An amendment by Utah relating to digital products:

Appendix C
LIBRARY OF DEFINITIONS

Part II. Product definitions. Terms included in this Part are used to exempt items from sales and use taxes or to impose tax on items by narrowing an exemption that otherwise includes these items.

NOTE: The amendment above would become effective immediately upon adoption.

PART II
Product Definitions

TELECOMMUNICATIONS

Tax Base/Exemption Terms

“Ancillary services” means services that are associated with or incidental to the provision of “telecommunications services”, including but not limited to “detailed telecommunications billing”, “directory assistance”, “vertical service”, and “voice mail services”. “Ancillary services” do not include “digital products”.

NOTE: The current definition of “Ancillary services” is effective January 1, 2008. The amendment would become effective January 1, 2009.

NEW DEFINITION

DIGITAL PRODUCTS DEFINITIONS

A. “Digital Code” means a code, which provides a purchaser with a right to obtain one or more digital product(s) within a single specific digital product category under either Section B(i), (ii) or (iii), below. A digital code may be obtained by any means, including email or by tangible means regardless of its designation as “song code”, “video code”, or “book code”.

B. “Digital Products” means
i. “Digital Audio-Visual Works” which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any,

ii. “Digital Audio Works” which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones, and

iii. “Digital Books” which means works that are generally recognized in the ordinary and usual sense as “books” that are:

1. transferred electronically,

2. sold to a purchaser who has the right of permanent use granted by the seller which is not conditioned upon continued payment from the purchaser, and

3. the purchaser is an “end user.”

C. “End user” does not include any person who receives by contract the right to broadcast, rebroadcast, transmit, retransmit, license, relicense, distribute, exhibit, or otherwise transfer the digital product, in whole or in part, to another person.

D. “Ringtones” means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

E. “Subscription” means an agreement with a seller that grants a consumer the right to obtain “digital products” in a fixed quantity or for a fixed period of time, or both.

F. “Transferred electronically” means obtained by the purchaser by means other than tangible storage media.