Pennsylvania Department of Revenue
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Telecommunications Services

The purpose of this bulletin is to provide notice that the Department will soon update its Statement of Policy, 61 Pa. Code 60.20, to reflect the federal *Internet Tax Nondiscrimination Act* and *the Mobile Telecommunications Sourcing Act, as well as Pennsylvania Act 23 of 2000 and Act 89 of 2002*. In addition, in response to numerous inquiries regarding enhanced telecommunications services, the Department is also providing a list of examples for both enhanced and nonenhanced telecommunications services to clarify the meaning of these terms.

I. INTERNET TAX NONDISCRIMINATION ACT

In 1998, Congress enacted the Internet Tax Freedom Act ("ITFA") that imposed a temporary moratorium on certain state taxes of Internet Access. The original ITFA was amended in November of 2001 to extend the original moratorium to November 2003. On December 3, 2004, President Bush signed into law the Internet Tax Nondiscrimination Act (P.L. 108-435) which put in place a moratorium of certain state taxes and amended and clarified certain sections of the ITFA. The Department has adopted the following position with respect to the federal Internet Tax Nondiscrimination Act and its affect on Pennsylvania :

The Act extended the moratorium for imposing tax on Internet Access originally put in place by the Internet Tax Freedom Act (P.L. 105-277, amended by P.L. 107-75), and also made clear that the definitions of Internet access and Internet access service include telecommunications services that are purchased, used or sold by a provider of Internet access to provide Internet access. The Internet Tax Nondiscrimination Act provided two grandfather provisions that allow states to continue to impose sales and use taxes up to November 1, 2005 or November 1, 2007, based on certain requirements. Pennsylvania falls under the November 1, 2007 provision and will continue to impose sales and use tax on telecommunications charges incurred by an Internet service provider to provide Internet access. The Internet Tax Nondiscrimination Act will expire on November 1, 2007.

II. MOBILE TELECOMMUNICATIONS SOURCING ACT

The federal Mobile Telecommunications Sourcing Act (P.L. 106252) ("MTSA") was enacted into federal law in 2000, and became effective for customer bills after August 1, 2002. Pennsylvania adopted the MTSA into law pursuant to Act 89 of 2002 (P.L. 559, No. 89), consistent with the federal legislation. The amendments to the Statement of Policy, 61 Pa. Code 60.20, are intended to reflect the changes made to Pennsylvania law that have been in effect since July 1, 2002. Under the new law mobile telecommunications services are deemed to be provided to a customer by a home service provider if the customer's place of primary use is located within this Commonwealth, regardless of where the mobile telecommunications services originate, terminate or passes through. Mobile telecommunications service includes radio repeater service; wireless communication service; personal communications system service; cellular telecommunications service; specialized mobile radio service; stationary two-way radio service; and paging service.

The following definitions were adopted as part of the Commonwealth conformity with the MTSA:

Mobile telecommunications service — A commercial mobile radio service, as defined in section 20.3 of Title 47 of the Code of Federal Regulations as in effect on June 1, 1999 .

Charges for mobile telecommunications services - Any charge for or associated with the provision of commercial mobile radio service, as defined in section 20.3 of Title 47 of the Code of Federal Regulations as in effect on June 1, 1999, or any charge for or associated with a service provided as an adjunct to a commercial mobile radio service which is billed to the customer by or for the customer's home service provider regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

Customer - A person that contracts with the home service provider for mobile telecommunications services or for the purpose of determining the place of primary use, if the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications service. The term does not include a reseller of mobile telecommunications service or a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

Home service provider — A facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

Licensed service area - A geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.

Place of primary use - The street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer and within the licensed service area of the home service provider.

Serving carrier - A facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed service area.

III. ENHANCED TELECOMMUNICATIONS SERVICES

Because of some uncertainty regarding the classification of certain telecommunications services as enhanced telecommunication services, the Department saw the need to clarify the definition of enhanced telecommunications services provided in Statement of Policy, 61 Pa. Code § 60.20. The Department has provided below a listing of examples (not all inclusive) of services that qualify as enhanced telecommunication services and nonenhanced telecommunication services:

Enhanced Telecommunications Services:

Data Processing — The processing and preparation of reports from data supplied by the customer or specialized service that utilized a telecommunication service to transmit the data processing to its customer.

Information Retrieval Service — The purchase of right to retrieve data or information through a computer to either an on-line or remote computer or peripheral equipment upon request and the service includes charges for fees for connection, computer time, usage transmission or content of information.

Video on demand - A pay-per-view video service in which a viewer can order a program from a menu and have it delivered instantly to the television set or computer screen.

Video Programming Service - Video or information programming, whether in digital or analog format, that is provided by a cable television operator, or is of the type that would generally be considered comparable to programming provided by a cable television operator, and upon which the cable television operator pays a franchise fee. The term does not include on-line, interactive information services to the extent that access to these services is accomplished through the use of a dial-up or telephone line, or a wireless or direct-to-home satellite transmission.

Voice mail - An electronic communication system enabling the recording and storage of voice messages which can be subsequently retrieved by the intended recipient.

Telephone Information Line - The purchase of an information service that offers telephone callers the opportunity to obtain a wide variety of recorded or live information and entertainment, and where the charge is always greater than the cost of simply transmitting the message, i.e. medical, sports, weather, psychic or adult lines.

(The examples of enhanced telecommunications services listed above may be subject to tax pursuant to other provisions of the TRC.)

Non-Enhanced Telecommunications Services

Analog-to-digital transmission (or digital-to-analog) - the conversion of voice or data from analog traffic into digitized or packetized traffic, that may or may not increase the speed, reliability, security, etc. of the transmission, but does not change the actual substance of the voice or data being transmitted.

Asymmetric digital subscriber line (ADSL) - A group of digital subscriber line technologies that reserve more bandwidth in one direction than the other, which is advantageous for users that do not need equal bandwidth in both directions.

Asynchronous transfer mode (ATM) - A method of data transportation whereby fixed length packets are sent over a switched network. The ability to ensure reliable delivery of packets at a high rate makes it suitable for carrying voice, video and data.

Broadband integrated services digital network (BISDN)- A second-generation integrated services digital network technology that uses fiber optics for a network that can transmit data at speeds of 155 megabits per second and higher.

Broadband transmission — large capacity networks, such as cable, fiber optics, wireless, power lines, etc., that are capable of carrying multiple services of voice, data and video at the same time

C ircuit-switched network - A type of network in which a continuous link is established between a source and a receiver. Circuit switching is used for voice or video to ensure that individual parts of a signal are received in the correct order by the destination site.

Digital subscriber line (DSL) - A data communications technology that transmits information over the copper wires that make up the local loop of the public switched telephone network. It bypasses the circuit-switched lines that make up that network and yields much faster data transmission rates than analog modem technologies.

D irect broadcast satellite (DBS) - A broadcast technology that uses satellites orbiting the Earth to broadcast television or data signals to a dish antenna.

F rame relay - A high-speed packet switching protocol used in wide area networks (WANs), often to connect local area networks (LANs) to each other, with a maximum bandwidth of 44.725 megabits per second.

G.lite - A kind of asymmetric digital subscriber line technology, based on discrete multi-tone modulation, that offers up to 1.5 megabits per second downstream bandwidth, 384 Kilobits per second upstream, does not usually require a splitter and is easier to install than other types of digital subscriber line.

Intranet transmission — Transmissions to, from or within a network serving a single organization or site that is modeled after the Internet, allowing users access to almost any information available on the network. Unlike the Internet, intranets are typically limited to one organization or one site, with little or no access to outside users.

Integrated services digital network (ISDN) - A circuit-switched communication network, closely associated with the public switched telephone network, that allows dial-up digital communication at speeds up to 128 kilobits per second.

Local area network transmission - Transmission to, from or within a network connecting a number of computers to each other or to a central server so that the computers can share programs and files.

Multiplexing - Transmitting multiple signals over a single communications line or computer channel. The two common multiplexing techniques are frequency division multiplexing, which separates signals by modulating the data onto different carrier frequencies, and time division multiplexing, which separates signals by interleaving bits one after the other.

Packet-switch network - A network that allows a message to be broken into small "packets" of data that are sent separately by a source to the destination. The packets may travel different paths and arrive at different times, with the destination sites reassembling them into the original message. Packet switching is used in most computer networks because it allows a very large amount of information to be transmitted through a limited bandwidth.

Plain old telephone service (POTS) splitter transmissions - Transmissions utilizing a device that uses filters to separate voice from data signals when they are to be carried on the same phone line, required for several types of digital subscriber line service.

Primary-rate integrated services digital network (PRI-ISDN) - The primary-rate integrated services digital network interface provides 23 64 Kb/s channels (called B channels) to carry voice or data and one 16 Kb/s signaling channel (the D channel) for call information.

Protocol-to-Protocol conversion - the conversion of voice or data traffic from one computer protocol to another computer protocol, that may or may not increase the speed, reliability, security, etc. of the transmission, but does not change the actual substance of the voice or data being transmitted.

Rate-adaptive digital subscriber line (RADSL) - A variation of DSL that uses carrierless amplitude phase modulation, divides the available frequencies into discrete sub-channels and also maximizes performance by adjusting the transmission to the quality of the phone line while in use.

Router transmissions - Transmissions utilizing a central switching device in a packet-switched computer network that directs and controls the flow of data through the network.

Symmetric Digital Subscriber Line - This technology provides the same bandwidth in both directions, upstream and downstream. SDSL provides transmission speeds within a T1/E1 range, of up to 1.5 Mbps at a maximum range of 12,000 - 18,000 feet from a central office, over a single-pair copper wire.

T-1 line - A dedicated digital communication link provided by a telephone company that offers 1.544 megabits per second of bandwidth, commonly used for carrying traffic to and from private business networks and Internet service providers.

T-3 line - A dedicated digital communication link provided by a telephone company that offers 44.75 megabits per second of bandwidth, commonly used for carrying traffic to and from private business networks and Internet service providers.

Time division multiplexing (TDM) - A digital data transmission method that takes signals from multiple sources, divides them into pieces which are then placed periodically into time slots, transmits them down a single path and reassembles the time slots back into multiple signals on the remote end of the transmission.

Transmission control protocol/Internet protocol (TCP/IP) - A method of packet-switched data transmission used on the Internet. The protocol specifies the manner in which a signal is divided into parts, as well as the manner in which "address" information is added to each packet to ensure that it reaches its destination and can be reassembled into the original message.

Vertical Services — Related telecommunications services purchased as part of a telecommunications service plans such as, caller ID, three-way calling, call forwarding, call waiting, etc