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## Opinion of the Tax Commissioner

Date Issued: September 6, 2000

Opinion No.: 00-0008

Tax: Sales

XXXX  
XXXX  
XXXX

Subject: Cable Television System

This request for an opinion of the Tax Commissioner was received June 26, 2000. This request concerns whether the installation of wire and fiber optic cable for cable television systems is subject to sales tax.

The taxpayer has alleged the following factual circumstances.

1. XXXX (XXXX) is anticipating bidding on a project consisting of outside plant construction for XXXX in the XXXX area.
2. XXXX is a cable television construction company.
3. In the course of its business, it contracts with local franchisees of XXXX for the installation of cable television systems.
4. It constructs or upgrades a system for a franchisee, and also performs certain maintenance on existing systems.
5. XXXX typically installs wire or fiber optic cable on poles owned by power or telephone companies, subject to an agreement with the utility company.
6. XXXX does not own the wire. The franchisee owns and supplies the wire and all other materials.
7. XXXX supplies the labor and installation expertise.
8. The installation activities do not involve “drops to homeowners.”

Ohio Revised Code 5739.01(B)(3)(b) provides that a transaction where an item of tangible personal property is to be installed is a taxable sale. However, the statute also provides for certain exceptions. Specifically, “. . . property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service” is not taxable. Because the wire and fiber optic cable installed by XXXX is a part of XXXX’s transmission system, the labor cost incurred for the installation is not subject to tax.

This opinion applies to XXXX only and may not be transferred or assigned.

In addition, the tax consequences stated in this opinion may be subject to change for any of the reasons stated in R.C. 5703.53(C). It is the duty of the taxpayer to be aware of these changes. R.C. 5703.53(E).

Thomas M. Zaino  
Tax Commissioner