Telecommunications, Pay Television, and Related Services

119

Sales Tax Fact Sheet 119

Fact Sheet

What's new in 2017
Starting July 1, 2017, purchases of fiber and conduit used to provide telecommunications or pay television services are exempt from sales tax.

This fact sheet explains how sales tax applies to:

- telecommunication services
- ancillary services associated with telecommunications services
- pay television services (previously known as cable television and direct satellite services)
- equipment used directly in providing these services
- The services listed above are taxable whether provided by a telecommunications service provider (telephone company) or by any other seller.

Taxable telecommunications services

Telecommunications services 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. Examples of telecommunications services include:

- air-to-ground radiotelephone service
- local and long distance telephone service
- mobile telecommunication service
- postpaid calling service
- prepaid calling service
- prepaid wireless calling service
- private communications services

Data processing and information services

Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered electronically are not taxable telecommunications services when the purchaser's primary purpose is the processed data or information.

Air-to-ground radiotelephone services

Air-to-ground radiotelephone services (radio telecommunications services in aircraft) are taxable.

Fax services

Fax services and electronic fax services are taxable.

Local and long distance telephone service

Local and long distance telephone service, including international service, and 800 and 900 telephone service, is taxable.

911 emergency charges

911 emergency telephone charges, Telephone Assistance Plan (TAP), and Telecommunications Access Minnesota Fund (TAM) charges are not taxable.

Mobile telecommunication services

Mobile telecommunications services including mobile radio, cellular telephone, satellite communications, paging, cellular roaming charges, and beeper services are taxable.

Prepaid calling services

Prepaid calling services including prepaid wireless calling services are taxable.

Prepaid telephone calling cards

Prepaid telephone calling cards and fees to recharge them are taxable.

Private communication service

Private communication services means a telecommunication service that entitles the customer to exclusive or priority use of a communication 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 services that are provided in connection with the use of the channel or channels.

Private communications services are taxed based on where the customer channel termination points are located. A customer channel termination point is the location where the customer either inputs or receives the communications.

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If all of the customer channel termination points are located in the same taxing jurisdiction, the sale is subject to the sales tax imposed in that jurisdiction. When customer channel termination points are located in more than one taxing jurisdiction, the charges are prorated to the different taxing jurisdictions based on the number of termination points in each jurisdiction. For more information, see Minnesota Statutes 297A.669, subd. 3(d).

Private communication service
Private communication service purchased by an agent acting on behalf of the state lottery is not taxable.

Ring tones
Ring tones are taxable. Ring tones are digitized sound files (digital products) downloaded onto a device to alert the customer of a communication. Ring tones do not include digital audio files not stored on a communication device.

Ring tones were not taxable from October 1, 2011 through June 30, 2013, and were taxable prior to October 1, 2011.

Telegraph services
Telegraph services are taxable. Telegraph services include any process of providing transmission and reproduction over a distance of documentary matter, such as written or printed matter, fixed images, or information by the use of a signal code.

Telephone answering services
Telephone answering services are taxable if they are automated. Answering services provided by live operators are not taxable.

Teletype services
Teletype services are taxable. A teletypewriter is a printing telegraph instrument that has a signal-actuated mechanism for automatically printing received messages.

Voice over Internet Protocol (VOIP)
VOIP services are taxable.

Taxable related services
Ancillary services
Ancillary services associated with or incidental to telecommunications services are taxable. Ancillary services include, but are not limited to the following:

- **Conference bridging services (teleconferencing)** – services that link participants of an audio or video conference call and may include providing a telephone number. Conference bridging service does not include telecommunications services used to reach the conference bridge.
- **Detailed telecommunications billing service –** service of separately stating information pertaining to individual calls on a customer's bill.
- **Directory services –** providing telephone number and/or address information.
- **Vertical services –** advanced calling features such as caller ID, call waiting, conference calls, and conference bridging services.
- **Voice mail service -** services that allow customers to store, send, or receive recorded messages. Voice mail service does not include vertical services required to utilize the voice mail service.

Pay television service
Pay television service is taxable. Beginning July 1, 2013, pay television service replaces the terms cable television service and direct satellite service. Pay television service includes all "pay" television services regardless if delivery is via cable, direct satellite, or otherwise.

Pay television means transmission of video, audio, and all other programming services to subscribers. All programming services including subscriptions to basic, extended, premium, pay-per-view, digital video recorder (DVR) services, and music services are taxable.
It also includes point-to-multipoint distribution direct to home satellite services by which programming is transmitted or broadcast by microwave or other equipment directly to the subscriber's premises.

Direct satellite service
Direct satellite service is included in the definition of pay television service. This pay television service transmits or broadcasts by satellite directly to the subscribers premises. Examples of services broadcast directly by satellite include television, security, phone, or music.

Federal law exempts direct-to-home satellite (DTH) services from any tax or fee imposed by local governments. Direct-to home satellite service is subject to state sales or use tax, but is not subject to local sales or use tax.

Teleconference services
Teleconference services (audio or video) are taxable.

Sourcing rules

Sourcing rules are rules for determining which taxing jurisdictions involved in a sale may impose sales or use tax. The following rules apply to sales of telecommunications and related services.

Mobile telecommunication services, ancillary services and other services that are not billed on a call-by-call basis, such as prepaid calling services, cable television service and direct satellite service, are subject to the sales tax rate imposed in the taxing jurisdiction at the customer's place of primary use. "Place of primary use" is defined as the residential street address or the primary business street address of the customer.

Telecommunications services that are billed on a call-by-call basis (price is measured by each individual call) are sourced as follows:

- When the call originates and terminates in the same taxing jurisdiction, the call is subject to the sales tax rate imposed in that jurisdiction.
- When the call either originates or terminates at the customer's service address, the call is subject to the sales tax rate imposed in the jurisdiction where the service address is located.
- When the call is paid for using a credit or debit card, or is charged to a telephone number not associated with the origination or termination point, the call is subject to the sales tax rate imposed in the taxing jurisdiction where the call originated.

See the section on page 1 titled "Private communication service" for the special sourcing rules that apply to those services.

Taxable charges

All charges for telecommunications services and for ancillary services associated with telecommunications services must be included in the sales price when determining the amount subject to sales tax, except separately stated charges for 911 emergency system, Telephone Assistance Plan (TAP), Telecommunications Access Minnesota Fund (TAM) which provides access services for communications impaired persons (formerly known as TACIP), and federal excise tax imposed directly on the consumer. Examples of taxable charges include:

- call forwarding
- call waiting
- caller ID
- custom calling features
- connection and disconnect charges
- demand charges
- detailed billing charges
- directory assistance charges
- FCC fees
- fixed or basic monthly charges
- franchise fees
- hookup fees
- line charges
- local telephone number portability charges
- minimum charges
- one-time charges
- priority calling
- reconnection fees
- service charges
- standby fees
- surcharges
- TDD charges
- universal service fees
- voice mail/messaging

Note: Federal excise tax directly imposed on the customer is not included in the base price subject to sales tax if it is separately stated on the customer's bill.

Internet access charges

Internet access charges are not taxable when they are separately stated from other taxable charges.
Charges for telephone line access used only for internet access are not taxable. If the provider charges for access to one telephone line and that line will be used for both telecommunications services and internet access, the following rules apply:

- If the provider separately states the charges for each on the billing statement, the internet access charge is exempt. The telephone line charge is taxable.
- If the provider charges a single charge for both internet access and the telephone line charge on the billing statement the entire charge is taxable, unless the service provider has books and records to reasonably identify the charges for internet access as described below in "Bundled services."

Bundled services

Telecommunications services providers sometimes sell taxable telecommunications services along with internet access for a monthly lump-sum or bundled charge.

Since the state is currently prohibited by federal law from taxing internet access, telecommunications services providers that can reasonably identify the charges for internet access from books and records kept in the regular course of business are allowed to deduct that amount from the sales price before applying sales tax to the bundled charge. This applies only to the amount attributable to internet access charges. Any other non-taxable charges included in the bundled price remain taxable.

Resale

Telecommunication charges purchased solely for resale, or to be used as a component of another telecommunication service to be sold at retail, may be purchased exempt. This includes purchases of telecommunications services by an internet service provider to provide internet service to subscribers. To claim exemption, provide the seller with a completed Form ST3, *Certificate of Exemption*. Specify the Resale exemption.

Telecommunications and pay television machinery and equipment

Starting April 1, 2014, machinery and equipment are exempt when purchased or leased for use directly by a telecommunications or pay television service provider to provide services that are sold at retail.

This machinery and equipment was taxable July 1, 2013 - March 31, 2014. (It was exempt before July 1, 2013.)

Note: Pay television means "cable television and direct satellite."

What machinery and equipment qualifies?
Telecommunications and pay television machinery and equipment includes, but is not limited to:

1. Machinery, equipment, and fixtures utilized in receiving, initiating, amplifying, processing, transmitting, retransmitting, recording, switching, or monitoring telecommunications or pay television services, such as computers, transformers, amplifiers, routers, bridges, repeaters, multiplexers, and other items performing comparable functions;
2. Machinery, equipment, and fixtures used in the transportation of telecommunications or pay television services, radio transmitters and receivers, satellite equipment, microwave equipment, fiber, conduit, and other transporting media, but not wire, cable, or poles. Fiber and conduit became exempt July 1, 2017. Previously, fiber and conduit were taxable.;
3. Ancillary machinery, equipment, and fixtures that regulate, control, protect, or enable the machinery in items 1 and 2 above to accomplish its intended function, such as auxiliary power supply, test equipment, towers, heating, ventilating, and air conditioning equipment necessary to the operation of the telecommunications or pay television services equipment; and software necessary to the operation of the telecommunications or pay television services equipment; and
4. Repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to qualified machinery or equipment.

What machinery and equipment does not qualify?
Machinery and equipment is taxable when used by the following service providers:

- Internet service providers (ISPs), because they provide data processing and information services.
- Radio and television stations, and others that provide free services because they are not selling their telecommunications services.
- Coin-operated telephones and telephone access charges.

Coin-operated telephones

Owners of coin-operated telephones must collect and pay sales tax on the gross receipts from charges for telephone service. Since the tax is included in the gross receipts, owners may subtract the tax from the total receipts when reporting the sales. For instructions on how to subtract sales tax from your receipts, see the Minnesota Sales and Use Tax Instruction Booklet.
Owners of coin-operated telephones must pay tax on the purchase of the phones. However, charges for line service for the phones may be purchased exempt by giving the seller a completed Form ST3, *Certificate of Exemption.* Specify the Resale exemption.

Telephone access charges

Charges by hotels and other lodging establishments to guests for access to telephone services are taxable. Charges to guests for the actual cost of telephone services are not taxable if the charge is separately stated on the guest's bill because the actual charge from the phone company to the hotel includes the sales tax.

Many hotels use "call accounting systems" to track and determine the amount to charge guests for long distance telephone calls. Using these systems, the hotel may not know how much the actual telephone service costs until they receive their bill from the telephone company. In this situation, the hotel must charge sales tax on the total amount billed to guests for the long distance telephone service.

The hotel must also continue to pay sales tax on the purchases of telephone service from the telephone company. However, the hotel is allowed to make an adjustment to the taxable amount reported on the sales tax return to subtract the amount billed by the telephone company for the actual cost of long distance calls made by guests. This practice is only allowable when the hotel can distinguish between telephone calls billed to guests and their own administrative costs for telephone service.

Legal References

Minnesota Statutes 297A.61
- subd. 3(i), Sale and purchase
- subd. 4(m), Retail sale/bundled transaction
- subd. 24, Telecommunications services
- subd. 25, Pay television service
- subd. 26, Private communication service
- subd. 38, Bundled transaction
- subd. 39, Ancillary services
- subd. 40, Conference bridging service
- subd. 41, Detailed telecommunications billing service
- subd. 42, Directory assistance
- subd. 43, Vertical service
- subd. 44, Voice mail service
- subd. 45, Ring tone

Minnesota Statutes 297A.669, Telecommunications and related services sourcing

Revenue Notices

02-14, Exemption for Purchases of Telecommunications Equipment – Internet Service Providers
03-10, Telecommunications Services
05-03, Voice over Internet (VOIP) Service
08-02, Internet Access Charges

Other Fact Sheets

103, Capital Equipment
142, Sales to Governments
164, Local Sales and Use Taxes
177, Digital Products