

Sales/Use/Indirect:

Louisiana: Local Taxation of Music Streaming over Internet Deemed Invalid under ITFA Relative to Comparable Nontaxable Satellite Streaming

Case. No. L01283, La. Bd. of Tax App. (5/2/24). In a case involving the City of New Orleans, Louisiana (City) Department of Finance’s attempt to assess City sales tax on a streaming company’s subscriptions providing music over the internet, the Louisiana Board of Tax Appeals (Board) concluded that, under the unique circumstances in this case where comparable streaming services provided by a third-party company transmitting music by satellite rather than internet generally are *not* subject to the City’s sales tax pursuant to the Federal Telecommunications Act (FTA) – which prevents the City from taxing direct-to-home satellite services – the City applied its sales tax to the internet music streaming company in a discriminatory manner that is prohibited by the federal Internet Tax Freedom Act (ITFA). In doing so, the Board noted that the taxpayer’s music streaming services are sold over the internet and therefore its underlying sales meet the definition of “electronic commerce” as provided in the ITFA. Holding for the taxpayer, the Board also noted that the City is attempting to invalidly impose its sales tax on the same service as provided by the company transmitting by satellite merely because the taxpayer provides music streaming services via the internet – which “the City has not controverted.” Accordingly, the Board held summary judgment for the taxpayer that the City’s sales tax imposition on its music streaming services over the internet was discriminatory under the ITFA and thus invalid in this case. Please contact us with any questions.

[URL: http://labta.louisiana.gov/pdfs/ApplefinaIMSJ.pdf](http://labta.louisiana.gov/pdfs/ApplefinaIMSJ.pdf)

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