

Internet Taxation

This Act provides that neither the state nor a political subdivision may impose, assess, collect, or attempt to collect a tax on Internet access or the use of Internet access.

Note: The federal Internet Tax Freedom Act currently bans state and local governments from imposing taxes on Internet access, but is set to expire in October 2016.

Submitted as:

Indiana

[SB 80](#)

Status: Signed into law on April 23, 2015.

Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. [*Prohibition on State or Local Tax on Internet Access.*]
2 1. As used in this chapter, “Internet” means the myriad of computer and telecommunications
3 facilities, including equipment and operating software, that comprises the interconnected
4 worldwide network of networks that employ the Transmission Control Protocol/Internet
5 Protocol (or any predecessor or successor protocols to that protocol) to communicate
6 information of all kinds by wire or radio.
7 2.
8 (a) As used in this chapter, “Internet access” means a service that enables users to connect to
9 the Internet to access content, information, or other services offered over the Internet,
10 without regard to whether the service is referred to telecommunications, communications,
11 transmission, or similar services, and without regard to whether a provider of the service
12 is subject to regulation by the Federal Communications Commission as a common carrier
13 under 47 U.S.C. 201 et seq.
14 (b) The term also includes the following:
15 (1) The purchase, use, or sale of communications services, including telecommunications
16 services (as defined in [Insert citation]), by a provider of a service described in
17 subsection (a), to the extent the communications services are purchased, used, or sold
18 to provide the service described in subsection (a) or to otherwise enable users to
19 access content, information, or other services offered over the Internet.
20 (2) Services that are incidental to the provision of a service described in subsection (a),
21 when furnished to users as part of such service, including a home page, electronic
22 mail and instant messaging (including voice-capable and video-capable electronic
23 mail and instant messaging), video clips, and personal electronic storage capacity.
24 (3) A home page, electronic mail and instant messaging (including voice-capable and
25 video-capable electronic mail and instant messaging), video clips, and personal
26 electronic storage capacity that are provided independently or that are not packaged
27 with Internet access.

- 1 (c) The term does not include:
2 (1) voice, audio, or video programming; or
3 (2) other products and services, except services described in subsection (a) or (b), that
4 use Internet protocol or any successor protocol and for which there is a charge,
5 regardless of whether the charge is separately stated or aggregated with the charge for
6 services described in subsection (a) or (b).
- 7 3.
8 (a) As used in this chapter, the term “tax” means:
9 (1) any charge that is imposed by the state or a political subdivision of the state for the
10 purpose of generating revenues for governmental purposes and, except as provided in
11 subsection (b), is not a fee imposed for a specific privilege, service, or benefit
12 conferred; or
13 (2) the imposition on a seller of an obligation to collect and to remit to the state or a
14 political subdivision of the state any gross retail tax, sales tax, or use tax imposed on a
15 buyer by such a governmental entity.
16 (b) The term does not include any franchise fee or similar fee imposed by the Indiana utility
17 regulatory commission under [Insert citation] under Section 622 or 653 of the
18 Communications Act of 1934 (47 U.S.C. 542, 47 U.S.C. 573), or any other fee related to
19 obligations or telecommunications carriers under the Communications Act of 1934 (47
20 U.S.C. 151 et seq.), except to the extent that:
21 (1) the fee is not imposed for the purpose of recovering direct costs incurred by the
22 franchising or other governmental authority from providing the specific privilege,
23 service, or benefit conferred to the payor of the fee; or
24 (2) the fee is imposed for the use of a public right-of-way based on a percentage of the
25 service revenue and the fee exceeds the incremental direct costs incurred by the
26 governmental authority associated with the provision of that right-of-way to the
27 provider of Internet access service.
28 (c) For purposes of subsection (b), “direct costs” means costs incurred by a governmental
29 authority solely because of an Internet service provider's use of the public right-of-way.
30 The term does not include costs that the governmental authority would have incurred if
31 the Internet service provider did not make such use of the public right-of-way. Direct
32 costs shall be determined in a manner consistent with generally accepted accounting
33 principles.
- 34 4.
35 (a) As used in this chapter, “tax on Internet access or the use of Internet access” means a tax
36 on Internet access, or any use of Internet access, regardless of whether the tax is imposed
37 on a provider of Internet access or a buyer of Internet access and regardless of the
38 terminology used to describe the tax.
39 (b) The term does not include a tax levied upon or measured by net income, capital stock, net
40 worth, or property value.
- 41 5. Neither the state nor a political subdivision of the state may impose, assess, collect, or
42 attempt to collect a tax on Internet access or the use of Internet access.