, or other consumption in this State of tangible personal property purchased at retail for storage, use, or other consumption in this State, at the rate of [six]<sup>2</sup> percent of the sales price of the property, regardless of whether the retailer is or is not engaged in business in this State.

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<sup>1</sup> Code Section 12-36-1110 increased the state sales tax rate from 5% to 6% beginning June 2007.

<sup>2</sup> Code Section 12-36-1110 increased the state use tax rate from 5% to 6% beginning June 2007.

Code Section 12-36-60 defines the term “tangible personal property” to mean:

Personal property which may be seen, weighed, measured, felt, touched, or which is in any other manner perceptible to the senses. It also includes services and intangibles, including communications, laundry and related services, furnishing of accommodations and sales of electricity, the sale or use of which is subject to tax under this chapter and does not include stocks, notes, bonds, mortgages, or other evidences of debt. ... [Emphasis added.]

Therefore, the term “tangible personal property” includes the sale or use of certain intangibles, including communications, which are subject to South Carolina sales or use taxes under Chapter 36 of Title 12.

Communications are subject to sales and use taxes under Chapter 36 of Title 12 pursuant to Code Sections 12-36-910(B)(3) and 12-36-1310(B)(3), each of which imposes the tax on the:

Gross proceeds accruing or proceeding from the charges for the ways or means for the transmission of the voice or messages, including the charges for use of equipment furnished by the seller or supplier of the ways or means for the transmission of the voice or messages. ... [Emphasis added.]<sup>3</sup>

The Department has long held that the charges for the ways or means of communication include charges for access to, or use of, a communications system (the manner, method or instruments for sending or receiving a signal of the voice or of messages), whether the charges are based on a fee per a specific time period or per transmission.

Regulation 117-329 provides guidance as to the application of sales and use tax to a wide variety of communication services available to individual consumers or businesses. Regulation 117-329.4 provides examples of communication services and states:

The following are examples of communication services that are subject to the sales and use tax (unless otherwise listed as non-taxable in 117-329.5 or otherwise exempt or excluded under the law):

\* \* \*

(e) Cable Television Services

(f) Satellite Programming Services and Other Programming Transmission Services, including, but is not limited to, emergency communication services and television, radio, music or other programming services

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<sup>3</sup>The Department has long held that “the total amount of money derived, exclusive of deductions, from a commercial venture and accruing or proceeding from charges for the manner, method or instruments for sending a signal of the voice or of messages is subject to the sales and use tax.” See SC Revenue Ruling #06-8 or any successor documents.

The Department has taxed communication services such as telephone services, paging services, cable television services, satellite programming services (including but not limited to, emergency communication services and television, radio, music or other programming services), fax transmission services, voice mail messaging services, e-mail services, and database access transmission services (on-line information services), such as legal research services, credit reporting/research services and charges to access an individual website.<sup>4</sup> Therefore, the gross proceeds<sup>5</sup> accruing or proceeding from the charges for cable television services, satellite programming services, and other programming transmission services are taxable, under Code Sections 12-36-910(B)(3) and 12-36-1310(B)(3), as charges for the ways or means for the transmission of the voice or messages.

However, as mentioned earlier, media content is now transferred by a number of different methods, including internet. Specifically, customers may now “stream” movies, television shows, and music directly to their devices and watch or listen to these types of media on their own schedule instead of having to watch at a specific time. The terms “streaming” and “streaming media” are not defined in the sales tax law. It is acceptable in this instance for the Department to refer to industry definitions. The Alliance for Telecommunications Industry Solutions (“ATIS”) is a professional organization composed of information and communications technology companies that develops technical and operational standards for the industry and has defined “streaming” and streaming media” to mean:

“Streaming”: A technique for transferring data (usually over the Internet) in a continuous flow to allow large multimedia files to be viewed before the entire file has been downloaded to a client’s computer.

“Streaming media”: Transmitted video or audio data that are viewed (or listened to) in real time, i.e., as the information is received. Streaming media may be user-controlled (as in on-demand, pay-per-view movies) or server-controlled (as in Webcasting).

Furthermore, the definition of tangible personal property, as defined in Code Section 12-36-60, includes services and intangibles “the sale or use of which is subject to tax under [Chapter 36],” such as “communications.” The Second College Edition of the American Heritage Dictionary defines “communication,” in part, as “[t]he exchange of thoughts, messages or information, as by speech, signals or writing.” “Communications” is defined, in part, as, “a means of communicating esp.: a system of sending and receiving messages, such as mail, telephone and television.” The Department has long used the definition found in the Second College Edition of the American Heritage Dictionary for the term “communications.”

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<sup>4</sup> See SC Revenue Ruling #06-8 for examples of communication services subject to tax.

<sup>5</sup>Code Section 12-36-90 defines “gross proceeds of sales” to mean “the value proceeding or accruing from the sale, lease, or rental of tangible personal property” without any deduction for the cost of property sold, the cost of materials used, or labor or service costs.

Based on the discussion above, the streaming transmission of television programs, movies and music using the Internet is no different from cable and satellite transmission of television programs, movies music, and other similar content, all of which are taxable communications services. Accordingly, charges paid by a customer for streaming television programs, movies, music, and other similar content are charges for communication services and are therefore subject to South Carolina sales and use tax, whether paid for as part of a subscription service, per item, or per event.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Rick Reames III  
Rick Reames III, Director

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Columbia, South Carolina