

USE TAX ACT (EXCERPT)
Act 94 of 1937

205.93c Sale of telecommunications services; definitions.

Sec. 3c. (1) Except for the defined telecommunications services in section 3b and subsection (3), the sale of telecommunications service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call originates and terminates in that jurisdiction or each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

(2) Except for the defined telecommunications services in section 3b and subsection (3), a sale of telecommunications services sold on a basis other than a call-by-call basis is sourced to the customer's place of primary use.

(3) The sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction as follows:

(a) A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either the seller's telecommunications system, or information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(b) A sale of prepaid calling service or prepaid wireless calling service is sourced in accordance with section 20. However, for a sale of a prepaid wireless calling service, the rule provided in section 20(1)(e) shall include as an option the location associated with the mobile telephone number.

(c) The sale of an ancillary service is sourced to the customer's place of primary use.

(4) As used in this section:

(a) "Ancillary services" means services that are associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billing, directory assistance, vertical service, and voice mail services.

(b) "Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls.

(c) "Channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(d) "Customer" means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service for purposes of this section. Customer does not include a reseller of telecommunications service or for mobile wireless service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

(e) "Customer channel termination point" means the location where the customer either inputs or receives the communications.

(f) "End user" means the person who utilizes the telecommunications service. In the case of an entity, "end user" means the individual who utilizes the service on behalf of the entity.

(g) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. For mobile wireless services, place of primary use must be within the licensed service area of the home service provider.

(h) "Post-paid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number that is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunications service.

(i) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(j) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content, and ancillary services, which shall be paid for in advance and that is sold in predetermined units or dollars that decline with use in a known amount.

(k) "Private communication service" means a telecommunications 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 the 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.

(l) "Service address" means the following:

(i) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

(ii) If the location in subparagraph (i) is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller.

(iii) If the location in subparagraphs (i) and (ii) is not known, the service address means the location of the customer's place of primary use.

(m) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, including a transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice over internet protocol services or is classified by the federal communications commission as enhanced or value added. Telecommunications service does not include any of the following:

(i) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser if the purchaser's primary purpose for the underlying transaction is the processed data or information.

(ii) Installation or maintenance of wiring or equipment on a customer's premises.

(iii) Tangible personal property.

(iv) Advertising, including, but not limited to, directory advertising.

(v) Billing and collection services provided to third parties.

(vi) Internet access service.

(vii) Radio and television audio and video programming services, including, but not limited to, cable service as defined in 47 USC 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 CFR 20.3, regardless of the medium, including the furnishing of transmission, conveyance, and routing of those services by the programming service provider.

(viii) Ancillary services.

(ix) Answering services, if the primary purpose of the transaction is the answering service rather than message transmission.

(x) Digital products delivered electronically, including, but not limited to, software, music, video, reading materials, or ring tones.

History: Add. 2004, Act 172, Eff. Sept. 1, 2004;—Am. 2008, Act 439, Imd. Eff. Jan. 9, 2009.