

**Dave Heineman**  
Governor

# STATE OF NEBRASKA

**DEPARTMENT OF REVENUE**  
**Douglas A. Ewald, Tax Commissioner**  
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October 22, 2009

Scott Peterson  
Executive Director  
Streamlined Sales Tax Governing Board  
4205 Hillsboro Pike, #305  
Nashville, TN 37215-3339

Dear Mr. Peterson:

RE: Nebraska 2009 Certification

Nebraska is submitting this written comment regarding its 2009 Recertification in which you found two issues requiring further explanation or action.

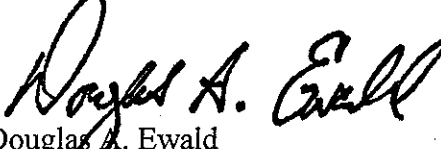
The first issue involves Nebraska's imposition of tax on "telephone communication services", which is not a defined term in the Streamlined Sales and Use Tax Agreement. Nebraska does not tax all services that fall within the broader term "telecommunications" services. Services such as FAX, teleconferencing, automated answering services, to name a few, are not taxed.

Beginning October 1, 2009, Laws 2009, LB 165, Neb. Rev. Stat. §77-2701.16(1)(a)(i) will clarify that in the furnishing of "telephone communication services" only income received from intrastate telecommunication services, except for value-added, nonvoice data service, and ancillary services, except for conference bridging services, will be taxed. Although new terminology is used, Nebraska's taxation of telephone services will remain unchanged. Taxpayers must first determine if the service is "telephone" service and secondly, if such service is intrastate or ancillary in nature. We will add a footnote or comment to the appropriate section in the Taxability Matrix to clarify this position. However, we could also issue a Revenue Ruling if you feel such clarification is necessary.

The second issue involves the taxation of certain surcharges on telephone services. The universal service fund surcharges, 911 surcharge, and surcharge for the hearing impaired are all imposed on the subscriber or end-user of intrastate telecommunications services. See Nebraska Sales and Use Tax Regulation 1-065.02. Thus, such surcharges are not part of the gross receipts of a vendor providing telecommunications service and are not subject to tax.

If you have any further questions on these issues, please contact Tom Gillaspie in Legal Services at 402-471-5915.

Sincerely,

  
Douglas A. Ewald  
Tax Commissioner

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