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Governor

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Director

PRIVATE TAXPAYER RULING LR08-002

April 15, 2008

The Department issues this private taxpayer ruling in response to your letter of September 18, 2007, as supplemented by your facsimile of October 22, 2007, requesting a ruling on behalf of your client . . . ("Client").

Statement of Facts:

The following facts are excerpted from your September 18 letter:

[Client] is located solely [outside of Arizona]. [Client] has no physical presence in the State of Arizona nor does it have any customers within the State of Arizona. . . . [Client] is a telecommunications reseller and utilizes certain traditional landline services and facilities supplied by [Telecom Business] to transmit calls placed by [Client] customers which are Offshore Call Centers within foreign countries, to residents within the State of Arizona and nationwide. In both cases, [Client]'s customer is the Offshore Call Center and not the resident within the State of Arizona. The Arizona resident is never billed by [Client] for any portion of the call. [Client] is billed in [state other than Arizona] by [Telecom Business] for [Client]'s use of [Telecom Business]'s facilities in the provision of service to its[] offshore customers. [Telecom Business] also bills [Client] for certain Arizona taxes and surcharges.

Your Issues:

The questions you raised in your request may be paraphrased as follows:

1. Does Arizona consider the transactions described in the attachment international in nature?
2. Are calls originating within Arizona on toll free numbers and terminating offshore subject to Arizona transaction privilege tax?
3. Are calls originating offshore and terminating within Arizona subject to Arizona transaction privilege tax?

Your Position:

Your position is that Client's described business activities are not subject to Arizona transaction privilege tax because they are international in nature and are not billed to a service address within the State of Arizona.

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Conclusions and Ruling:

A business is subject to Arizona transaction privilege tax under the Arizona Revised Statutes ("A.R.S.") § 42-5064 telecommunications classification on its gross proceeds of sales or gross income derived from the business of providing intrastate telecommunications services. A.R.S. § 42-5064(E)(4) defines "intrastate telecommunications services" as "transmitting signs, signals, writings, images, sounds, messages, data or other information of any nature by wire, radio waves, light waves or other electromagnetic means if the information transmitted originates and terminates in this state."

Based on the description of the telecommunications services that Client purchases from Telecom Business and resells to its offshore call center customers, the Department rules that:

1. Client's described telecommunications services are international in nature, to the extent that they either originate or terminate outside the United States.
2. Client's gross receipts on telecommunications services that originate within Arizona and terminate outside the state are not subject to transaction privilege tax under the telecommunications classification.
3. Client's gross receipts on telecommunications services that originate offshore and terminate within Arizona are not subject to Arizona transaction privilege tax under the telecommunications classification.

This private taxpayer ruling does not extend beyond the facts presented in your correspondence of September 18 and October 22, 2007.

This response is a private taxpayer ruling and the determination herein is based solely on the facts provided in your request. The determinations are subject to change should the facts prove to be different on audit. If it is determined that undisclosed facts were substantial or material to the Department's making of an accurate determination, this taxpayer ruling shall be null and void. Further, the determination is subject to future change depending on changes in statutes, administrative rules, case law, or notification of a different Department position.

The determinations in this private taxpayer ruling are only applicable to the taxpayer requesting the ruling and may not be relied upon, cited, nor introduced into evidence in any proceeding by a taxpayer other than the taxpayer who has received the private taxpayer ruling.