

A taxing situation uncovered at AT&T

By Rob Varmon
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A Stamford man has filed a federal lawsuit against telecommunications giant AT&T for charging him taxes that a Bridgeport law firm says run afoul of federal and state laws.

David Rock brought the suit and his attorney said the man is standing up for all AT&T customers who have been charged this tax erroneously.

"AT&T complies with all tax laws," said Adam Cormier, an AT&T spokesman. "We have no other comment on the suit."

Rock's attorney, Sean McElligott of Koskoff, Koskoff & Bieder, said the law is clear that state taxes are not to be levied on Internet access.

McElligott said Congress passed the law in 1998 to make the Internet accessible to more people by limiting the taxes on it.

But Rock and his attorneys claim that since 2003, AT&T has been charging state sales tax on cell-phone packages that allow access to the Internet.

"It's part of a national effort with 20 other law firms,"

said McElligott, of the team's request for class-action status to recover the taxes for customers.

With the Connecticut filing, AT&T is facing suits in 20 states.

It would be a lot of money if the case goes for the plaintiffs. The typical account was charged sales tax on a \$30 monthly plan, which works out to about \$21 per year per mobile Internet subscriber on AT&T.

McElligott said the lawsuit has been transferred to federal court in Hartford. These cases generally get combined for the discovery phase into a single court and then the individual lawsuits will take place. He said the plan is to get AT&T to return the money to the customers.

"It's unclear what AT&T did with the money," said McElligott, noting that will be uncovered during discovery.

The issue is whether the law exempts landline-based Internet service and not cell-phone access. But McElligott said there's no distinction made in the law, and in any case more people are accessing the Web via cell

phones and soon it will be

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become the primary gateway to the digital world, so it makes sense not to tax the main access.

The state Department of Revenue Services was unable to discuss the particulars of this case, but did share its policies on over-collection.

"If the Department determines that a taxpayer is incorrectly or improperly charging sales tax, the Department, as a matter of policy, will make the taxpayer aware of the error and provide the taxpayer with written guidance/instructions as to the proper application of the tax. In circumstances where the taxpayer is overcharging its customers, the written guidance provided by the Department will include a copy of Policy Statement 98(5), Sales and Use Tax Refund Policy," according to department policy.

The Department of Revenue Services also said it verifies that customers improperly charged taxes receive refunds.

