



May 15, 2014

McLean Russell – Tax Policy Specialist
Idaho Tax Commission
P.O. Box 56
Boise, ID 83722

Subject: Idaho Sales Tax on Cable Television Services and HB 598

Dear Mr. Russell:

I am the Executive Director of the Idaho Cable Telecommunications Association (ICTA), as well as a practicing attorney with Williams Bradbury P.C. The ICTA is a member of the Idaho Technology Counsel (“ITC”), as is CableOne, one of ICTA’s member cable companies. Celynda Roach, General Manager for CableOne in Boise, is here also to testify and is on the Board of Directors of the ITC.

Both the ICTA and CableOne were consulted by the ITC in the drafting of House Bill 598 and specifically, the exclusionary language found towards the end of section 63-3616(b) [lines 29 through 31 of HB 598] that says “digital videos” [which are subject to the sales tax] “shall not include live broadcasts, television or cable broadcasts”. It was always the understanding of the ICTA that this language in HB 598 was intended to make clear that HB 598 was not to change the *status quo* with respect to the sales taxation of cable delivered goods and services, and that the language quoted above preserved that status quo for cable TV companies.

Cable TV companies do not currently pay sales tax on any video services offered to Cable TV subscribers. Cable companies do pay sales tax on the rental of “set-top” boxes and digital viewing recorders (DVRs).

In this rulemaking the Tax Commission has appeared to draw a distinction for cable delivered videos that are “viewed at a set time” versus videos that can be “viewed at any time during a defined period of time”. My Roach can describe for you the different types of technologies that allow for this “shifting” of viewing by customers. However, I believe any attempt to distinguish taxability of videos purchased by a cable TV subscriber, based on this criteria, is not only flawed reasoning, from a technology standpoint, but is also illegal under HB 598.

Simply put, any video services – or “digital videos” – purchased by a cable TV subscriber is exempt from the sales tax, by the clear meaning of the exclusionary language found in HB 598. It does not matter whether the video being watched is live, pre-recorded, stored on a DVR, or stored on a remote device, such as is ‘Video on Demand’.

I am also presenting a letter from the General Manager of Time Warner in Coeur d' Alene, along with a "screen shot" of a Time Warner customer's billing ledger that shows a customer's total bill, including three VOD purchases in March (The customer's name and other identifying material has been redacted). As you can see from this customer's bill ledger, no Idaho sales tax is collected by Time Warner for VOD sales. I would also note that sales tax is collected on the rental by the customer of a "set top box package".

Thank you for this opportunity to provide these comments.

Sincerely,

Ronald L. Williams

/s/ *Ron Williams*

Executive Director, ICTA
Williams Bradbury, P.C.