



Window on State Government

Susan Combs Texas Comptroller of Public Accounts

Jurisdictions That Impose Local Sales Tax on Telecommunications Services (96-339)

Revised: June 2013

State law provides that telecommunications services are subject to the state sales tax, but are exempt from all local sales taxes.

The governing body of a city, county, transit authority, or other special purpose district may vote to impose sales tax on these services. The local sales tax is limited to telecommunications services occurring between locations within Texas.

The local sales tax is collected based on where the call originates. If the origin of the call cannot be determined, then the local sales tax collected is based on where the call is billed. Local sales tax on mobile telecommunications services is determined differently.

While telecommunications services are subject to state sales tax, local sales tax is optional. A city, county, transit authority, or special purpose district can impose local sales tax on telecommunications services that occur between locations within Texas. A call from Austin to Dallas is subject to local tax, for instance, while a call from Austin to Chicago is not.

For mobile telecommunications services, the local sales tax rate is determined by the customer's place of primary use, generally the residential or primary business street address. For example, a salesman based in Austin will pay Austin city and transit sales tax on a cellular call from San Antonio to Corpus Christi, since Austin is the place of primary use.

For telecommunication services billed call-by-call or per transmission, the local sales tax rate is determined by where the call or transmission originates. If a visitor in Houston calls someone in Beaumont and charges the call to their home phone in El Paso, Houston local tax is due.

For telephone calls not billed call-by-call, the local sales tax rate is determined by the customer's place of primary use. For example, a subscriber to voice over Internet protocol (VOIP) pays \$39.95 per month for unlimited local and long-distance calls. Charges for calls are not itemized. If the subscriber's home is in Austin, the \$39.95 charge is subject to Austin city and transit tax.

Effective **July 1, 2013**, the following jurisdictions have imposed local sales tax on telecommunications

services.

Cities	Special Purpose Districts
Kosse	Harris County Emergency Services District No. 7
West Orange	Harris County Emergency Services District No. 28

Below is a list of all cities, counties, transit authorities, or other special purpose districts that impose local sales tax on telecommunications services. This list includes all changes effective as of July 1, 2013, and will be updated quarterly with any new information.

If you have questions or need information on imposing the tax, please call our toll-free number 1-800-531-5441, ext. 3-4530. In Austin, call 463-4530. If you have questions regarding taxability, call ext. 3-4680. In Austin, call 463-4680.

Cities That Impose Local Sales Tax on Telecommunications Services

City Name	Effective	City Name	Effective	City Name	Effective
Abilene	874	Galveston	892	Orange	881
Addison	874	Ganado	874	Orchard	883
Alamo	113	Garland	874	Overton	882
Aledo	874	George West	874	Ovilla	074
Alice	874	Georgetown	884	Palacios	911
Allen	894	Glen Rose	874	Palestine (Anderson Co.)	881
Alpine	881	Goliad	874	Palmer	881
Alvarado	091	Gonzales	874	Palm Valley	971
Amarillo	874	Gordon (Palo Pinto Co.)	874	Palmhurst	074
Ames (Liberty Co.)	881	Gorman	954	Palmview	074
Anna	101	Graford	891	Pampa	874
Andrews	874	Grandfalls	093	Panorama Village	102
Angleton	874	Grandview	101	Panhandle	874

Angus	881	Grand Prairie	874	Pantego	883
Annetta North	883	Grapevine	874	Paris	874
Annetta South	881	Greenville	891	Pasadena	874
Anthony	881	Gregory	881	Payne Springs	073
Aransas Pass	091	Groesbeck	881	Pearland	874
Archer City	062	Groom	881	Pearsall	874
Arlington	874	Groves	874	Pelican Bay	044
Aspermont	052	Gruver	874	Petrolia	982
Athens	874	Gun Barrel City	082	Pharr	882
Atlanta	122	Gunter	121	Pilot Point	944
Aubrey	881	Hale Center	874	Pinehurst (Orange Co)	874
Austin	874	Hallsburg	881	Piney Point Village	874
Azle	971	Haltom City	882	Pittsburg	103
Balch Springs	973	Hamilton	874	Plainview	874
Balcones Heights	874	Happy	874	Plano	874
Bandera	091	Harlingen	931	Point Comfort	874
Bangs	881	Haskell	874	Ponder	874
Bartlett	881	Haslet	874	Port Arthur	882
Bartonville	881	Heath	874	Port Isabel	882
Bay City	874	Helotes	091	Port Neches	874
Bayou Vista	002	Henderson	131	Pottsboro	054
Beaumont	874	Henrietta	893	Prairie View	882
Bedford	874	Hewitt	051	Presido	101
Beeville	951	Hico	111	Princeton	874
Bellevue	901	Highland Park	874	Progreso	023
Belton	874	Hillsboro	064	Progreso Lakes	883
Benavides	881	Hitchcock	044	Quinlan	881
Benbrook	874	Hollywood Park	881	Ralls	874
Big Lake	972	Hooks	002	Ranger	874

Big Spring	874	Horizon City	911	Rankin (Upton Co.)	881
Blooming Grove	072	Houston	874	Reno (Lamar Co.)	054
Blue Mound	874	Hubbard	884	Richardson	911
Borger	874	Hudson	882	Richland Hills	891
Bonham	041	Hudson Oaks	874	Riesel	032
Bovina	032	Hunters Creek Village	874	Rio Grande City	113
Boyd (Wise Co.)	881	Huntsville	881	Rio Hondo	041
Brazoria	902	Hurst	874	River Oaks	874
Breckenridge	874	Hutchins	874	Riverside	044
Brenham	901	Ingleside	881	Roanoke	882
Bridge City	912	Iowa Park	882	Robert Lee	874
Bronte	874	Irving	891	Robinson	044
Brownfield	963	Jacksonville	874	Roby	881
Brookshire	881	Jefferson	094	Rockport	874
Brookside Village	972	Jersey Village	874	Rockwall	874
Brownsville	892	Jewett	091	Roma	113
Brownwood	874	Jonestown	884	Roscoe	874
Bryan	874	Joshua	874	Rollingwood	034
Bulverde	101-104	Jourdanton	874	Rosenberg	923
Burkburnett	874	Karnes City	882	Rotan	874
Burleson	874	Katy	874	Round Rock	921
Burton	042	Kaufman	881	Rowlett	874
Cameron	881	Keene	083	Royse City	874
Canadian	882	Keller	874	Runaway Bay	881
Canyon	874	Kemah	874	Rusk	874
Carrizo Springs	884	Kenedy	874	Sachse	951
Carrollton	911	Kennedale	921	Saginaw	874
Castle Hills	874	Kerens	883	Saint Jo	981
Castroville	093	Kermit	881		

Cedar Hill	874	Kilgore	874	Salado	111
Cedar Park	874	Killeen	874	San Angelo	891
Celeste	881	Kosse	133	San Antonio	874
Celina	132	Knox City	881	San Diego	874
Center	874	Kyle	883	San Juan (Hidalgo Co.)	892
Chandler	883	Ladonia	124	San Marcos	874
Childress	874	La Feria	881	San Saba	043
China	884	La Joya	893	Sansom Park	881
Cibolo	883	La Marque	903	Santa Anna	011
Cisco	874	La Ward	891	Santa Fe	031
Clarendon	874	Lake Dallas	874	Schertz	901
Claude	874	Lake Worth	874	Seabrook	881
Clear Lake Shores	901	Lakeport	901	Seagoville	971
Cleburne	882	Lakewood Village	101	Seguin	074
Cleveland	881	Lakeside (Tarrant Co.)	881	Seminole	874
Clint	874	Lakeway	874	Seven Points	874
Coffee City	113	Lamesa	064	Seymour	874
Coldspring	881	Lancaster	874	Shamrock	874
College Station	971	Laredo	874	Silsbee	921
Colleyville	891	Leon Valley	874	Simonton	021
Colmesneil	874	Levelland	874	Sinton	874
Colorado City	874	Lewisville	881	Skellytown	874
Commerce	954	Liberty (Liberty Co.)	874	Slaton	874
Conroe	874	Liberty Hill	111	Smithville	881
Converse	881	Little Elm	931	Snyder	874
Coppell	921	Littlefield	874	Somerset	132
Copper Canyon	883	Live Oak	951	Sonora	874
Copperas Cove	881	Livingston	104	Sour Lake	874
Corpus Christi	874			Southmayd	944

Corinth	031	Llano	881	Spearman	874
Corrigan	882	Lockhart	874	Stamford	874
Corsicana	882	Lockney	874	Stanton	874
Cottonwood Shores	984	Lometa	041	Stephenville	891
Cotulla	054	Lone Oak	972	Stinnett	874
Crane	874	Longview	882	Stockdale	122
Crosbyton	874	Lorena	044	Strawn	874
Crowley	874	Lubbock	874	Sugar Land	921
Cuero	101	Lufkin	914	Sullivan City	084
Cumby	882	Lumberton	981	Sulphur Springs	883
Cuney	944	Malakoff	953	Sun Valley	912
Cut and Shoot	073	Manor	874	Sundown	874
Daingerfield	874	Mansfield	874	Sunset Valley	881
Dalhart	874	Marble Falls	881	Sweeny	883
Dallas	874	Marfa	874	Sweetwater	874
Dalworthington Gardens	874	Marlin	072	Tatum	874
Danbury	104	Marquez	091	Taylor	882
De Leon	953	Marshall	874	Temple	892
Decatur	874	Mason	874	Terrell	882
Deer Park	881	Mathis	874	Texarkana	881
Denison	034	McAllen	874	Texas City	931
Denton	874	McCamey	883	Three Rivers	874
Deport	094	McKinney	874	Tiki Island	002
DeSoto	874	McLean	874	Timpson	111
Devine	874	Meadows Place	954	Tolar	003
Dickinson	881	Melissa	091	Trophy Club	892
Double Oak	882	Memphis	874	Tye	874
Driscoll	881	Mercedes	881	Tyler	881
		Merkel	032	University Park	874

Duncanville	874	Mesquite	874	Venus	091
Eagle Pass	874	Mexia	874	Vernon	874
Early	054	Midland	874	Victoria	874
East Mountain	882	Midlothian	032	Vidor	874
Eastland	891	Mineral Wells	884	Village of the Hills	104
Edecouch	902	Mingus	874	Von Ormy	094
Eden	881	Mission	881	West University Place	874
Edgecliff Village	874	Missouri City	881	Waco	874
Edinburg	883	Monahans	874	Wake Village	001
Edna	931	Montgomery	033	Walnut Springs	102
El Campo	874	Morgan's Point	101	Watauga	901
El Paso	874	Morgan's Point Resort	122	Waxahachie	874
Eldorado	874	Morton	874	Weatherford	874
Electra	882	Mount Pleasant	874	Webberville	041
Elgin	883	Mount Vernon	874	Webster	874
Emory	044	Muleshoe	874	Weimer	972
Encinal	103	Munday	874	Weslaco	881
Ennis	031	Mustang	881	West	121
Escobares	114	Nacogdoches	904	West Orange	133
Eules	874	Nassau Bay	114	West Tawakoni	971
Everman	882	New Berlin	882	Westlake	954
Fairview	052	New Boston	001	Wharton	874
Farmers Branch	874	New Braunfels	891	White Settlement	874
Farmersville	874	New Summerfield	881	White Oak	092
Fate	874	Niederwald	034	Wichita Falls	881
Flower Mound	883	Nolanville	103	Willow Park	874
Floydada	874	North Richland Hills	874	Wimberley	082
Forest Hill	874	Nome	881	Wills Point	881
Fort Stockton	874				

Fort Worth	874
Fredericksburg	874
Freeport	874
Frisco	901
Fritch	081
Fulshear	112
Gainesville	874

Oak Leaf	092
Oak Point	034
Oak Ridge	882
Oak Ridge North	874
Odem	881
Odessa	874
O'Donnell	904
Olney	874

Windthorst	891
Wink	881
Winnsboro	874
Winters	874
Wolfforth	874
Woodway	952
Woodville	874
Yorktown	893

Transit Authorities That Impose Local Sales Tax on Telecommunications Services

Transit Authority Name	Effective
Capital Metropolitan Transportation Authority (Austin MTA)	893
Corpus Christi Regional Transit Authority (Corpus Christi RTA)	914
Dallas Area Rapid Transit (Dallas MTA)	874
Denton County Transportation Authority (Denton CTD)	044
El Paso City Transit Department (El Paso CTD)	911
Fort Worth Transportation Authority (Fort Worth MTA)	983
Laredo City Transit Department (Laredo CTD)	913

Counties That Impose Local Sales Tax on Telecommunications Services

County Name	Effective
Angelina	081
Anderson	113
Bailey	892

County Name	Effective
Hill	881
Hood	041
Hopkins	121

County Name	Effective
Rains	893
Red River	131
Runnels	882

Blanco	881	Houston	111	San Jacinto	042
Bosque	881	Kendall	954	San Saba	041
Burleson	041	Kleberg	121	Scurry	941
Cherokee	884	Lamar	124	Smith	944
Comanche	953	Leon	041	Tom Green	881
El Paso	881	Madison	041	Upshur	883
Gillespie	881	Milam	881	Walker	954
Gregg	951	Morris	882	Washington	064
Guadalupe	901	Oldham	041	Young	041
Hays	882	Parker	041		

Special Purpose Districts That Impose Local Sales Tax on Telecommunications Services

Special Purpose District Name	Effective
Benbrook Library District	004
Blanco County South Library District	032
Blanco County North Library District	063
Brewster County Emergency Services District No. 1	042
Bulverde Area Rural Library District	003
Canyon Lake Community Library District	003
Chambers County Emergency Services District No. 1	112
Comal County Emergency Services District No. 1	094-101
Comal County Emergency Services District No. 3	042
Comal County Emergency Services District No. 4	094
Comal County Emergency Services District No. 5	094
Comal County Emergency Services District No. 6	062
Coppell Crime Control District	092
Corinth Crime Control District	063

Corpus Christi Crime Control District	111
Deer Park Crime Control and Prevention District	131
Deer Park Fire Control and EMS District	131
Driftwood Economic Development Municipal Management District	102
Dripping Springs Community Library District	003
East Travis Gateway Library District	074
Eulesse Crime Control District	964
Flower Mound Crime Control District	091
Flower Mound Fire Control District	091
Forest Hill Crime Control District	023-063
Forest Hill Library District	031
Grand Prairie Crime Control District	082
Haltom City Crime Control District	971
Hardin County Emergency Services District No. 2	112
Harris County Emergency Services District No. 2	093
Harris County Emergency Services District No. 4	111
Harris County Emergency Services District No. 5	103
Harris County Emergency Services District No. 7	133
Harris County Emergency Services District No. 10	113
Harris County Emergency Services District No. 14	102
Harris County Emergency Services District No. 17	132
Harris County Emergency Services District No. 28	133
Harris County Emergency Services District No. 46	122
Harris County Emergency Services District No. 50	102
Harris County Emergency Services District No. 60	093
Harris County Emergency Services District No. 80	072
Hays County Emergency Services District No. 3	084
Hays County Emergency Services District No. 8	084
Hurst Crime Control District	971

Jeff Davis County Emergency Services District No. 1	063
Keller Crime Control District	031
Lake Travis Library District	044
Lakewood Village Municipal Development District	123
Lewisville Crime Control District	122
Lewisville Fire Control District	122
Liberty Hill Library District	041
Montgomery County Emergency Services District No. 3	132
Montgomery County Emergency Services District No. 4	101
Montgomery County Emergency Services District No. 5	103
Montgomery County Emergency Services District No. 6	122
Montgomery County Emergency Services District No. 7	073
Montgomery County Emergency Services District No. 8	121
Montgomery County Emergency Services District No. 9	073
Montgomery County Emergency Services District No. 12	063
Montgomery County Emergency Services District No. 12-A	084
Nacogdoches County Hospital District	931
North Richland Hills Crime Control District	964
Oak Point Municipal Development District	123
Orange County Emergency Services District No. 3	103
Palmhurst Crime Control District	074
Palmview Crime Control District	074
Reno Crime Control District	054
Richland Hills Crime Control District	074
River Oaks Crime Control District	971
Seabrook Crime Control District	073
Sullivan City Crime Control District	084
The Woodlands Township	031
The Woodlands Township Economic Development Zone	082

Timpson Library District	041
Town Center Economic Development Zone No. 1	033
Town Center Economic Development Zone No. 2	041
Town Center Economic Development Zone No. 3	041
Town Center Economic Development Zone No. 4	072
Travis County Emergency Services District No. 2	051
Travis County Emergency Services District No. 3	043
Travis County Emergency Services District No. 4	044
Travis County Emergency Services District No. 5	083
Travis County Emergency Services District No. 5-A	083
Travis County Emergency Services District No. 6	093
Travis County Emergency Services District No. 6-A	093
Travis County Emergency Services District No. 8	094
Travis County Emergency Services District No. 11	061
Travis County Emergency Services District No. 11-A	102
Travis County Emergency Services District No. 12	124
Watauga Crime Control District	971
Wells Branch Library District	001
Westbank Library District	001
White Settlement Crime Control District	964
Williamson County Emergency Services District No. 7	094
Wimberley Village Library District	051

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(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Basic local exchange telephone service--The provision by a telephone company of each access line and each dial tone to a fixed location for sending and receiving telecommunications in the telephone company's local exchange network. Services are considered basic irrespective of whether the customer has access to a private or party line, or whether the customer has limited or unlimited access. The term does not include international, interstate, or intrastate long-distance telecommunications services or mobile telecommunications services.

(2) Internet--Collectively the myriad of computer and telecommunications facilities, including equipment and operating software, that comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to the protocol, to communicate information of all kinds by wire or radio.

(3) Internet access service--A service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. The term does not include telecommunications services. See §3.366 of this title (relating to Internet Access Services).

(4) Interstate long-distance telecommunication service--A telecommunication service that originates in one state, crosses state lines, and terminates in another state.

(5) Intrastate long-distance telecommunications service--A telecommunication service that originates and terminates within one state, but crosses the boundaries on subdivisions or jurisdictions within the state.

(6) Mobile telecommunications service--The provision of a commercial mobile radio service, as defined in 47 C.F.R. 20.3 of the Federal Communications Commission's (FCC) regulations in effect on June 1, 1999 under the Mobile Telecommunications Sourcing Act (4 U.S.C. §§116-126). The term includes cellular telecommunications services, personal communications services (PCS), specialized mobile radio services, wireless voice over Internet protocol services, and paging services. The term does not include telephone prepaid calling cards or air-ground radio telephone services as defined in 47 C.F.R. 22.99 of FCC regulations in effect on June 1, 1999.

(7) Pay telephone coin sent--Telecommunications service paid for by the insertion of coins into a coin-operated telephone.

(8) Place of primary use--The physical street address that is representative of where a customer primarily uses a mobile telecommunications service. That location must be either the customer's

residential street address or the customer's primary business street address that is within the licensed service area of the service provider. The individual or entity that contracts with the service provider is the customer. If the individual or entity that contracts with the service provider is not the end user, then the physical street address where the end user primarily uses the service determines the customer's place of primary use. For example, a business owner who is located in Austin, Texas establishes mobile telecommunication service accounts for employees who are located in other cities. One employee does business from his home in Dallas, Texas. Two other employees work at an office that is located in Houston, Texas. Another employee works at an office that is located in New Orleans, Louisiana. The home street address of the employee in Dallas is the place of primary use for that cellular phone account. The place of primary use for the two Houston employees is the street address of the Houston office. The place of primary use for the employee in Louisiana is the street address of the New Orleans office.

(9) Prepaid telecommunications service--A wireless or wire telecommunications service for which the provider requires a customer to prepay the full amount prior to provision of the service. The term does not include the sale or use of a telephone prepaid calling card as defined in paragraph (15) of this subsection. A card, pin number, access code or similar device that allows a user to access only a specific network, or that is intended for use with a specific user account or device (e.g., to add more minutes to an existing account) is a prepaid telecommunications service and is taxed as the sale of a telecommunications service. Local sales tax is collected as explained in subsection (h) of this section.

(10) Private communication service--A telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

(A) As it relates to private communication service, the term "communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(B) As it relates to private communication service, the term "customer channel termination point" means the location where the customer either inputs or receives the communications.

(11) Seller--Any person who sells telecommunications services including a hotel, motel, owner or lessor of an office, residential building or development that contracts and pays for telecommunications services for resale to guests or tenants.

(12) Taxable service--A telecommunications service or other taxable service listed in Tax Code, §151.0101.

(13) Telecommunications services--The electronic or electrical transmission, conveyance, routing, or reception of sounds, signals, data, or information utilizing wires, cable, radio waves, microwaves, satellites, fiber optics, Voice over Internet Protocol (VoIP), or any other method now in existence or that may be devised, including but not limited to long-distance telephone service. The term includes mobile telecommunications services and prepaid telecommunications services. The term does not include:

(A) the storage of data or other information for subsequent retrieval or the processing, or reception and processing, of data or information intended to change its form or content;

(B) the sale or use of a telephone prepaid calling card;

(C) Internet access service; or

(D) pay telephone coin sent.

(14) Telephone company--A person who owns or operates a telephone line or telephone in this state and charges for its use.

(15) Telephone prepaid calling card--A card or other item, including an access code, that represents the right to access telecommunications services, other than prepaid telecommunications services as defined in paragraph (9) of this subsection, through multiple devices, regardless of the network providing direct service to the device used, for which payment is made in incremental amounts and before the call or transmission is initiated. For example, a calling card that allows a user to access a long distance telecommunications network for the purpose of making international calls through a pay phone is a telephone prepaid calling card. The sale of a telephone prepaid calling card is taxed as the sale of tangible personal property.

(16) Voice over Internet Protocol (VoIP)--A telecommunication service where a phone call is transmitted over a data network. The term "Internet Protocol" is a catchall phrase for the protocols and technologies of encoding a voice call that allow the voice call to be slotted in between data on a data network, including the Internet, a company's Intranet, or any other type of data network.

(b) Taxable telecommunications services. The total amount charged for a taxable telecommunications service is subject to sales tax. Sales tax is due on a charge for the following:

(1) basic local exchange telephone services;

(2) enhanced services such as metro service, extended area service, multiline hunting, and PBX trunk;

(3) auxiliary services such as call waiting and call forwarding;

(4) intrastate long-distance telecommunications services;

(5) interstate long-distance telecommunications services that are both originated from, and billed to, a telephone number or billing or service address within Texas such that if a call originates in Texas and is billed to a Texas service address, the charge is taxable even if the invoice, statement, or other demand for payment is sent to an address in another state;

(6) mobile telecommunications services for which the place of primary use is located in Texas;

(7) telegraph services that are both originated from, and billed to, a person within Texas;

(8) a telecommunications service paid for by the insertion of tokens, credit or debit card into a coin-operated telephone located in Texas;

(9) subject to subsection (e) of this section, the lease, rental, or other charges for telecommunication equipment including separately stated installation charges. Separately stated charges for labor to install wiring will not be taxable if the wiring is installed in new structures or residences in such manner as to become a part of the realty. Separately stated charges for labor to install wiring in existing

nonresidential real property are taxable. See §3.291 and §3.357 of this title (relating to Contractors; Nonresidential Real Property Repair, Remodeling, and Restoration; Real Property Maintenance) for additional information. If charges for the installation of wiring and charges for the equipment are not separated, the total charge will be treated as a sale and installation of tangible personal property. Equipment sold by a telecommunications service provider is subject to sales or use tax and is not taxed as part of the telecommunications service if the service provider separately invoices the sale of the equipment. The sale of equipment is not separately invoiced if it is identified on the same bill, receipt or invoice as the sale of the telecommunications service, even if it is identified as a separate line item on the same bill, receipt, or invoice;

(10) installation of telecommunications services, including service connection fees;

(11) private communication services. Taxable receipts include the channel termination charge imposed at each channel termination point within this state, the total channel mileage charges imposed between channel termination points or relay points within this state, and an apportionment of the interoffice channel mileage charge that crosses the state border. An apportionment on the basis of the ratio of the miles between the last channel termination point in Texas and the state border to the total miles between that channel termination point and the next channel termination point in the route will be accepted. If there is a single charge for a private communication service in which the customer has channel termination points both inside and outside of Texas, the apportionment can also be determined by dividing the number of customer channel termination points in Texas by the total number of customer channel termination points to establish the percentage of the charge subject to state sales tax for Texas. Other apportionment methods may be used by the seller if first approved in writing by the comptroller;

(12) charges that are passed through to a purchaser for federal, state, or local taxes or fees that are imposed on the seller of the telecommunications service rather than on the purchaser. Such charges are a cost or expense of the seller and are included in the total price subject to sales tax; and

(13) prepaid wireless telecommunications services as defined by subsection (a)(9) of this section when the purchase is made in person at a Texas business or is made by telephone or the Internet and the purchaser's primary business address or residential address is in Texas.

(c) Nontaxable services. Sales tax is not due on charges for:

(1) interstate long-distance telecommunications services that are not both originated from, and billed to, a telephone number or billing or service address within Texas. Records must clearly distinguish between taxable and exempt long-distance services;

(2) broadcasts by commercial radio or television stations licensed or regulated by the FCC. See §3.313 of this title (relating to Cable Television Service) for the tax status of cable television services;

(3) telecommunications services purchased for resale;

(4) telegraph services that are not both originated from and billed to a person within Texas;

(5) mobile telecommunications services for which the place of primary use is located outside of Texas; and

(6) charges for federal, state, or local taxes or fees that are imposed on the purchaser rather than on the

seller of the telecommunications service. For example, no sales tax is due on a separately stated charge for federal excise tax or for 9-1-1 Emergency Service Fee and 9-1-1 Equalization Surcharge because these taxes or fees are imposed on the purchaser and are not a cost of doing business of the seller.

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PUBLIC FINANCE

PART 1

COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 3

TAX ADMINISTRATION

SUBCHAPTER O

STATE SALES AND USE TAX

RULE §3.344**Telecommunications Services**

(d) Billing and records requirements. If any nontaxable charges are combined with and not separately stated from taxable telecommunications service charges on the purchaser's bill or invoice from a provider of telecommunications services, the combined charge is subject to tax unless the service provider can identify the portion of the charges that are nontaxable through the provider's books and records kept in the regular course of business. If the nontaxable charges cannot reasonably be identified, the charges from the sale of both nontaxable services and taxable telecommunications services are attributable to taxable telecommunications services. The provider of telecommunications services has the burden of proving nontaxable charges.

(e) Resale of tangible personal property. See §3.285 of this title (relating to Resale Certificate; Sales for Resale).

(1) Transfer of tangible personal property to the care, custody and control of the purchaser. A telecommunications service provider may claim a resale exemption on the purchase of tangible personal property that is transferred by the telecommunications service provider to the care, custody, and control of the purchaser. A telecommunications service provider must collect sales tax on charges for such items.

(2) Wireless voice communication devices. A person may claim a resale exemption on the purchase of a cell phone or other wireless voice communication device as an integral part of a taxable service, regardless of whether there is a separate charge for the wireless voice communication device or whether the purchaser is the provider of the taxable telecommunications service, if payment for the service is a condition for receiving the wireless voice communication device. For example, if a person signs a contract for the purchase of telecommunications services at the location of a retailer and the retailer sells the person a cell phone as a condition of entering the contract for the telecommunications services that will be provided by someone other than the retailer, the retailer can purchase the cell phone tax free with a properly completed resale certificate.

(f) Resale of a telecommunications service. See §3.285 of this title.

(1) Sales tax is not due on the charge by one telephone company to another for providing access to a local exchange network. The telecommunications service provider must collect sales tax from the final purchaser on the total charge for the taxable service including the charge for access.

(2) A telecommunications service may be purchased tax free for resale if resold by the purchaser as an integral part of a taxable service. The purchaser must give the service provider a properly completed resale certificate to purchase the telecommunications service tax free for resale. A telecommunications service is an integral part of a taxable service if the telecommunications service is essential to the performance of the taxable service and without which the taxable service could not be rendered. For example, an Internet access service provider (ISP) may give a resale certificate when purchasing the

dedicated dial-up line services to be used by the ISP's customers. However, the ISP must pay sales tax when purchasing its own personal or business use of telecommunications services such as charges for its office phone lines, mobile telecommunications services for its traveling salespersons, or for a customer service call-center.

(3) A mobile telecommunications service provider may purchase roaming services from another mobile telecommunications service provider tax free for resale to its customers that are using the roaming services. For example, an out-of-state mobile telecommunications service provider purchases roaming services in Texas for resale to its out-of-state customers (i.e., persons who have a place of primary use outside Texas). To be exempt from sales tax, the out-of-state mobile telecommunications service provider must give the seller of the roaming services a resale certificate showing either a Texas sales tax permit number or the sales tax permit number or registration number issued by its home state. Effective for billing periods that begin on or after August 1, 2002, these out-of-state customers do not owe Texas sales tax on roaming charges incurred while visiting or traveling through Texas.

(g) Taxable purchases. Subject to the provisions of subsections (e) and (f) of this section, a telecommunications service provider owes sales or use tax on all tangible personal property and services that are used to provide the service. See §3.346 of this title (relating to Use Tax), §3.281 of this title (relating to Records Required; Information Required), and §3.282 of this title (relating to Auditing Taxpayer Records).

(h) Local tax.

(1) Subject to the provisions of paragraph (2) of this subsection, jurisdictions that impose local sales and use taxes may repeal the local sales tax exemption on telecommunications services. See Publication 96-339 (Jurisdictions That Impose Local Sales Tax on Telecommunications Services) for a list of jurisdictions that impose local taxes on telecommunications services.

(2) Taxable interstate long-distance telecommunications are only subject to state sales tax. Local taxing jurisdictions may not repeal the local sales tax exemption on interstate long-distance telecommunications services.

(3) A seller of taxable telecommunications services, with the exception of mobile telecommunications services as explained in paragraph (4) of this subsection and prepaid wireless telecommunications services as explained in paragraph (6) of this subsection, must collect local sales taxes based on the location from which the telecommunications service originates. If the point of origin cannot be determined, the telecommunications service provider must collect local taxes based on the address to which the telecommunications service is billed.

(4) A seller of mobile telecommunications services must collect local sales taxes based on the place of primary use as defined in subsection (a)(8) of this section and per Tax Code, §151.061. The location from which a mobile telecommunications service originates does not determine whether the service is exempt or is subject to state or local sales tax.

(5) A seller of telephone prepaid calling cards is not selling a telecommunications service and must collect state and local sales or use tax on the sale of the cards in the same manner as sales of other tangible personal property.

(6) A seller of prepaid wireless telecommunications services as defined in subsection (a)(9) of this section must collect local tax based on the business address of the seller when the sale occurs in Texas

in person. However, if the sale occurs over the telephone or Internet, tax is due if the primary business address of the purchaser or residential address of the purchaser is in Texas.

Source Note: The provisions of this §3.344 adopted to be effective December 30, 1985, 10 TexReg 4810; amended to be effective April 1, 1988, 13 TexReg 1342; amended to be effective April 18, 2000, 25 TexReg 3289; amended to be effective October 21, 2010, 35 TexReg 9329

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**SUGGESTED TAX APPLICATIONS
LOCAL EXCHANGE CARRIERS**

Prepared by the Accounting Committee of the Texas Statewide Telephone Cooperative, Inc.
June 2012

- 1 = State Sales Tax
2 = City, County, and Other Local Taxes (See Footnote ah)
3 = PUC Gross Receipts Assessment
4 = Federal Excise Tax (See Footnote aj)
5 = Texas Universal Service Fund Assessment (TUSF) (See Footnote ai)
6 = Federal Universal Service Charge (FUSC) (See Footnotes t & z)

		1	2	3	4	5	6
A. INTERSTATE							
1	Toll						
	a) Originating in Texas and billed to a telephone number or billing or service address within Texas	Y	N	N	N	N	Nab
	b) Any other toll	N	N	N	N	N	Nab
	c) Bundled Services (See Footnote ag)	Y	N	N	N	N	N
2	End User Charges: SLC, ARC (see footnote aq)	Y	Ya	N	Y	N	Yt
3	Access Charges						
	a) Special Access -End Users (non-telecomm. providers)	Ys	N	N	Y	N	Yt
	b) CABS & Special Access - (telecommunications providers)	Nd	N	N	N	N	N
4	Other Access						
	a) Special Access Surcharge	Y	N	N	Y	N	Yt
	b) ISDN BRI	Y	Yad	N	Y	N	Yt
	c) xDSL (sold by a regulated telco)						
	(1) wholesale	N	N	N	N	N	Yt
	(2) retail	Ym,o,p	Yad,m,o,p	N	Y	N	Yt
5	Billing & Collecting						
	a) Recording and/or Rating Services	Yg	Yg	N	N	N	N
	b) Other Billing and Collecting Services	Ng	Ng	N	N	N	N
6	WATS						
	a) Same as 1(a)	Y	N	N	N	N	Nab
	b) Same as 1(b)	N	N	N	N	N	Nab
7	IXC Lease (telecommunications providers)	Nf	Nf	Nf	Nf	N	N
8	Federal Universal Service Charge (FUSC) (See Footnote t)	Y	Ya	N	Y	N	N/A
B. INTRASTATE							
1	a) Toll (IntraLATA) - Customer Billed	Y	Ya	Y	N	Y	N
	b) Bundled Services (See Footnote ag)	Y	Ya	Y	N	Y	N
	c) TX USF Support (Ln 12 TUSF Worksheet)	N	N	N	N	N	N
	d) TUSF Surcharge (billed to customers) (See Footnote ai)	Y	Y	Y	Y	N	N
2	Toll (InterLATA)	Y	Ya	N	N	Y	N
3	Private Line Revenues and Private Line Mileage	Y	Ya	Y	N	Y	N
4	Access Charges						
	a) Special Access -End Users (non-telecomm. providers)	Ys	Ya,s	Y	Y	Y	N
	b) CABS & Special Access (telecommunications providers)	Nd	Nd	N	N	N	N

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	1	2	3	4	5	6
5 Billing & Collecting						
a) Recording and/or Rating Services	Yg	Yg	N	N	N	N
b) Other Billing and Collecting Services	Ng	Ng	N	N	N	N
6 FX and WATS Revenues	Y	Y	Y	N	Y	N
7 IXC Lease (telecommunications providers)	Nf	Nf	Nf	Nf	Nf	N
C. LOCAL CHARGES						
1 Local Access Service (See Footnote q)						
a) Basic Local Access Service	Ys	Ya,s	Y	Y	Y	N
b) Lifeline and Tele-Assistance	Y	Ya	Y	Y	Ni	Nam
c) Bundled Services Not Incl Long Distance (See Footnote ag)	Ys	Ya,s	Y	Y	Y	N
d) Bundled Services Incl Long Distance (See Footnote aj)	Ys	Ya,s	Y	N	Y	N
e) VoIP Bundled Services	Ys	Ya,s	Nh	N	Yh,z	Yz
2 Local Access Zone Mileage Charges beyond B.R.A.	Y	Ya	Y	Y	Y	N
3 Coin Station Local Revenues (See Footnote l)	N	N	N	Y	N	N
4 Coin Station Originated Toll (See Footnote l)	N	N	Y	N	N	N
5 Custom Calling Features Revenue	Y	Ya	Y	Y	Y	N
6 All Enhanced Services	Y	Ya	Y	Y	Y	N
7 Optional EAS, Mandatory EAS & ELC Revenues	Y	Ya	Y	Y	Y	N
8 Touch-tone Revenues	Y	Ya	Y	Y	Y	N
9 Directory Assistance	Y	Ya	Y	Y	Y	N
10 Directory Advertising	N	N	N	N	N	N
11 Boldface Directory Listings	N	N	N	N	N	N
12 Extra and Joint Listings & Non-Published Listings	N	N	Y	Y	N	N
13 Revenues Exempted by Exemption Certificate (See Footnote r)	N	N	Y	N	N	Yan
14 Revenues Exempted by Resale Certificate (Comptroller Rule 3.511)	N	N	N	N	N	N
15 a) 9-1-1 Emergency Service Fee (See Footnote q)	N	N	N	N	N	N
b) 9-1-1 Equalization Surcharge (See Footnote q)	N	N	N	N	N	N
16 Other - Separately Stated Taxes and Fees Imposed on LECs (See Footnote e)	Y	Ya	Y	Y	Y	N

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	1	2	3	4	5	6
17 Telephone Prepaid Calling Cards (See Footnote j)	Y	Y	N	N	N	N
18 Late Fees and Returned Checks Fees	N	N	N	N	N	N
D. CUSTOMER PREMISE EQUIPMENT						
1 Sale by Regulated Telephone Company	Y	Yb	N	N	N	N
2 Sale by Unregulated Company	Y	Yb	N	N	N	N
3 Lease/Rent under Tariff Provision	Y	Yc	Y	Y	Y	N
4 Non-tariffed lease/rent by telco	Y	Yc or b	N	Nf	Y	N
5 Lease/Rent by Unregulated Company	Y	Yb	N	Nf	N	N
E. SERVICE CONNECTION CHARGES and MAINTENANCE (REPAIR CONTRACT) CHARGES						
1 Inside Wire Installation (New construction and residential property only)						
a) Lump sum billing	N	N	N	N	N	N
b) Materials stated separately	Y	Yao	N	N	N	N
c) Labor only	N	N	N	N	N	N
2 Inside Wire Installation (Repair, remodel or restore other than residential property)						
a) Lump sum billing	Y	Yao	N	N	N	N
b) Materials stated separately	Y	Yao	N	N	N	N
c) Labor only	Y	Yao	N	N	N	N
3 Inside Wire Maintenance (Repair Contract)						
a) Residential	N	N	N	N	N	N
b) Non-residential	Y	Yao	N	N	N	N
4 Regulated Service Charges						
a) Return Check Charge	N	N	Y	N	N	N
b) Late Fees	N	N	Y	N	N	N
c) All others	Y	Ya	Y	N	Y	N
5 Non-regulated Service Charges						
a) Non-regulated Service Charges by Telco	Y	Y	N	N	Y	N
b) Non-regulated Service Charges by Unregulated Company (non-telecommunications services)	Y	Yb	N	N	N	N
c) Trip Charge (without a repair charge)	Nap	Nap	N	N	N	N
6 Labor and Materials - CPE	Y	Yb	N	N	N	N
7 Maintenance Agreements	Y	Yb	N	N	N	N

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	1	2	3	4	5	6
F. INTERNET SERVICES (sold by a non-regulated ISP)						
1 Access Fees (Dial-up, ISDN, DSL, 800#, etc.)	Ym,o,p	Ym,o,p	N	N	N	N
2 Additional E-Mail Account Fees (See footnote af)	Yo,p	Yo,p	N	N	N	N
3 Additional Web Space Fees	Yn,o,p	Yn,o,p	N	N	N	N
4 Domain Name Registration Fees	N	N	N	N	N	N
5 Domain Name Hosting Fees	Yn,o,p	Yn,o,p	N	N	N	N
6 Website Hosting Fees	Yn,o,p	Yn,o,p	N	N	N	N
7 Webpage Design Fees	Yn,o,p	Yn,o,p	N	N	N	N
8 Sales of Software and/or Hardware	Yb,u	Yb,u	N	N	N	N
9 Repair or Installation of Software/Hardware						
a. Lump Sum Billing	Yb	Yb	N	N	N	N
b. Materials separately stated (Hardware only)	Yb	Yb	N	N	N	N
c. Labor only	Yb,u	Yb,u	N	N	N	N
10 Late Fees and Returned Check Fees	N	N	N	N	N	N
G. WIRELESS TELECOMMUNICATIONS						
1 Access Revenue	Yac	Yac	Nv	N	Y	Yz
2 Airtime Revenue	Yac	Yac	Nv	N	Y	Yz
3 Basic Plan	Yac	Yac	Nv	N	Y	Yz
4 Enhanced Services	Yac	Yac	Nv	N	Y	N
5 Insurance	N	N	Nv	N	N	N
6 Intrastate Toll Revenue	Yac	Yac	Nv	N	Y	N
7 Interstate Toll Revenue	Yac	Yac	Nv	N	Y	Yz
8 Roamer Rev. - Pass thru to Other Co.(see footnote x)	Nw	Nw	Nv	Nw	Nw	Naa
9 Roamer Rev.-(Home Customer) (see footnote y)	Yac	Yac	Nv	N	Y	Yz

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	1	2	3	4	5	6
10 Installation of Wireless Phone (i.e. fixed in a vehicle = tangible personal property)	Yac	Yac	Nv	N	N	N
11 Deinstallation of a Wireless Phone (i.e. removed from a vehicle = tangible personal property)	N	N	Nv	N	N	N
12 Equipment Sales	Y	Y	Nv	N	N	N
13 Activation Fee	Yac	Yac	Nv	N	Y	Yz
14 Deactivation Fee	Yac	Yac	Nv	N	Y	N
15 Repairs to Telephone or Equipment-Handsets	Y	Y	Nv	N	N	N
16 Repairs to Equipment Installed in Auto						
a. Parts	Y	Y	Nv	N	N	N
b. Labor (see footnote ae)	Nae	Nae	Nv	N	N	N
17 Inspection of Wireless Phone not Resulting in Repair	N	N	Nv	N	N	N
18 Late Fees and Returned Check Fees	N	N	Nv	N	N	N
19 Phone Number Changes	Y	Y	Nv	N	Y	N
20 Text messaging	Yac	Yac	N	N	Y	Yz
Media messaging	Yac	Yac	N	N	Y	Yz
Ring tone downloads	Y	Y	N	N	N	N
Music downloads	Y	Y	N	N	N	N
Video game downloads	Y	Y	N	N	N	N
Internet access	Ym	Ym	N	N	N	N
Prepaid ring tone download card	Nk	Nk	N	N	N	N
Prepaid music download card	Nk	Nk	N	N	N	N
Prepaid video game download card	Nk	Nk	N	N	N	N
Prepaid internet access card	Nal	Nal	N	N	N	N
21 Prepaid Wireless Telecommunications Services	Yac	Yac	N	N	Y	Y
22 Prepaid Wireless 911 Emergency Service Fee (See Footnote q)	N	N	N	N	N	N

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		1	2	3	4	5	6
H. TWO-WAY PAGERS							
1	Line Charges	Y	Y	Y	Y	Y	Y
2	Pager Rental or Maint. Fee-billed with line charge	Y	Y	Y	Y	Y	Y
3	Pager Rental-billed sep. from line charge	Y	Y	N	N	N	N
4	Lost Pager Charge-billed sep. from line charge	Y	Y	N	N	N	N
5	Activation Fee	Y	Y	Y	Y	Y	Y
6	Maintenance Fee-billed sep. from line charge	Y	Y	N	N	N	N
I. ONE-WAY PAGERS							
1	Line Charges	Y	Y	N	N	N	N
2	Pager Rental or Maint. Fee-billed with line charge	Y	Y	N	N	N	N
3	Pager Rental-billed sep. from line charge	Y	Y	N	N	N	N
4	Lost Pager Charge-billed sep. from line charge	Y	Y	N	N	N	N
5	Activation Fee	Y	Y	N	N	N	N
6	Maintenance Fee-billed sep. from line charge	Y	Y	N	N	N	N

FOOTNOTES:

- a Applicable to City, County, or Other Local Sales Tax only upon repeal of the exemption as filed by the entity to the State
- b City Sales Tax is based on the location of the branch office making the sale or lease
- c City Sales Tax is based on the location of the equipment leased (customer location).
- d Only if resale certificate is obtained.
- e Includes items such as:
Cost of service franchise tax adjustment (HB11), City franchise tax adjustment, or Texas Universal Service Fund Assessments.
- f Subject to interpretation on an individual case basis.
- g Correspondence from the Texas Comptroller of Public Accounts indicates these Billing and Collecting service elements are subject to taxation. The Comptroller stated that recording and rating were considered taxable data processing services when performed with a computer. In performing recording and rating services, the local company is simply using the computer to gather information and apply the rate schedule provided by the carrier to the charges to each customer. Other billing services were not considered taxable, i.e., bill rendering, inquiry, billing analysis, and billing information. These latter services were not considered taxable because the computer is used to facilitate the performance of other services. (See also Comptroller's Rule 3.330.)

If the recording and rating services are separately set out, tax should be collected on them. On the other hand, if they are combined with other nontaxable charges and the charges for recording and rating exceed 5 percent of the total bill, the entire charge is subject to sales tax. Taxability under these guidelines must be determined on an individual case basis.

Also, the tax applies without regard to whether Billing and Collection services are provided under "tariff" or "contract". The Billing and Collection services performed in Texas are taxable as data processing services without regard to telephony jurisdictional categorization.
- h Non facility based VoIP providers do not pay into the Texas Universal Service Fund. Furthermore, VoIP originating in Texas is not subject to the PUC gross receipts assessment according to Comptroller Audit Procedures.
- i Subject to interpretation on an individual company basis. Issue revolves around regulatory and administrative interpretation of PUC substantive rule 26.420 as to application of exemption to only "lifeline services" or to the complete "customer" billing. At a minimum basic services are exempt.
- j Telephone prepaid calling cards, whether landline, cellular, or rechargeable, are considered tangible personal property and are subject to Texas state and local sales and use tax at the time of purchase. "Telephone prepaid calling card" means a card or other item, including an access code, that represents the right to access telecommunications services other than prepaid telecommunications services, through multiple devices regardless of the network providing direct service to the device used, for which payment is made in incremental amounts and before the call or transmission is initiated.

- k Music, video games, and ring tones delivered digitally, electronically, physically, or by any other medium are tangible personal property under Texas sales and use tax law. However, the sale of a prepaid card which allows the purchaser to access and download music, ring tones, or video games is not subject to Texas sales or use tax since the card represents an intangible - the "right" to a future purchase. Instead, tax is calculated when the card is redeemed.
- l A taxable service paid for by the insertion of coins or tokens into a coin-operated telephone. (Per TX Comptroller's Rule 3.344). However, per HB1351 (2001), pay telephone service revenues are excluded from taxable base for TUSF assessment purposes. Per HB 1459 Legislative Session 80[R] (2007), Effective September 1, 2007, pay telephone coin sent-paid telephone calls are exempt from taxation.
- m Internet Access Service (subject to a \$25 exemption per purchaser)
- n Information Services and Data Processing Services (20% of value exempt from sales tax)
- o Set-up or connection fees follow the monthly fees
- p For local sales tax purposes, city, county, transit authority, and/or special purpose districts sales taxes are due if the Internet access service provider has only one place of business (the location from which the provider accepts orders for Internet service) within the boundaries of a local taxing entity. Local sales tax must be collected based upon the tax rate at that location.

For the purposes of the local use tax, if a place of business is outside the boundaries of a local taxing entity, the Internet access service provider will be required to collect local use tax if the client is within the local taxing entity and the service provider has representation in the local taxing entity as outlined in 3.286 of the Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter O (relating to Seller's and Purchaser's Responsibilities) Even if the service provider is not required to collect local use tax, the client is still liable for the tax if the service is received or a benefit is derived from the service within the boundaries of the local taxing entity.

- q Effective January 1, 2002, the Texas Comptroller of Public Accounts assumed responsibility for administration of the 9-1-1 Emergency Service Fee and 9-1-1 Equalization Surcharge from the Commission on State Emergency Communications (CSEC).

Texas imposes four separate 9-1-1 emergency communications charges. Revenue from these charges is used by regional planning commissions, emergency communication districts, and poison control centers in their efforts to establish 9-1-1 emergency service statewide and to provide for automatic number and location identification of wireless 9-1-1 calls.

1. 9-1-1 Emergency Service Fee

In the CSEC program area, the 9-1-1 emergency service fee is collected by telecommunications service providers at a rate of 50 cents per month for each local exchange access line or equivalent local exchange access line, as defined in CSEC Rule 255.4. In addition, if a business service user provides residential facilities, each line that terminates at a residential unit, and that is a communication link equivalent to a residential local exchange access line, is charged the 9-1-1 emergency service fee. (See Texas Health and Safety Code, Section 771.071).

Remittance of the 9-1-1 emergency service fee is generally determined by the physical address of the customer's telephone. The situs for determining the 9-1-1 emergency service fee for a nomadic (one that can be accessed from any broadband connection) interconnected VOIP service is the customer's billing address.

The 9-1-1 emergency service fee may **not** be imposed on:

- a line to coin-operated public telephone equipment or to public telephone equipment operated by coin or by card reader;
- commercial mobile radio service that provides access to a paging or other one-way signaling service;
- a communication channel suitable only for data transmission;
- a line from a telecommunications service provider to an Internet service provider for the Internet service provider's data modem lines used only to provide its Internet access service and that are not capable of transmitting voice messages;
- a wireless roaming service or other nonvocal commercial mobile radio service;
- a private telecommunications system; or
- a wireless telecommunications connection subject to the 9-1-1 wireless emergency service fee.

2. 9-1-1 Wireless Emergency Service Fee

The 9-1-1 wireless emergency service fee is imposed in an amount equal to 50 cents per month on each wireless telecommunications connection. A wireless telecommunications connection is any wireless communication mobile station that connects a wireless service provider to the local exchange service provider using a number that contains an area code assigned to Texas. The 9-1-1 wireless service fee may **not** be imposed on any wireline 9-1-1 service. (See Texas Health and Safety Code, Section 771.0711).

3. Prepaid Wireless 9-1-1 Emergency Service Fee

Under the new law, retail sellers of prepaid wireless telecommunications services must collect a prepaid wireless 9-1-1 emergency service fee from customers. The fee is 2 percent of the purchase price of the prepaid wireless telecommunications services that is purchased through any means.

A Texas Comptroller release provides several examples of transactions that are subject to or exempt from the 2 percent prepaid wireless 9-1-1 emergency fee. The prepaid wireless fee applies to (1) the initial purchase of a phone activated in the store for prepaid service as well as to airtime and the activation fee associated with the phone, (2) a sale of a prepaid service airtime refill card, and (3) prepaid monthly service plans. If a service provider offers either postpaid or prepaid rate plans and both include normal cell phone fees and taxes, the prepaid version of these plans will be subject to the prepaid wireless fee.

The prepaid wireless fee does not apply to (1) a sale of a phone with no minutes and not activated and (2) a sale of a replacement phone that is activated on a person's existing prepaid service so long as no additional prepaid minutes are added. In addition, the prepaid wireless fee does not apply to a separate purchase of accessories for a phone, such as chargers, cases, memory cards, and cables, that are not included in the price of the phone. However, these items will be subject to sales tax.

4. 9-1-1 Equalization Surcharge

Before 3/1/12: The 9-1-1 equalization surcharge is imposed on each customer receiving intrastate long-distance service, including customers in an area served by an emergency communication district, even if the district is not participating in the regional plan. CSEC Rule 255.1 establishes the rate at which the equalization surcharge is assessed. The current rate is 1 percent of the customer's intrastate long-distance charges each month. The surcharge is applied to the total amount charged for intrastate long-distance service, excluding taxes charged by local, state, and federal authorities. Local, state, or federal taxes do not apply to this surcharge unless otherwise required by law. (See Texas Health and Safety Code, Section 771.072.)

After 3/1/12: The 82nd Legislature (2011) changed the Surcharge from a percentage of the charges for intrastate long-distance to a fixed amount "not to exceed 10 cents per month for each local exchange access line, equivalent local exchange access line, or wireless telecommunications connection. The Surcharge is not imposed on public telephone equipment/lines, any line excluded by the Commission from the definition of a local exchange access line, and any wireless telecommunications connection that constitutes prepaid wireless telecommunications service subject to Health and Safety Code §771.0712.

The Wireline Fee is applicable only in areas in which 9-1-1 service is provided by a Regional Planning Commission. Wireline 9-1-1 emergency service fees in the remainder of the state are set individually by the Emergency Communication District providing 9-1-1 service in the area.

At its November 15, 2011 open meeting, the Commission reviewed each rate and ordered that the Surcharge is imposed at the rate of \$0.06 per month on all non-exempt local exchange access lines, equivalent local exchange access lines, and wireless telecommunications connections, effective March 1, 2012. The Wireline Fee shall continue to be imposed at the rate of \$0.50 per month on all non-exempt local exchange access lines or equivalent local exchange access lines.

Neither the 9-1-1 emergency service fees nor the equalization surcharge may be imposed on or collected from the state or the federal government.

r There are separate exemption certificates required for claiming state and federal exemptions and separate eligibility requirements for each exemption.

s A provider of Internet access service may purchase tax free for resale telecommunications services used to provide the Internet access services. (Comptroller Rule 3.366)

t The Federal Universal Service Charge (FUSC) became a charge on customer telephone bills beginning August, 2001. These charges do not apply to companies whose Federal Universal Service Fund assessments are considered de minimus. Companies whose assessments will allow a surcharge on customers' bills may choose to assess the customer, or choose not to assess the customer and absorb the expense. If the customer is not assessed, the company must still calculate and report the amounts which could have been billed as part of their USF settlement process. These charges were the result of changes in the collection of funds to support the provision of telecommunications services to schools, libraries, rural health care providers, low-income customers, as well as end-user customers in rural and high cost areas. The surcharge apply per telephone service (federal lifeline customers are exempt). The FCC adjusts the FUSC Surcharge Rate every quarter (1/1, 4/1, 7/1, and 10/1.) The FUSC Surcharge applies to all NECA FCC Tariff No. 5 end user charges, including but not limited to the interstate subscriber line charge (residential, single line business, multiline business, business centrex), integrated services digital network basic rate (ISDN BRI), xdsl, special access, and picc charges.

Note that the FUSC is federal excise taxable if the end user charge that the FUSC relates to was federal excise taxable. For example, the subscriber line charge is federal excise taxable therefore the FUSC related to the subscriber line charge is also federal excise taxable; whereas the picc charges are not federal excise taxable therefore the FUSC related to the picc charges are also not federal excise taxable.

The following is an excerpt from NECA's Federal Universal Service Charge (FUSC) FAQs current as of 11/01/06:

Question: What types of companies are interstate telecommunication service providers (TSPs) and are they exempt from paying the NECA FUSC Surcharge Factor to NECA CL pool participants?

Answer:

An interstate TSP is defined in the FCC's rules as any entity that provides the following types of interstate telecommunications services: cellular telephone and paging services; mobile radio services; operator services; personal communications services (PCS); access to interexchange service; special access service; WATS; toll-free services; 900 service; message telephone service (MTS); private line service; telex; telegraph video services; satellite service ; resale of interstate services; payphone services and effective October 31, 2006, prepaid calling card providers (PCCPs). This definition includes incumbent and competitive local exchange carriers. Additionally, in June 2006, the FCC found that providers of interconnected Voice over Internet Protocol (VoIP) service are also TSPs for purposes of USF contributions.

The FCC's rules require that all TSPs contribute to USF based on their company-specific interstate end user billed revenues. Internet service providers (ISPs) and other enhanced service providers are not considered TSPs by the FCC, and as such, they do not contribute to USF.

Whether or not a TSP is exempt from the application of the NECA FUSC Surcharge Factor depends on how each TSP-ordered service is classified. A TSP-ordered service could be classified as either a "carrier customer" or "end user customer" service. This classification is dependent upon whether or not the TSP pays into USF, and how the TSP uses the service ordered from the member company.

As an example, if an IXC orders an interstate special access service out of NECA's Tariff No. 5, bundles it with its own service for resale to its own end users, and the IXC pays into the Universal Service Fund based on the revenues for the bundled end user service, then the revenues associated with this interstate special access service are classified "carrier customer." In this case, the ISC is not billed the NECA FUSC Surcharge Factor.

- u Charges for computer program maintenance by the person who sold the computer program are taxable. Maintenance means providing error correction, improvements, or technical support. Separately stated charges for instruction on the software's use will not be taxable. Charges to create a program or modify an existing program not sold by the person doing the modification are not taxable.
- v Wireless telecommunications services provided by a nonregulated entity are not subject to the PUC assessment.
- w The purchaser must issue the carrier a properly completed resale certificate validated with the purchaser's sales tax permit number.
- x Roamer revenue (Pass through to Other Carrier(s)) Other carriers' customers use of your system.
- y Roamer revenue (Home Customer) are charges placed on your home customer's bill for calls placed outside your home area.
- z Wireless interstate end user fees are subject to the Federal Universal Service Contribution Factor. This cost can be recovered from customers through a Federal Universal Service Charge (FUSC) on end user bills not to exceed the FUSC Surcharge Rate (see footnote t) multiplied by the interstate end user charges on the bill. The FCC allows carriers to use a 37.1% (effective 6/21/06) safe harbor percentage in determining how much of an end user fee is interstate. Carriers may use this safe harbor rate, or may use an allocation based on actual usage, to determine how much of an end user fee is interstate. For example, if a carrier had a \$100 rate plan that provided unlimited access anywhere in the United States, the portion of that fee that would be considered interstate for purposes of the FUS Contribution and Surcharge would be \$100 times the safe harbor percentage of 37.1% equal to \$37.10. Assuming the FUSC rate is 10% (note: the FUSC rate is adjusted quarterly), the maximum allowed FUSC in this example would be \$37.10 x 10% = \$3.71. This is only an example; maximum allowed FUSCs will vary by carrier and by quarter based on

adjustments to the FUSC rate. The safe harbor rate varies based on the carrier type. Safe harbor rates by carrier type can be found in PUC Project No. 21208, FCC Form 499 instructions and the Federal Register.

As of January 2011, the safe harbor rates by carrier type are as follows:

Provider Type	Interstate/ International	Intrastate
Local Exchange Carrier (LEC)	15.00%	85.00%
Interexchange Carrier (IXC)	60.00%	40.00%
Hybrid Carrier and Bundled Offerings	28.50%	71.50%
Commercial Mobile Radio Service (CMRS)	37.10%	62.90%
Pagers	12.00%	88.00%
VoIP	64.90%	35.10%
Other Telecommunications Provider	15.00%	85.00%

- aa Roam revenue from companies that are "reselling" their services should not be charged the FUSC Surcharge. Roam revenue from companies that are not "resellers" should be charged the FUSC surcharge. A "reseller" is a telecommunications carrier or provider that:
- 1) incorporates purchased telecommunications services into its own telecommunications offerings; and
 - 2) can reasonably be expected to contribute to federal universal service support mechanisms based on revenues from such offerings when provided to end users.

- ab ILECs may have an affiliate IXC that is selling interstate toll and WATS. This answer is yes for an affiliate IXC. This tax grid has not been prepared for the taxation of IXC revenues.

- ac The Mobile Telecommunications Sourcing Act (MTSA) provides that a mobile telecommunications service provided in the United States will be deemed to have been provided at a subscriber's place of primary use. A customer who buys mobile telecommunications services for use by another person, such as a child going to college or an employee at a different location, pays state and local sales taxes based on the user's place of primary use.

The location from which a mobile call originates or terminates is not a factor. Customers with a place of primary use in Texas pay state sales and local sales tax on all mobile telecommunications services, including charges, or calls made while traveling outside of Texas, but within the United States. The Comptroller has determined that the primary use rule under MTSA does not apply when a customer travels to a foreign country and the call originates and terminates outside the United States.

A prepaid telecommunications service is a wireless or wire telecommunications service for which the provider requires a customer to prepay the full amount prior to the provision of the service. A card, pin number, access code or similar device that allows a user to access only a specific network, or that is intended for use with a specific user account or device (e.g., to add more minutes to an existing account) is a prepaid telecommunications service and is taxed as the sale of a telecommunications service. The term does not include the sale or use of a prepaid telephone calling card as defined at footnote (j).

A seller of prepaid wireless telecommunications service must collect local tax based on the business address of the seller when the sale occurs in Texas in person. However, if the sale occurs over the telephone or internet, tax is due only if the primary address of the purchaser is in Texas.

Texas customers owe local sales tax if their place of primary use is inside a city, county, special purpose district, or transit authority that imposes sales tax on telecommunications services (See footnote a).

Out -of-state customers do not owe Texas taxes.

- ad The ISDN BRI and xDSL retail services are included in the Interstate Section because the rates for these services are determined by an interstate tariff.
- ae According to Texas Administrative Code Title 34, Public Finance, Part 1 Comptroller of Public Accounts, Chapter 3 Tax Administration, Subchapter O State Sales and Use Tax, Rule 3.290 Motor Vehicle Repair and Maintenance; Accessories and Equipment Added to Motor Vehicles; Moveable Specialized Equipment, (d)(2). If the person repairing the component or accessory separates the price charged for parts from the repair labor, the general repairman may issue a resale certificate for the parts. The repair labor is not taxable.
- af Note Comptroller Rule 3.366(a)(2) which states "Basic Internet access service includes the ability to access general information (an information service) and/or the ability to send information or messages via e-mail (a telecommunication service). These services are incidental to the provision of Internet access services and, unless separately stated, are considered part of the Internet access service." Thus, email access service that is bundled with internet access service and not separately stated is eligible for the \$25 exemption noted in footnote m, whereas email access service that is separately stated is subject to sales tax as a telecommunication service.
- ag Per Texas Tax Code Section 151.025(d) - If any nontaxable charges are combined with and not separately stated from taxable telecommunications service charges on the customer bill or invoice of a provider of telecommunications services, the combined charge is subject to tax unless the provider can identify the portion of the charges that are nontaxable through the provider's books and records kept in the regular course of business. If the nontaxable charges cannot reasonably be identified, the charges from the sale of both nontaxable services and taxable telecommunications services are attributable to taxable telecommunications services. The provider of telecommunications services has the burden of proving nontaxable charges.
- ah Beginning July 1, 2004, for telecommunications services that are not sold on a call-by-call basis, service providers should collect local tax based on the customer's place of primary use. (The primary use location can be a residential or business street address, but not a post office box.) For example, for a long-distance phone plan with a fixed rate such as \$50 for 500 minutes each month, the service provider should collect state and local sales tax based on the customer's street address. Texas state and local sales tax are due if the customer's place of primary use is inside the state. Mobile telecommunications service providers have been collecting state and local sales tax based on the customer's place of primary use since August 1, 2002.
- Telecommunications services (other than mobile) billed call-by-call will continue to be taxed based on the location where the call originates.
- Local sales tax is due on Texas intrastate calls, while only state sales tax is due on interstate calls. A call originating from outside Texas is not subject to state or local sales tax.
- Not all local taxing jurisdictions impose sales tax on telecommunications services. For a list of jurisdictions that do impose the tax, see publication 96-339.
- ai The following is an excerpt of PUC Substantive Rule 26.420(f)(3), effective date July 20, 2006:
- Basis for assessments. Assessments will be based upon the following:
- (A) Actuals. Effective January 1, 2007, assessments shall be made to each telecommunications provider based upon its monthly taxable actual intrastate telecommunications services receipts reported by that telecommunications under Chapter 151 of the Texas Tax Code.

- (B) Commission-Ordered Safe Harbor. A telecommunications provider that is unable to calculate actual intrastate telecommunications services receipts by January 1, 2007, and does not meet the de minimus exemption in subsection (c) of this section, may request, and the commission may grant for good cause, the modification or waiver of the requirement set forth in subsection (a) of this section, to allow the telecommunications provider to calculate all or some of its intrastate taxable telecommunications receipts using the relevant commission-ordered safe-harbor percentage. Requests for waiver will be subject to administrative review unless the presiding officer determines at any point during the review that the request should be docketed. The presiding officer will issue an order approving, denying or docketing the request for waiver within 180 calendar days of the filing date of the waiver request.
- (i) A request for waiver must contain, at a minimum:
- (I) an affidavit from a corporate officer of the telecommunications provider attesting to the fact that the telecommunications provider is unable to calculate all or some of its actual intrastate telecommunications services receipts and, if applicable, that the telecommunications provider is using a safe harbor authorized by the FCC;
 - (II) a date by which the telecommunications provider will be able to calculate actual intrastate telecommunications services receipts.
 - (III) an explanation detailing why the telecommunications provider is unable to calculate the actual intrastate telecommunications services receipts and why a waiver is necessary;
 - (IV) a detailed description of the safe-harbor percentage that is requested and how it will be applied;
 - (V) if applicable, a compliance tariff filing pursuant to paragraph (6)(C) of this subsection; and
 - (VI) any other information that the telecommunications provider believes will aid in rendering of a decision.
- (ii) If a telecommunications provider requests a permanent waiver from reporting its TUSF assessment based on actual intrastate telecommunications services receipts, then the telecommunications provider must file a waiver containing all elements in clause (i) of this subparagraph, as well as an explanation detailing why a permanent waiver is required, and why it is in the public interest.
- (iii) A telecommunications provider that has been granted a waiver shall apply, for the duration of that waiver, a safe-harbor percentage (see footnote z) to its telecommunications service receipts using one of the methods described in subclauses (I) and (II) of this clause as follows:
- (I) If a telecommunications provider is reporting interstate communications and international communications revenues for assessment for the federal universal service fund based on an FCC safe-harbor percentage, then the telecommunications provider shall apply the inverse of that percentage to its telecommunications services receipts as reported under Chapter 151 of the Texas Tax Code. The resulting total will be the telecommunications provider's safe-harbor-calculated total intrastate telecommunications receipts to which the TUSF assessment rate shall apply pursuant to paragraph (4) of this subsection.
 - (II) If a telecommunications provider is not using an FCC safe-harbor harbor percentage, the telecommunications provider shall apply a commission-ordered safe harbor percentage to its telecommunications services receipts under Chapter 151 of the Texas Tax Code as described in its waiver request approved by the commission. The resulting total will be the telecommunications

provider's safe-harbor-calculated intrastate telecommunications services receipts to which the TUSF assessment rate shall apply pursuant to paragraph (4) of this subsection.

- (iv) If a telecommunications provider that has been granted a waiver seeks to change its safe-harbor assessment methodology, or seeks an extension of its existing waiver, it must file another waiver request with the commission. A telecommunications provider may, at any time during the duration of its waiver and upon notice to the commission and the TUSF administrator, change its methodology to assess actual intrastate telecommunications services receipts. This will terminate any existing waiver.

aj Effective May 25, 2006 Bundled services and long-distance telephone services are no longer subject to the federal excise tax, however local services continue to be subject to the tax.

ak [Reserved for future use.]

al Prepaid internet access cards are treated as a nontaxable intangible at the time the card is sold. Upon redemption, a single charge for access to the internet through the use of the prepaid card is subject to Texas sales tax as an Internet access service. The first \$25 per month charged for internet access is exempt from Texas sales tax. If the seller keeps records of who purchases Internet access services, they can exempt the first \$25 per month charged for Internet access. If the seller does not keep records of who purchases Internet access services, the entire charge is subject to Texas sales and use tax.

am The following is an excerpt from NECA's Federal Universal Service Charge (FUSC) FAQs current as of 11/01/06.

Question: Is the NECA FUSC Surcharge Factor applied to Lifeline customer lines?

Answer:

It depends on which services are ordered by the Lifeline customer. There are basic and non-basic telecommunications services (as defined by the FCC) that when ordered by a Lifeline end user customer are either exempt from the NECA FUSC Surcharge Factor (i.e., EUCL and Local Number Portability) or are assessed the NECA FUSC Surcharge Factor (e.g., against all non-basic services such as DSL, Presubscription Change Charge, etc.) The company should not apply the NECA FUSC Surcharge Factor to end user customers that purchase only basic telecommunications services that qualify under federal universal service guidelines for Lifeline assistance. However, companies should apply the NECA FUSC Surcharge Factor to non-basic telecommunications services for end user customers qualifying under federal universal service guidelines for Lifeline assistance. (See Section 3.9 of the tariff.)

an The following is an excerpt from NECA's Federal Universal Service Charge (FUSC) FAQs current as of 11/01/06

Question: Is the NECA FUSC Surcharge billed to agencies of state governments and the Federal government?

Answer:

The NECA FUSC Surcharge Factor applies to services ordered by state agencies and/or Federal Government agencies as long as the agencies are classified as end user customers, and not otherwise exempted by FCC rules.

Government accounts are not exempt from paying FUSC. FUSC is a cost recovery mechanism that permits tariff participants to recover their contributions to the federal universal service fund. It is not a tax as identified on the FCC's website at <http://www.fcc.gov/cgb/consumerfacts/understanding.html>.

ao Effective September 1, 2007, all persons providing nonresidential repair and remodeling services must collect sales and use taxes based on the job site – not the service provider's place of business. H.B. 3319 Legislative Session 80(R) 2007.

ap If a trip charge has a related or corresponding repair charge, the taxability of the trip charge follows the repair charge. Without a related or corresponding repair charge, the trip charge is not taxable.

aq End User Recovery

FCC adopts a transitional Access Recovery Charge (ARC), billed to end users, that is subject to three important constraints:

- monthly ARC cannot increase more than \$0.50 per year for a residential or single-line business customer, or more than \$1.00 (per line) per year for a multi-line business customer, for a maximum of six years;
- residential ARC cannot increase if that increase would result in residential rates exceeding the Residential Rate Ceiling of \$30 per month;
- ARCs can only be charged in a particular year to recover an incumbent LEC's Eligible Recovery for that year (i.e., total revenue from ARCs cannot exceed Eligible Recovery).

Carriers may not charge an ARC to any Lifeline customers.

Maximum monthly ARC for residential or single-line business customers is \$3.00 per line, based on \$0.50 increase per year for up to six years.

Maximum monthly ARC for multi-line business customers is \$3.00 per line, based on a cap of \$12.20 for multi-line SLC plus ARC.

The ARC is calculated independently from, and has no bearing on, existing SLCs, although for administrative and billing efficiencies, the FCC will permit carriers to combine the charges as a single line item on a bill.

Carriers are not required to charge the ARC, although the full permitted ARC revenues will be imputed to those carriers for purposes of evaluating the need for additional recovery of Eligible Recovery.