

North Carolina Department of Revenue
Post Office Box 25000
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IMPORTANT NOTICE: Telecommunications Service

Effective January 1, 2007, Session Law 2006-33 of the 2006 General Assembly makes changes to the manner in which sales tax is imposed on telecommunications services and related services in addition to changes in the definition of terms and the structure of exemptions. The application of tax on telecommunications services and related services remains the same except for charges for paging services and surcharges for recoupment of assessments for the Universal Service Fund. This notice provides information on the material changes.

The definition of the term "telecommunications service" under G.S. 105-164.3(48) is amended as follows:

"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. The term includes any transmission, conveyance, or routing in which a computer processing application is used to act on the form, code, or protocol of the content for purposes of the transmission, conveyance, or routing, regardless of whether it is referred to as voice-over Internet protocol or the Federal Communications Commission classifies it as enhanced or value added. The term does not include the following:

- a. Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by electronic transmission to a customer whose primary purpose for using the service is to obtain the processed data or information.
- b. The sale, installation, maintenance, or repair of tangible personal property.
- c. Directory advertising and other advertising.
- d. Billing and collection services provided to a third party.
- e. Internet access service.
- f. Radio and television audio and video programming service, regardless of the medium of delivery, and the transmission, conveyance, or routing of the service by the programming service provider. The term ["radio and television audio and video programming services"] includes cable service and audio and video programming service provided by a mobile telecommunications service provider.
- g. Ancillary service.
- h. A digital product delivered electronically, including software, music, a ring tone, video, and reading material."

A definition of the term "ancillary service" is added as G.S. 105-164.3(01) and reads as follows: "A service associated with or incidental to the provision of a telecommunications service. The term includes detailed communications billing, directory assistance, vertical service, and voice mail service. A vertical service is a service, such as call forwarding, caller ID, three-way calling, and conference bridging, that allows a customer to identify a caller or manage multiple calls and call connections."

Prior to January 1, 2007, the services included in the term "ancillary service" are subject to the combined general rate of sales tax as telecommunications services. Effective January 1, 2007, these services will remain subject to sales tax at the combined general rate; however, tax is specifically imposed on ancillary service in addition to telecommunications service. Therefore, the application of tax on ancillary services will not change.

Items a. through f. in the revised definition of telecommunications service that are set out as not constituting telecommunications service are set out as exclusions from gross receipts in the law in effect prior to January 1, 2007. G.S. 105-164.13(54) is a new exemption for certain telecommunications services and charges. The exemption applies to items that were excludable from gross receipts for telecommunications service but not included in the revised definition of the term. The services and charges included in the new exemption are as follows:

- a. Telecommunications service that is a component part of or is integrated into a telecommunications service that is resold. This exemption does not apply to service purchased by a pay telephone provider who uses the service to provide pay telephone service.
- b. Pay telephone service.
- c. 911 charges imposed under G.S. 62A-4 or G.S. 62A-23 and remitted to the Emergency Telephone System Fund under G.S. 62A-7 or the Wireless Fund under G.S. 62A-24.
- d. Charges for telecommunications service made by a hotel, motel, or another entity whose gross receipts are taxable under G.S. 105-164.4(a)(3) when the charges are incidental to the occupancy of the entity's accommodations.
- e. Telecommunications service purchased by a State agency or a unit of local government for the North Carolina Information Highway or another data network owned or leased by the State or unit of local government.

Under the law in effect prior to January 1, 2007, one-way paging service is excluded from taxable gross receipts; two-way paging service is taxable. Effective January 1, 2007, charges for all paging services are subject to tax. Also effective January 1, 2007, surcharges imposed to recoup assessments for the Universal Service Fund are subject to tax; these surcharges are excluded from taxable gross receipts prior to this date.

New definitions are added for "prepaid wireline calling service" and "prepaid wireless calling service." These services had previously been included under the term "prepaid telephone calling service." These services are not taxed as telecommunications service. Rather, the general State and applicable local rates of sales and use tax continue to be imposed on the sale or recharge of these services at the point of sale. For prepaid wireless calling service, the tax also applies to a service that is sold in conjunction with the prepaid wireless calling service.

The combined general rate of tax imposed on telecommunications service will decrease from 7% to 6.75% effective December 1, 2006 and will decrease again effective July 1, 2007 from 6.75% to 6.5%. Form E-500E, Utility and Liquor Sales and Use Tax Return, for the period October 2006 through September 2007 has been redesigned to allow a taxpayer to enter the applicable rate for the appropriate period to compute the amount of tax due on taxable receipts.

Questions about this notice can be directed to the Taxpayer Assistance Division at telephone number 1-877-252-3052 (toll-free) or in writing to the Taxpayer Assistance Division, North Carolina Department of Revenue, P.O. Box 25000, Raleigh, N.C. 27640-0001.