



# This Week in State Tax (TWIST)

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## Florida: Charges for Streaming and Viewing Online Courses Subject to Communications Services Tax

The Florida Department of Revenue (Department) issued a Technical Assistance Advisement (TAA) addressing whether the state's Communications Services Tax (CST) applied to sales of online learning services and internal email services. The taxpayer—an online professional network platform that allows individual and business members to stay connected—provided an online educational service whereby users could access courses and instructional videos. The online courses could be streamed via the taxpayer's website or downloaded onto an app. Customers were charged based on the purchase of individual courses or on a monthly or yearly premium subscription to access unlimited courses. The taxpayer also provided an internal email service that allotted a certain number of credits each month to premium users, which enabled them to send internal email messages to other members.

Under Florida law, the CST is imposed on the sale of communications services sold at retail. The term "communications services" is defined broadly and means, in pertinent part, "... the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance...." An exemption exists for sales of an "information service." The definition of an "information service" is also broad, but specifically excludes a video service.

The taxpayer argued that the sale of access to its online learning service should not be considered a communication service because the service did not enable users to communicate and, in the taxpayer's view, did not meet the definition of a video, audio, or other programming service. Instead, the taxpayer contended that the service should be considered an exempt information service. However, the Department noted that the definition of information service expressly excludes any "video service." In the Department's view, the taxpayer's cloud-based platform that allowed customers to stream and download courses was subject to the CST as a "video service." A service, the Department observed, could not be an information service if it also met the definition of a video service. The Department further noted that the definition of a video service did not include

a test of the taxpayer's primary purpose for entering into the transaction. In other words, if a service was a "video service," it was subject to CST even if the taxpayer's intent was to obtain information and compiled data. The Department did not address the taxpayer's position that it should follow an earlier ruling (TAA 19A-015), in which the Department ruled that charges for providing online courses were not subject to CST.

By contrast, the Department determined that a customer's primary purpose in acquiring the email service was to retrieve and deliver data. As such, it was the Department's view that the internal email service fell within the statutory definition of information service and was therefore exempt from the CST. Please contact [Ben Cella](#) with questions on TAA 22A19-002R.



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