



**UPDATE ON AUDIT ISSUES**

**UTX**

**UTILITY TAX**

**October 2007**

**I. ISSUE**

The issue pertains to the treatment of Internet Access charges, Bundled Services charges and Voice Over Internet Protocol charges (VoIP) for Utility Tax purposes.

**I. CITE**

Pursuant to 11-1102 of the NYC Administrative Code, income received from furnishing or selling telecommunication service is taxable under the Utility Tax. Telecommunication service does not include Internet access service. Finance memorandum 99-5.

An Internet Service Provider (ISP) often provides both Internet access and taxable telecommunication services including Voice Over Internet Protocol (VoIP). In January, 2007, the department issued Finance Memorandum 07-1 addressing how the Department will address this situation.

**I. RECOMMENDATIONS**

The Department considers VoIP telephone services to be telecommunication services and where the service involves telephone calls that originate and terminate within the City, receipts from VoIP telephone services are subject to the Utility Tax.

If the ISP separates the charges for Internet access and taxable services on its bills, the amount charged for Internet access may be excluded from Utility Tax.

If the charge for Internet access is bundled with charges for taxable telecommunications services, the ISP may use its books and records to determine or reasonably approximate its taxable and non-taxable receipts. The breakdown of receipts between taxable and non-taxable must be reasonable in light of the market conditions concerning such services, including the relative costs to the ISP for the services it provides.

In the absence of a reasonable breakdown of the charges for bundled services, the Department will presume that all charges are receipts for the telecommunications services subject to the Utility Tax.