



Sales and Use Tax - Use of Communications Tower. A MONTHLY CHARGE FOR THE USE OF A COMMUNICATIONS TOWER WHICH REMAINS EXCLUSIVELY IN THE CONTROL OF THE OWNER IS A CHARGE FOR A SERVICE NOT SUBJECT TO SALES AND USE TAX.

Advice has been requested whether a monthly charge for use of a communications tower would be considered the rental of tangible personal property subject to sales and use tax or a service not subject to sales and use tax.

An owner of a tower and other related electronics equipment, used for two-way communications, charges a monthly fee for use of the communications tower. The owner has retained exclusive possession of the tower facility and strictly controls the manner of access and use of the tower and equipment. The lessee is not permitted to attach any equipment to the tower nor does he have any right of entrance to the tower or its facilities.

Where an owner exclusively controls and directs the manner of access and use of a communications tower, charges for use of the tower are not subject to sales and use tax as the owner is providing a service. The charge is not taxable as a utility service since two-way radio relay is not among those services statutorily defined as a taxable utility service.

APPROVED:

A handwritten signature in cursive script that reads 'William E. Peters'.

William E. Peters  
State Tax Commissioner

March 22, 1977