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FINANCE MEMORANDUM 99-5

October 26, 1999

Treatment of Internet Access Charges

The New York City Utility Tax (Title 11, Ch. 11 of the Administrative Code of the City of New York) applies to receipts from furnishing or selling telecommunications services. It is the policy of the Department of Finance not to treat Internet access service as telecommunications services for Utility Tax purposes.

For this purpose, Internet access is the service of providing connection to the Internet, but only where such service entails the routing of Internet traffic by means of accepted Internet protocols. Charges for providing communications or navigation software, e-mail privileges, news headlines, space for a website and related website services in conjunction with an Internet connection as part of a combined charge will be considered a charge for Internet access service but only where such services are incidental to the provision of an Internet connection.

The New York City General Corporation Tax (Title 11, Ch. 6 of the Ad. Code, the "GCT") applies to corporations doing business, employing capital, owning or leasing property or maintaining an office in the City. The New York City Unincorporated Business Tax (Title 11, Ch. 5 of the Ad. Code, the "UBT") applies to any trade, business, profession or occupation conducted or engaged in by an unincorporated entity and sole proprietor. It is the policy of the Department of Finance not to treat any corporation, unincorporated entity or sole proprietor as

engaging in any of the above activities in the City solely by reason of (i) having its advertising stored on a server or other computer equipment located in the City not owned or leased by such person, or (ii) having its advertising disseminated or displayed on the Internet by another corporation, unincorporated entity or sole proprietor subject to the GCT or UBT.

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