



Sales Tax and Excise Tax on Intra- and Interstate/International Telephone Services Sold Together for a Single Charge or as Part of a Telecom Package

This memorandum outlines the Tax Department's revised policy regarding:

- the application of the sales tax to intrastate and interstate/international telephone services that are sold together for a single charge; and
- the application of the sales tax and the section 186-e excise tax to these services when they are sold as part of a package including television, Internet and telephone services for a single charge.

This revised policy took effect on March 1, 2017.¹

Sales tax on intrastate and interstate/international telephone services sold for a single charge

For sales tax purposes, only sales of intrastate telephone services are taxable. Sales of interstate/international telephone services are not subject to sales tax. Effective March 1, 2017, the revised policy described in this memorandum will apply to sales of intrastate and interstate/international telephone services where these services are sold to customers for a single charge.

Former policy

A vendor selling combined intrastate and interstate/international telephone services for a single charge had the burden of proving the correctness of any amount it excluded from its taxable receipts as attributable to interstate/international calls. The Department's position was that the vendor could only meet that burden of proof if:

- it sells a separate intrastate-only telephone service plan, and
- the allocation of the sales price of the combined services between taxable intrastate and nontaxable interstate/international phone calls is consistent with the pricing of the separate intrastate-only plan.

Certain features unique to this industry support revision of this policy. Foremost among these features is the high degree of federal and state regulation of this industry. This regulation

¹ The information in this memorandum does not apply to mobile telephone services. For information on how the sales tax applies to mobile telephone services, see [TSB-M-02\(4\)C, \(6\)S](#), *Amendments Affecting the Application of the Sales and Use Tax and Excise Tax Imposed on Mobile Telecommunications Services*.

dictates the need for detailed books and records that can also be used to verify sales tax allocation amounts. For example, taxpayers in this industry must contribute to the federal Universal Service Fund (USF) based on a percentage of their interstate/international telecommunications revenues. Thus, these taxpayers are already required to keep records to substantiate the allocation of their revenues between intrastate and interstate/international categories for federal purposes.

Revised policy

Under the revised policy vendors can allocate between taxable intrastate and nontaxable interstate/international telephone services even if they do not sell these services separately. The allocation must be reasonable, as described below.

The Department will accept as reasonable, for purposes of meeting the vendor's burden of proof, an allocation based on an objective and verifiable method using the vendor's books and records kept in the regular course of business, including a traffic study of customer usage. The amount allocated to interstate/international calls should be consistent with any filings the vendor makes for purposes of the federal USF.

An allocation based on such evidence can be applied to determine the nontaxable interstate/international portion of bills for individual customers even if the allocation was not derived from each customer's actual usage. Any traffic studies must be based on information that is current for the applicable sales tax filing period. Traffic studies will be considered current for the applicable sales tax filing period if they are produced at least annually or sooner when required to reflect a material change in traffic patterns.

The vendor must keep all records for a minimum of three years from the due date of the return to which those records relate, or the date the return is filed, if later. The records must be made available to the Tax Department upon request. The Tax Department may require records to be kept for a longer period of time, such as when the records are the subject of an audit, court case, or other proceeding.

The vendor must make available to its customers on its Web site (or through other means) information that clearly indicates the basis for the allocation of the sales price. Finally, the vendor's invoice to its customers must:

- indicate the overall cost of the service;
- state that sales tax is due only on the intrastate telephone service; and
- show the amount of sales tax being charged.

Television, Internet, and telephone services sold as a package

Providers often offer cable or satellite television services, Internet access, and telephone services as a package for a single, usually discounted, price. These packaged services are commonly referred to as "flat-rate" or "all-in-one" deals.

Sales tax

The method used to allocate the total package price between television, Internet, and telephone services must be reasonable and must be supported by objective and verifiable records. Since the only portion of the total package price subject to sales tax is the charge for intrastate telephone services, the amount of the telephone services subject to sales tax can be determined as described under *Revised policy*, above.

Section 186-e excise tax

The method used to allocate the total package price between television, Internet, and telephone services must be reasonable and must be supported by objective and verifiable records. The only portion of the total package price subject to the section 186-e excise tax is the charge for telephone services (both intrastate and interstate/international).

Note: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.