

Issues from September 25, 2008 for Discussion on October 30, 2008
Presented by Dylan Waits and Gil Brewer, Department of Revenue Staff

A) Specified products included in definition

A question was raised about whether a general imposition tax on digital goods would still require use of the SSUTA specified definitions for music, movies, and books.

B) Potential ITFA anti-discriminatory clause

A question was raised (using online auction vs. auctioneers as the example) as to whether Rep. Hunter's proposal would cause potential ITFA discrimination clause violations.

C) Internet Services and web hosting conformity with new digital goods definitions

The proposed definition of digital automated services excludes Internet services as defined in RCW 82.04.297. A comment was made at the last meeting that this exclusion may result in a definition of digital automated services that is narrower than contemplated.

D) Multiple points of use questions and apportionment issues

A question was raised on how Rep. Hunter's proposal should address digital goods that are used from multiple points.

E) Expand inputs beyond advertising to any website given away for free

Businesses and tax practitioners expressed concern that the current inputs exemption for digital goods given away for free on a website is too limited by the "advertising income" requirement.

F) Payment processing clarification (bundling)

The payment processing exception from the definition of digital automated services in Rep. Hunter's proposal was used as an example of a product that could be bundled with other digital goods and services that are subject to retail sales tax. The issue is not the exception from the definition. Rather, concern has been expressed with the bundling provisions in current law, which determines the taxation of taxable and nontaxable goods and services that are bundled for one non-itemized price. The SSUTA has not established bundling rules, only definitions. States are free to deal with bundled transactions as they wish.

G) Human element (live events) and primarily questions

Questions were raised at the last committee meeting about the exclusion from the definition of digital automated services for services that primarily involve human effort.