

Communications Services Tax Working Group

December 7, 2012, Meeting Materials

COMMUNICATIONS SERVICES TAX WORKING GROUP

October 16, 2012

ROOM 1820, BUILDING ONE, 2450 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA

DRAFT MINUTES

MEMBERS PRESENT: Marshall Stranburg, Chair
Charles Dudley
Sharon R. Fox
Kathleen Kittrick
Gary S. Lindsey
The Honorable Gary Resnick
Alan S. Rosenzweig
Brian D. Smith
Davin J. Suggs

Agenda Items:

1. *Call to Order*

Chair Stranburg called the meeting to order.

Roll call was taken and all Working Group members were present.

Chair Stranburg discussed the following:

- This is a non-rule public meeting held under Section 120.525, Florida Statutes.
- A court reporter is present who is creating a transcript.
- Speaker cards were available for anyone who would like to speak.
- The Department of Revenue has created a web page for the Working Group where agendas, meeting materials, transcripts and other information relative to the Working Group will be posted. Hard copies of the materials were available at the meeting for the public.
- It was announced that if anyone would like to receive updates about the working group by email, they could provide their email address with the understanding that their email address will be considered a public record and subject to disclosure if requested.
- The procedures for persons participating in the meeting via WebEx were explained.

2. *Follow-up from previous meeting*

Chair Stranburg discussed that information and materials requested by members from the previous meetings were provided in the back-up materials under Item 3.

3. *Discussion of written comments and options*

All of the Working Group members' potential options were provided in the meeting materials. To assist with the discussion, staff prepared a list of the submitted options.

Mr. Suggs discussed the draft materials from the Florida Association of Counties concerning the Working Group's charge.

Members discussed the potential options related to prepaid communications services. Potential options that were discussed included the modernization of the definition of prepaid communications services as well as alternative methods of taxation.

4. *Meeting Minutes*

The minutes for the July 25, 2012, and August 21, 2012, meetings were approved without objection after the lunch break.

5. *Discussion of written comments and options*

The earlier discussion on prepaid communication services was summarized into more specific potential options.

Members discussed and refined potential options regarding the tax base. Potential options that were discussed included broadening of the base, elimination of the residential exemption and franchise and permit fees.

Members discussed and refined potential options concerning the streamlining of the administrative system. These potential options included development of a statewide rate with a distribution system for local governments, elimination of the communications services tax and replace it with sales and use tax and a revision of the sales and use tax structure to impose sales tax on Internet sellers.

6. *Other business*

Since all potential options were not discussed due to time restrictions, the conversation regarding potential options will continue at the Working Group's next meeting on October 31.

7. *Adjournment*

The meeting was adjourned.

Andrea Moreland - FW: Florida sales tax collections related to tourism - Emailcontains remote images

From: Samantha Hunter Padgett <Samantha@frf.org>
To: Andrea Moreland <MORELANA@DOR.STATE.FL.US>
Date: 11/1/2012 10:25 AM
Subject: FW: Florida sales tax collections related to tourism - Emailcontains remote images

Andrea:

Yesterday, a member of the working group (I cannot remember who it was) asked how much of the state's sales tax was collected from Florida visitors. I requested and received the information below from Kathy Torian of VISIT FLORIDA. I thought this might be a helpful piece of information as the working group considers the different proposals.

I hope all is well with you!

Samantha H. Padgett
General Counsel
Florida Retail Federation
Phone (850)222-4082
Cell (850)528-5006
samantha@frf.org

From: Kathy Torian [mailto:ktorian@visitflorida.org]
Sent: Wednesday, October 31, 2012 9:59 AM
To: Samantha Hunter Padgett
Cc: Meredith DaSilva
Subject: Florida sales tax collections related to tourism - Email contains remote images

Hi Sam,

Meredith asked that I respond to your request for the percent of Florida sales tax collections that are related to tourism. Here are our 2011 stats:

As the Sunshine State's No. 1 industry, tourism was responsible for welcoming 87.3 million visitors in 2011 who spent \$67.2 billion, generating 23 percent of the state's sales tax revenue and employing more than 1 million Floridians.

Please let me know if you need anything else! Take care, Kathy

Kathy Torian

Corporate Communications Manager
VISIT FLORIDA®
O: 850-205-3865
M: 850-345-6494
www.VISITFLORIDA.com



Andrea Moreland - Virginia Information on Public Rights-of-Way Use Fee

From: "LINDSEY, GARY S" <gl2121@att.com>
To: "Andrea Moreland" <morelana@dor.state.fl.us>
Date: 11/5/2012 3:19 PM
Subject: Virginia Information on Public Rights-of-Way Use Fee

Andrea,

Here is information on Virginia's public ROW fee. This fee is calculated annually by the VA Department of Transportation and is based on the actual costs of maintaining the right-of-way. The calculation methodology is included in the third link below.

<http://www.tax.virginia.gov/site.cfm?alias=CommunicationsTaxes>

http://www.tax.virginia.gov/documents/CT_GUIDELINES.pdf

http://www.virginiadot.org/business/resources/ROW/ROW_use_fee_calcs.pdf

Gary S. Lindsey

AT&T

Rethink PossibleSM

DIRECTOR - EXTERNAL TAX POLICY - AT&T

PHONE: 404.499.3051

FAX: 866.605.6638

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State of Virginia

Information from Web Page: <http://www.tax.virginia.gov/site.cfm?alias=CommunicationsTaxes>

What's New In Communications Taxes

The cable rights-of-way fee will increase from \$0.83 to \$0.91 effective July 1, 2012. Please make the appropriate changes in your billing systems to ensure proper reporting.

Communications Taxes

Welcome to the Virginia Communications Taxes Information Center. Use this page to access complete information on communications taxes for service providers, consumers and local governments.

- [Virginia Communications Taxes Overview](#)
- [Communications Taxes Guidelines](#)
- [Frequently Asked Questions for Providers](#)
- [Frequently Asked Questions for Localities](#)
- [Frequently Asked Questions for Consumers](#)
- [Virginia Communications Taxes Forms and Instructions](#)

Virginia Communications Taxes Overview

Under legislation enacted by the 2006 General Assembly, House Bill 568, the Virginia communications sales and use tax, also referred to as the communications sales tax, replaced most of the previous state and local taxes and fees on communications services, effective January 1, 2007.

The communications sales tax, which is imposed on the charge for or sale of communications services at the rate of 5%, is generally collected from consumers by their service providers and remitted to the Department of Taxation each month. In cases where a consumer purchases taxable communications services and no tax is collected from the consumer on the purchase by the service provider, the consumer is responsible for paying a communications use tax.

A uniform statewide E-911 tax of \$0.75 per line also took effect on January 1, 2007, replacing local E-911 taxes for landline telephone service. In addition, the public rights-

of-way use fee imposed on landline telephone service was expanded to include cable television service. Finally, House Bill 568 changed the way that cable service providers pay the franchise fees on their local cable franchise agreements, as discussed under Cable franchise fees, below.

Impact on previous taxes and fees: The communications sales tax replaced the following state and local taxes and fees on communications services:

- Local consumer utility tax on landline and wireless telephone service
- Local E-911 tax on landline telephone service
- Virginia Relay Center assessment on landline telephone service
- A portion of the local Business, Professional and Occupational License tax assessed on public service companies by certain localities that impose the tax at a rate higher than 0.5%
- Local video programming excise tax on cable television services
- Local consumer utility tax on cable television services

The following taxes were not affected by the communications taxes provisions:

- State E-911 fee on wireless telephone service
- Public Rights-of-Way Use fee on landline telephone service
- Local Business, Professional and Occupational License tax of 0.5% on public service companies

Administration of the tax: The communications sales tax is generally administered in the same manner as the Virginia Retail Sales and Use tax. The tax is imposed on communications services at the rate of 5%, and appears as a line item on customers' bills.

Taxable services: The services subject to the communications sales tax include but are not limited to:

- Landline and wireless telephone services (including, but not limited to local, intrastate, interstate and international service) including Voice Over Internet Protocol;
- Teleconferencing services;
- Private communications services;
- "Push to talk" services;
- Pager and beeper services;
- Automated or partially automated answering services;

- Facsimile services;
- 800 number services;
- Telegraph, telegram, telex and teletypewriter services;
- Cable television (including but not limited to basic, extended, premium, pay-per-view, digital and music service); and
- Satellite television and satellite radio.

Nontaxable services: The following services are not subject to the communications sales tax.

- Information services
- Installation or maintenance of wiring or equipment on customers' premises (may be subject to retail sales and use tax)
- Sale or rental of tangible personal property (may be subject to retail sales and use tax)
- Directory and other advertising
- Internet access service
- Digital products that are delivered electronically, such as software, downloaded music, ring tones, and reading materials
- Over-the-air radio and television services broadcast without charge
- Bad check charges
- Charges for billing and collection services
- Charges for customers on any federal military bases or installations when a franchise fee is payable to the federal government (HB 2723, 3/23/07)

Taxable and nontaxable amounts: The communications sales tax is imposed on the sales price of the taxable services. The following items are **not** included in the sales price for purposes of computing the tax:

- Excise tax, sales tax and similar taxes that are permitted or required to be added to the sales price of the service, provided the taxes are separately stated on the customer's bill
- Federal, state and local government fees and assessments that are required to be added to the price of service, provided these items are separately stated on the customer's bill
- Coin-operated communications services
- Sale or recharge of a prepaid calling service
- Air-to-ground radiotelephone services

- A provider's internal use of communications services in connection with its business of providing communications services to customers
- Separately stated charges for property or services that are not part of the sales of communications services
- Sales for resale
- Charges for communications services provided to a federal, state or local government entity

Landline E-911 tax: The state E-911 tax on landline service, imposed at the rate of \$0.75 per line, appears as a line item on customers' bills.

Cable franchise fees: Under the provisions of House Bill 568, cable franchise agreements that are entered into or renegotiated after January 1, 2007 will not include a franchise fee. Agreements in place as of January 1, 2007 will remain in effect until their stated dates of expiration; however, providers no longer make franchise fee payments directly to localities. Instead, these amounts are reported to the Department of Taxation on a schedule submitted with the communications taxes return. The franchise fees are then paid to localities from revenues generated by the communications taxes. Although localities no longer collect their franchise fees directly, local governments retain the right to audit cable franchisees and to enforce franchise agreements.

Public rights-of-way use fee: Cable television providers are required to collect the public rights-of-way use fee from subscribers and include it in their monthly communications taxes return and remittance. Landline telephone service providers should continue to remit ROW fees as they currently do, unless they provide both telephone and cable services and the locality does not impose a public rights-of-way use fee on telephone services. Please refer to the Guidelines for additional information. Effective July 1, 2012, the ROW fee will be \$0.91, an increase of \$0.08 from the last fiscal year.

Post-paid Wireless E-911 Fee: Service providers are required to collect the postpaid wireless E-911 surcharge from their customers and include it in their monthly communications taxes return and remittance. The imposed rate is \$0.75 per cell phone.

Virginia Relay Center: The Virginia Relay Center, a telephone relay service for the hearing impaired, receives funds each month from the communications taxes revenue. No separate tax or fee is assessed on customers' bills for the Relay Center.

Disbursement of funds received with communications taxes returns: After payment for the direct costs of administration of this tax and for the Virginia Relay Center, the remaining revenues received from the communications sales tax, the E-911 tax, and the public rights-of-way use fee are distributed to counties, cities and towns.

Communications Taxes Guidelines

The Guidelines and Rules for the Virginia Communications Taxes contain comprehensive information concerning the compliance requirements and administration of the communications taxes as of November 2, 2006. This document may be updated or revised as the agency proceeds with final implementation of 2006 House Bill 568 (Acts of Assembly 2006, Chapter 780). Please check back frequently for updates.

Virginia Communications Taxes Returns

- CT-75 Communications Taxes Return
- CT-1 Report of Termination, Renewal, Acquisition or Sale of Cable Franchise Agreements in Effect on January 1, 2007
- CT-7 Virginia Communications Use Tax Return
- CT-10 Communications Sales and Use Tax Certificate of Exemption

Last Updated 7/18/2012 14:29

CT-2 Guidelines and Rules for the Virginia Communications Taxes

November 1, 2006

2006 House Bill 568 (Acts of Assembly 2006, Chapter 780) replaces many of the current state and local communications taxes and fees with a centrally administered communications sales and use tax and a uniform statewide E-911 tax on landline telephone service beginning January 1, 2007. Additionally, House Bill 568 imposes a public rights-of-way use fee on cable television providers beginning January 1, 2007. These guidelines and rules are published by the Department of Taxation (“TAX”) to provide guidance to taxpayers and local governments regarding the new law. TAX has worked with affected taxpayers and local governments to develop these guidelines and rules. As necessary, additional guidelines and rules will be published and posted on TAX’s website, www.tax.virginia.gov

Background

Prior to January 1, 2007, specific communications services are subject to one or more of the following state and local taxes and fees in Virginia:

- Local consumer utility tax on landline and wireless telephone service authorized by *Code of Va.* § 58.1-3812.
- Local E-911 tax on landline telephone service authorized by *Code of Va.* § 58.1-3813.1.
- State E-911 surcharge on wireless telephone service imposed pursuant to *Code of Va.* § 56-484.17.
- Virginia Relay Center surcharge on landline telephone service for the costs of a telephone relay service for the hearing impaired imposed pursuant to *Code of Va.* § 56-484.6.
- The local business, professional, and occupational license (BPOL) tax on telephone and telegraph companies authorized by *Code of Va.* § 58.1-3731 and Acts of Assembly 1972, Chapter 858, Enactment Clause 3.
- Local cable television franchise fees authorized by *Code of Va.* § 15.2-2108.
- Local video programming excise tax authorized by *Code of Va.* § 58.1-3818.3.
- Local consumer utility tax on cable television authorized by local charter.
- State and local public rights-of-way use fee on landline telephone service imposed pursuant to *Code of Va.* § 56-468.1.

Satellite television and satellite radio providers are generally not subject to these taxes. Cable television operators subject to a local cable franchise fee are exempted from the state and local public rights-of-way use fees.

Repeal of Current Taxes on Communications Services

Effective January 1, 2007, the new law repeals the following state and local taxes and fees:

- Local consumer utility tax on landline and wireless telephone service;
- Local E-911 tax on landline telephone service;
- Virginia Relay Center surcharge;
- The portion of the local BPOL tax on the gross receipts of telephone and telegraph companies exceeding .5% currently billed to customers in some grandfathered localities pursuant to Acts of Assembly 1972, Chapter 858, Enactment Clause 3;
- Local video programming excise tax; and
- Local consumer utility tax on cable television.

(Source: Acts of Assembly 2006, Chapter 780, Enactment Clauses 2, 3 and 6).

Bills issued by providers prior to January 1, 2007 should reflect the taxes and fees in effect until January 1, 2007 and providers should remit all local consumer utility taxes, E-911 taxes on landline telephone service, BPOL taxes, and video programming excise taxes appearing on these bills to the appropriate locality, even if the taxes are not collected from customers until after January 1, 2007. The Virginia Relay Center surcharge reflected on such bills should be remitted to the State Corporation Commission (“SCC”) (see “Transition to New Taxes”).

Any repealed taxes and fees that remain unpaid as of January 1, 2007 will be subject to payment and collection in accordance with any administrative or judicial remedies existing prior or subsequent to January 1, 2007. Any bad debt associated with such taxes and fees that occurs after January 1, 2007 will be offset against revenues collected from the new communications sales and use tax. (Source: Acts of Assembly 2006, Chapter 780, Enactment Clause 4).

New Communications Tax Structure

Effective January 1, 2007, the repealed taxes and fees will be replaced with a new state communications sales and use tax (“communications sales tax”) and a new state E-911 tax (“landline E-911 tax”) on landline telephone service. Additionally, a public rights-of-way use fee (“cable rights-of-way use fee”) will be imposed on cable television providers, effective January 1, 2007. Revenues from the communications sales tax, the landline E-911 tax and the cable rights-of-way use fee (“communications taxes”) will be collected and remitted monthly by communications services providers (“providers”) to TAX and deposited into the Communications Sales and Use Tax Trust Fund (“the Fund”). Moneys in the Fund will be distributed to localities on a monthly basis after payment

- (1) to TAX for the direct costs of administering the communications taxes;
- (2) to the Virginia Department for the Deaf and Hard-of-Hearing (VDDHH) for the costs of the Virginia Relay Center for the hearing impaired; and
- (3) to localities for any cable television franchise fees due.

The state E-911 surcharge on wireless telephone service, the state and local public right-of-way use fee on landline telephone service and the local BPOL tax on telephone and telegraph companies not exceeding .5% will remain in effect.

Cable franchise agreements entered into or renegotiated after January 1, 2007 will not include a franchise fee. Cable franchise agreements in effect as of January 1, 2007 will remain in effect until their expiration. Cable providers will not bill or otherwise collect from customers any cable franchise fees accruing on or after January 1, 2007. Instead of paying franchise fees to localities, cable providers will include with their monthly communications sales tax return a report listing by locality the franchise fees that accrued that month. On a monthly basis, TAX will pay the accrued franchise fees to localities from the communications sales tax, landline E-911 tax and cable rights-of-way use fee revenues deposited in the Fund (see “Cable Franchise Fee”).

Transition to New Taxes

For purposes of the transition to the new communications tax structure, bills issued by providers prior to January 1, 2007 must reflect the taxes and fees in effect on December 31, 2006, even if the bills include charges for communications services to be provided after December 31, 2006. Bills issued by providers on and after January 1, 2007 must reflect the new communications taxes, even if the communications services were provided prior to January 1, 2007.

Standard Language and Terminology

TAX has worked with providers to develop standard terminology for the new taxes. When referring to each of the new taxes, providers shall use the following terminology or similar variations thereof to avoid customer confusion:

- The communications sales and use tax shall be referred to as either the “communications sales and use tax” or the “communications sales tax;”
- The E-911 tax on landline telephone service shall be referred to as the “landline E-911 tax” or the “E-911 tax;”
- The public rights-of-way use fee imposed on cable television providers shall be referred to as the “cable rights-of-way use fee” or the “rights-of-way use fee.”

Together, the new taxes shall be referred to as the “communications taxes.” TAX will post general information regarding the new communications tax structure on its web site, www.tax.virginia.gov. Customer inquiries regarding the new taxes or the transition should be answered by providers.

New Communications Sales And Use Tax

Effective January 1, 2007, the communications sales tax will be a state tax administered by TAX. The communications sales tax will be imposed on customers of communications services at the rate of 5% of the sales price of the services. The new tax will appear as a line item on customers’ bills and will be collected and remitted to TAX by providers.

Definitions

Terms used in the communications sales tax have the same meaning as those used in the retail sales and use tax, unless defined otherwise, as follows:

“**Bundled transaction**” means a transaction that includes communications services subject to the communications sales tax and consists of distinct and identifiable properties, services, or both, sold for one nonitemized charge for which the tax treatment of the distinct properties and services is different.

“Cable service” means the one-way transmission to subscribers of (1) video programming as defined in 47 U.S.C. § 522 20 or (2) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service. Cable service does not include any video programming provided by a commercial mobile service provider as defined in 47 U.S.C. § 332 d and any direct-to-home satellite service as defined in 47 U.S.C. § 303 v. (Source: *Code of Va.* § 58.1-647)

“Call-by-call basis” means any method of charging for telecommunications services where the price is measured by individual calls. (Source: *Code of Va.* § 58.1-647)

“Coin-operated communications service” means a communications service paid for by means of inserting coins in a coin-operated telephone. (Source: *Code of Va.* § 58.1-647)

“Communications services” means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable services, to a point or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for the transmission or conveyance. The term includes, but is not limited to, (1) the connection, movement, change, or termination of communications services; (2) detailed billing of communications services; (3) sale of directory listings in connection with a communications service; (4) central office and custom calling features; (5) voice mail and other messaging services; and (6) directory assistance. (Source: *Code of Va.* § 58.1-647)

“Communications services provider” means every person who provides communications services to customers in the Commonwealth and is or should be registered with TAX as a provider. (Source: *Code of Va.* § 58.1-647)

“Cost price” means the actual cost of the purchased communications service computed in the same manner as the sales price. (Source: *Code of Va.* § 58.1-647)

“Customer” means the person who contracts with the seller of communications services. If the person who utilizes the communications services is not the contracting party, the person who utilizes the services on his own behalf or on behalf of an entity is the customer of such service. “Customer” does not include a reseller of communications services or the mobile communications services of a serving carrier under an agreement to serve the customer outside the communications service provider’s licensed service area. (Source: *Code of Va.* § 58.1-647)

“Customer channel termination point” means the location where the customer either inputs or receives the private communications service. (Source: *Code of Va.* § 58.1-647)

“Information service” means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, using, or making available information via communications services for purposes other than the electronic transmission, conveyance, or routing. (Source: *Code of Va.* § 58.1-647)

“Internet access service” means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to users. “Internet access service” does not include telecommunications services, except to the extent telecommunications services are purchased, used, or sold by a provider of Internet access to provide Internet access. (Source: *Code of Va.* § 58.1-647)

“Place of primary use” means the street address representative of where the customer’s use of the communications services primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile communications services, the place of primary use shall be within the licensed service area of the home service provider. (Source: *Code of Va.* § 58.1-647)

“Postpaid calling service” means the communications 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, debit card, or by a charge made to a telephone number that is not associated with the origination or termination of the communications service. (Source: *Code of Va.* § 58.1-647)

“Prepaid calling service” means the right to access exclusively communications services, which must be paid for in advance and which 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 that decrease in number with use. (Source: *Code of Va.* § 58.1-647)

“Private communications service” means a communications service that entitles the customer or user to exclusive or priority use of a communications channel or group of channels between or among channel termination points, regardless of the manner in which such 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. (Source: *Code of Va.* § 58.1-647)

“**Retail sale**” or a “**sale at retail**” means a sale of communications services for any purpose other than for resale or for use as a component part of or for the integration into communications services to be resold in the ordinary course of business. (Source: *Code of Va.* § 58.1-647)

“**Sales price**” means the total amount charged in money or other consideration by a provider for the sale of the right or privilege of using communications services in the Commonwealth, including any property or other services that are part of the sale. The sales price of communications services shall not be reduced by any separately identified components of the charge that constitute expenses of the provider, including but not limited to, sales taxes on goods or services purchased by the provider, property taxes, taxes measured by net income, and universal-service fund fees. (Source: *Code of Va.* § 58.1-647)

“**Service address**” means (1) 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. If the location is not known in clause (1), “service address” means (2) the origination point of the signal of the telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller. If the location is not known in clauses (1) and (2), the service address means (3) the location of the customer’s place of primary use. (Source: *Code of Va.* § 58.1-647)

Taxable Communications Services

Communications services are the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable services, to a point or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method, regardless of the protocol used for the transmission or conveyance. Communications services subject to the communications sales tax include, but are not limited to:

- Landline, wireless, and satellite telephone services (including, but not limited to local, intrastate, interstate and international service) including Voice Over Internet Protocol;
- Teleconferencing services;
- Private communications services;
- “Push to talk” services;
- Pager and beeper services;
- Automated or partially automated answering services;
- Facsimile services;

- 800 number services;
- Telegraph, telegram, telex and teletypewriter services;
- Cable television (including but not limited to basic, extended, premium, pay-per-view, video on demand, digital, high definition, video recorder, music services and fees for additional outlets); and
- Satellite television and satellite radio.

Taxable communications services also include, but are not limited to charges for:

- Connection, reconnection, termination, movement, or change of communications services, including Internet services;
- Detailed billing;
- Sale of directory listings in connection with a communications service;
- Central office and custom calling features (including but not limited to call waiting, call forwarding, caller identification, distinct ringing, speed dialing, voice activated dialing, and three-way calling);
- Voice mail, text messaging, picture messaging and other messaging services;
- Directory assistance;
- Access (excluding Internet access service charges) and line charges;
- Early termination fees;
- Fees for changing long distance providers;
- Universal service charges;
- Regulatory, administrative and other cost recovery charges; and
- Local number portability charges.

(Source: *Code of Va.* § 58.1-647)

Non-Taxable Communications Services

The charges for the following services are not subject to the communications sales tax:

- Information services (including electronic publishing services, web hosting services, 900 number services, alarm monitoring services, check guaranty services, credit card guaranty services and database search services);
- Live operator answering services;
- Installation or maintenance of wiring or equipment on a customer's premises and wire maintenance fees;
- The sale or rental of tangible personal property and any sales tax resulting from the sale or rental of tangible personal property;
- The sale of advertising, including but not limited to, directory advertising;

- Security deposits;
- Bad check and late payment charges;
- Billing and collection services;
- Internet access service, electronic mail service, electronic bulletin board service, or similar services that are incidental to Internet access, such as voice-capable e-mail or instant messaging (however, charges for connection, reconnection, termination, movement, or change of such services are subject to the tax);
- Digital products delivered electronically, such as software, downloaded music, ring tones and reading materials;
- Over-the-air radio and television service broadcast without charge by an entity licensed for such purposes by the Federal Communications Commission;
- Communications services purchased by and billed to transients by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration. This does not relieve the obligation of the facility to pay communications sales tax to its provider (or to remit communications use tax if services are purchased from a provider who lacks nexus and is not registered for the collection of the tax) on its purchases of communications services; and
- Communications services purchased by and billed to tenants by their landlord. This does not relieve the obligation of the landlord to pay communications sales tax to its provider (or to remit communications use tax if services are purchased from a provider who lacks nexus and is not registered for the collection of the tax) on its purchases of communications services.

(Source: *Code of Va.* § 58.1-648 C)

Nontaxable Amounts

For purposes of the communications sales tax, the sales price will not include the following amounts:

- Excise, sales or similar taxes levied by the United States or any state or local government on the purchase, sale, use or consumption of any communications services that are permitted or required to be added to the sales price of such service, if the tax is stated separately (including the federal excise tax on telephone service);

- A fee or assessment levied by the United States or any state or local government, including but not limited to, regulatory fees and emergency telephone surcharges, that is required to be added to the price of service if the fee or assessment is separately stated (including E-911 fees and public rights-of-way fees);
- Coin-operated communications services;
- Sale or recharge of a prepaid calling service (including prepaid wireless telephone service);
- Provision of air-to-ground radiotelephone services, as that term is defined in 47 C.F.R. § 22.99;
- A provider's internal use of communications services in connection with its business of providing communications services;
- Charges for property or other services that are not part of the sale of communications services, if the charges are stated separately from the charges for communications services;
- Sales for resale; and
- Charges for communications services to the Commonwealth, any political subdivision of the Commonwealth, and the federal government and any agency or instrumentality of the federal government.

(Source: *Code of Va.* § 58.1-648 B)

Bundled Transactions

A bundled transaction is a transaction that includes communications services subject to the communications sales tax and consists of distinct and identifiable properties, services, or both, sold for one nonitemized charge for which the tax treatment of the distinct properties and services is different. If the charge is attributable to services that are taxable and services that are nontaxable, the portion of the charge attributable to the nontaxable services will be subject to tax unless the provider can reasonably identify the nontaxable portion from its books and records kept in the regular course of business and not created and maintained for tax purposes. Books and records will be considered to be maintained for tax purposes when such books and records identify taxable and nontaxable portions of the price while other books and records are maintained that identify different prices attributable to the distinct products included in same bundled transaction. For purposes of example only, books and records kept in the regular course of business that are acceptable include financial statements, general ledgers, invoicing and billing systems and reports and tariffs and other regulatory reports. (Source: *Code of Va.* § 58.1-650)

Exemption Certificates

All sales of communications services are subject to the tax until the contrary is established. A provider is required to collect the communications sales tax unless the provider receives a properly executed exemption certificate from the purchaser stating that the service is exempt from the communications sales tax. The exemption certificate will relieve the provider who obtains it from any liability for the payment or collection of the tax, except upon notice from TAX that the certificate is no longer acceptable. In the event that a provider fails to collect the communications sales tax due on the sale of taxable communications services, the provider is liable for the payment of the tax. The exemption certificate must:

- Be signed, manually or electronically, by the purchaser;
- Bear the name and address of the purchaser;
- Indicate the number of the registration certificate, if any, issued to the purchaser;
- Indicate the general character of the communications services sold or to be sold under a blanket exemption certificate; and
- Be substantially in the form prescribed by TAX.

(Source: *Code of Va.* § 58.1-657)

If a purchaser who holds an exemption certificate makes any use of the service other than an exempt use while holding the communications service for resale in the regular course of business, such use will be deemed a taxable sale by the purchaser as of the time the service is first used by the purchaser, and the cost of the property to the purchaser will be deemed the sales price of such retail sale. (Source: *Code of Va.* § 58.1-657)

In the case of a provider of Internet access service that purchases a communications service to provide Internet access, the Internet access provider must give the communications service provider a certificate of use containing its name, address and signature, manually or electronically, of an officer of the Internet access service provider. The certificate of use must state that the purchase of communications service is being made in its capacity as a provider of Internet access in order to provide such access. Upon receipt of the certificate of use, the provider will be relieved of any liability for the communications sales tax related to the sale of communications service to the Internet access service provider named in the certificate. In the event the Internet access provider uses the communications service for any taxable purpose, the provider of Internet access will be liable for and pay the communications sales tax directly to the Commonwealth in accordance with § 58.1-658. (Source: *Code of Va.* § 58.1-657)

Exempt Entities

Any entity that was exempted from the local consumer utility taxes (LCUT) by any city, county or town in Virginia on January 1, 2006 will be exempt from the communications sales tax. (Source: *Code of Va.* § 58.1-648 C) On January 1, 2006, under state law, localities had the option of providing exemptions for:

- Public safety answering points. (Source: *Code of Va.* § 58.1-3812 E)
- Any subscriber to individual telephone service who resides in a nursing home or similar adult care facility. (Source: *Code of Va.* § 58.1-3813.1 C)
- Any utilities consumed on property designated or classified as exempt from property taxes pursuant to Article X, Section 6 a 2 of the Constitution of Virginia (real estate and personal property owned and exclusively occupied or used by churches or religious bodies for religious worship or for the residences of their ministers) or Article X, Section 6 a 6 of the Constitution of Virginia (property used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes, as may be provided by classification or designation by an ordinance adopted by the local governing body). This exemption did not apply to the local E-911 tax on landline telephone service. Any locality providing an exemption for the local consumer utility tax on consumers of landline telephone service was required to provide the telephone account numbers of all exempted organizations to all service providers required to collect the tax. (Source: *Code of Va.* § 58.1-3816.2)

Additionally, the City of Manassas was authorized to provide an exemption for any church or religious body entitled to an exemption pursuant to *Code of Va.* § 58.1-3650 et seq. The City of Manassas was required to provide the telephone account numbers of all exempted churches and religious bodies to all service providers required to collect the tax. (Source: *Code of Va.* § 58.1-3812 F)

A provider will not be liable for the payment or collection of the communications sales tax with respect to any entity that it allowed an LCUT exemption on January 1, 2006 if the provider documents that the entity was allowed an LCUT exemption on January 1, 2006 by maintaining a list of all such exempt entities or maintaining a notation in its records stating that the entity was allowed an LCUT exemption on January 1, 2006 along with the name of the provider that allowed the exemption and the entity's account number.

A provider will not be liable for the payment or collection of the communications sales tax regarding any entity that any other communications services provider allowed an LCUT exemption on January 1, 2006 if the provider verifies and documents that the entity was allowed an LCUT exemption on January 1, 2006 in the following manner:

- The provider shall require the entity to submit a copy of a bill from a provider that reflects that the entity was allowed an LCUT exemption on January 1, 2006 or from the communications sales tax thereafter. The provider shall maintain a copy of the bill or maintain a notation in its records stating that it received such a bill along with the name of the provider that allowed the exemption and the entity's account number;
- The provider shall require the entity to submit a copy of a local ordinance or resolution or other written verification from the locality that granted the exemption that the entity was allowed an LCUT exemption on January 1, 2006. The provider shall maintain a copy of the written verification or maintain a notation in its records stating that it received such written verification; or
- The provider shall contact the local government that granted the LCUT exemption and obtain verification that the entity was allowed an LCUT exemption on January 1, 2006. The provider shall maintain a copy of the verification in its records.

In the event that TAX, the locality in which the entity was located on January 1, 2006, or the provider determines that the entity was not entitled to an LCUT exemption on January 1, 2006, the provider shall remove the entity from its list of exempt entities and the entity shall be subject to the communications sales tax on a prospective basis. Such provider shall be held harmless for the communications sales tax for prior periods unless it is determined that the provider failed to comply with the requirements set forth above.

Governmental Exemption

Charges for communications services provided to the Commonwealth, any political subdivision of the Commonwealth, and the federal government and any agency or instrumentality of the federal government are not subject to the communications sales tax. As this governmental exemption is the same as the governmental exemption applicable to the repealed taxes, providers should allow a communications sales tax exemption for charges to any governmental customers that were exempt from the repealed local consumer utility taxes.

Sourcing Rules

For purposes of determining those services subject to the Virginia communications sales tax, communications services will be sourced as follows:

- In general, the sale of communications service sold on a call-by-call basis will be sourced to the Commonwealth when the call (1) originates and terminates in the Commonwealth or (2) either originates or terminates in the Commonwealth and the service address is also located in the Commonwealth. (Source: *Code of Va.* § 58.1-649 A)
- In general, a sale of communication services sold on a basis other than a call-by-call basis, will be sourced to the customer's place of primary use. (Source: *Code of Va.* § 58.1-649 B)
- Subject to the definitions and exclusions of the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 116, a sale of mobile communication services will be sourced to the customer's place of primary use. (Source: *Code of Va.* § 58.1-649 C 1)
- A sale of postpaid calling service will be sourced to the origination point of the communications signal as first identified by either (1) the seller's communications system, or (2) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller. (Source: *Code of Va.* § 58.1-649 C 2)
- A sale of a private communications service will be sourced as follows:
 - o Service for a separate charge related to a customer channel termination point will be sourced to the state in which such customer channel termination point is located.
 - o Service where all customer termination points are located entirely within one state will be sourced to such state in which the customer channel termination points are located.
 - o Service for segments of a channel between two customer channel termination points located in different states and which segments of a channel are separately charged will be sourced 50% to each state in which the customer channel termination points are located.
 - o Service for segments of a channel located in more than one state and which segments are not separately billed will be sourced in each state based on a percentage determined by dividing the number of customer channel termination points in each state by the total number of customer channel termination points.

(Source: *Code of Va.* § 58.1-649 C 3)

Registration of Providers

The communications sales tax will be collected by all providers with sufficient contact, or nexus, with the Commonwealth to be subject to the tax using the same rules that apply to the retail sales and use tax. A provider shall be deemed to have sufficient activity within the Commonwealth to require registration if it does any of the following activities:

- Maintains or has within the Commonwealth, directly or through an agent or subsidiary, an office, warehouse, or place of business of any nature.
- Solicits business in the Commonwealth by employees, independent contractors, agents or other representatives.
- Advertises in newspapers or other periodicals printed and published within this Commonwealth, on billboards or posters located in the Commonwealth, or through materials distributed in the Commonwealth by means other than the United States mail.
- Makes regular deliveries of tangible personal property within the Commonwealth by means other than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles other than those operated by a common carrier enter the Commonwealth more than twelve times during a calendar year to deliver goods sold by him.
- Solicits business in the Commonwealth on a continuous, regular, seasonal, or systematic basis by means of advertising that is broadcast or relayed from a transmitter within the Commonwealth or distributed from a location within the Commonwealth.
- Solicits business in the Commonwealth by mail, if the solicitations are continuous, regular, seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or marketing activities occurring in the Commonwealth or benefits from the location in the Commonwealth of authorized installation, servicing, or repair facilities.
- Is owned or controlled by the same interests which own or control a business located within the Commonwealth.
- Has a franchisee or licensee operating under the same trade name in the Commonwealth if the franchisee or licensee is required to obtain a certificate of registration under *Code of Va.* § 58.1-613.

- Owns tangible personal property that is rented or leased to a consumer in the Commonwealth, or offers tangible personal property, on approval, to consumers in the Commonwealth. (Source: *Code of Va.* § 58.1-651)

Each provider must apply to TAX for a certificate of registration for the communications sales tax using Form R-1, Business Registration Application. A provider must complete a Form R-1 even if it has already registered with TAX for other taxes. Each application must set forth the name under which the applicant intends to transact business, the location of its place of business, and such other information as TAX may require. Each cable provider will also be required to list all localities in which it is liable for a cable franchise fee (see “Cable Franchise Fees”). TAX will issue to each applicant a registration certificate that is not assignable and is valid only for the provider in whose name it is issued and for the transaction of the business designated therein. (Source: *Code of Va.* § 58.1-653)

Whenever a provider fails to comply with the provisions of the communications sales and use tax, these Guidelines and Rules, or any communications sales and use tax regulations promulgated by TAX, TAX, upon a hearing after giving the noncompliant provider 30 days’ notice in writing, specifying the time and place of the hearing and requiring him to show cause why his certificate of registration should not be revoked or suspended, may revoke or suspend the registration certificate held by that provider. The notice may be personally served or served by registered mail directed to the last known address of the noncompliant provider. (Source: *Code of Va.* § 58.1-653)

Any provider who engages in business as a provider without obtaining a registration certificate, or after a registration certificate has been suspended or revoked, is guilty of a Class 2 misdemeanor as is each officer of a corporation that engages in business as an unregistered provider. Each day’s continuance in business thereafter constitutes a separate offense. (Source: *Code of Va.* § 58.1-653)

If the holder of a registration certificate ceases to conduct his business, the certificate shall expire upon cessation of business, and the certificate holder shall inform TAX in writing within 30 days after he has ceased to conduct business. If the holder of a registration certificate desires to change his place of business, he must inform TAX in writing and his certificate will be revised accordingly. (Source: *Code of Va.* § 58.1-653)

Collection of Tax

Every provider must separately state the amount of the tax and add that tax to the sales price of the service. Thereafter, the tax will be a debt from the customer to the provider until paid and recoverable at law in the same manner as other debts. All sums collected by a provider will be held in trust for the Commonwealth. (Source: *Code of Va.* § 58.1-651) The revenues collected must be remitted monthly by each provider to TAX when the provider files its Form CT-75, Virginia Communications Taxes Return (see “Communications Taxes Return”).

In the event that a provider lacks nexus and is not registered for the collection of the tax, the purchaser is liable for the use tax (see “Use Tax” below). (Source: *Code of Va.* § 58.1-648)

In the event that a provider collects the communications sales tax on exempt or non-taxable transactions, the provider must remit the erroneously or illegally collected tax to TAX unless or until the provider can affirmatively show that the tax has been refunded to the customer or credited to his account. A provider who intentionally neglects, fails or refuses to collect the tax on a taxable sale of communications services is liable for and must pay the tax himself. Any provider who intentionally neglects, fails or refuses to pay or collect the tax is guilty of a Class 1 misdemeanor. (Source: *Code of Va.* § 58.1-659)

Use Tax

Generally, the communications sales tax is collected and remitted by providers even though the tax is imposed on the customer. However, when a customer purchases taxable communications services from an out-of-state provider who is not registered and is not required to remit the communications sales tax, the customer is required to remit the tax directly to TAX using Form CT-7, Virginia Communications Taxes Consumer Use Return. Form CT-7 and instructions are available on-line in the Download Forms section of TAX’s web site, located at www.tax.virginia.gov. Form CT-7 should be used by both business and residential customers. No prior registration with TAX is required for taxpayers filing a Form CT-7.

Providers should report any taxable personal use of communications services when filing their Form CT-75, Virginia Communications Taxes Return. Providers should not use Form CT-7.

Direct Payment Permits

Persons who use taxable communications services within the Commonwealth may apply to TAX to pay the communications sales tax directly to TAX and waive collection of the tax by the provider. No such authority will be granted or exercised except upon application to TAX and issuance by TAX of a direct payment permit. If a direct payment permit is issued, then payment of the communications sales tax on taxable communications services must be made directly to TAX by the permit holder. On or before the twentieth day of each month every permit holder must file with TAX a return for the preceding month, in a form prescribed by TAX, showing:

- The total value of the taxable communications services used;
- The amount of tax due from the permit holder, which amount must be paid to TAX with the submitted return; and
- Any other information TAX deems necessary.

TAX, upon written request by the permit holder, may grant a reasonable extension of time for filing returns and paying the tax. Interest on the tax will be chargeable on every extended payment at the rate determined in accordance with *Code of Va.* § 58.1-15.

A direct payment permit will continue to be valid until surrendered by the holder or cancelled for cause by TAX. A person holding a direct payment permit that has not been cancelled will not be required to pay the tax to the provider. Such persons must notify each provider from whom purchases of taxable communications services are made of their direct payment permit number and that the tax is being paid directly to TAX. Upon receipt of notice, a provider will be absolved from responsibility for the collection and remittance of the tax with respect to sales of taxable communications services to the direct payment permit holder. Providers who make sales upon which the tax is not collected because the purchaser holds a direct payment permit must maintain records in a manner that the amount involved and identity of each purchaser may be ascertained.

Upon the cancellation or surrender of a direct payment permit, the communications sales tax will thereafter apply to the former direct payment permit holder, and that person must promptly notify in writing providers from whom purchases of taxable communications services are made of the cancellation or surrender of the direct payment permit. Upon receipt of such a notice, the provider must collect the communications sales tax with respect to all sales of taxable communications services thereafter made to the former direct payment permit holder. (Source: *Code of Va.* § 58.1-658)

Bad Debts

Every provider will be allowed a credit against the tax shown to be due on the return for the amount of tax previously paid on accounts that are owed to the provider and that have been found to be worthless within the period covered by the return. The credit, however, cannot exceed the amount of the uncollected payment determined by treating prior payments on each debt as consisting of the same proportion of payment, communications sales tax, and other nontaxable charges as in the total debt originally owed to the provider. The amount of accounts for which a credit has been taken that are thereafter in whole or in part paid to the provider must be included in the first return filed after collection. (Source: *Code of Va.* § 58.1-655)

Dealer Discount

Every provider holding a certificate of registration will be allowed a dealer discount for accounting for and remitting the communications sales tax if the amount due was not delinquent at the time of payment. The discount will be allowed in the form of a deduction on each return. The discount will be allowed on the first three percent of the communications sales tax in the following percentages:

Monthly Taxable Sales	Percentage
\$0 to \$62,500	4%
\$62,501 to \$208,000	3%
\$208,000 and above	2%

The discount will be computed according to this schedule, regardless of the number of certificates of registration held by the provider. (Source: *Code of Va.* § 58.1-656)

The dealer discount on the communications sales tax will become effective on the first day of the month following 60 days after the Auditor of Public Accounts (“APA”) certifies that the revenues collected in the most recent fiscal year from the communications taxes are at least equal to the revenues from the taxes and fees that are amended or repealed by the new law for the fiscal year ending June 30, 2006 at the tax rates that were adopted on or before January 1, 2006 plus the annual cost to TAX of administering the communications sales tax. The APA certification will be completed within 60 days after the end of the fiscal year. (Source: Acts of Assembly 2006, Chapter 780, Enactment Clause 7). TAX will notify providers at such time as the dealer discount becomes effective.

Sale of Business

Any provider who sells or quits its business, shall make a final return and payment within 15 days after the date of selling or quitting the business. The Provider’s successors or assigns, if any, shall withhold a sufficient amount of the purchase money to cover taxes, penalties, and interest due and unpaid until the former owner produces a receipt from TAX showing that all taxes, penalties, and interest have been paid or a certificate stating that no taxes, penalties, or interest are due. If the purchaser fails to withhold the purchase money as required, the purchaser will be personally liable for the payment of the taxes, penalties and interest due and unpaid that were incurred by the business operation of the former owner. In no event, however, may the tax, penalties and interest due by the purchaser be more than the purchase price paid for the business or stock of goods. (Source: *Code of Va.* § 58.1-660)

Customer Remedy Procedures for Billing Errors

If a customer believes that an amount of tax or an assignment of place of primary use or taxing jurisdiction included on a billing is erroneous, the customer must notify the provider in writing. See “Sourcing Rules” to determine when communications services are subject to the Virginia communications sales tax. The customer must include in this notification the following:

- The street address for the customer's place of primary use;
- The account name and number for which the customer seeks a correction;
- A description of the error asserted by the customer; and
- Any other information that the provider requires to process the request.

Within 15 days of receiving notice in its billing dispute office, the provider must review its records, within an additional 15 days, to determine the customer's taxing jurisdiction. If this review shows that the amount of tax or assignment of place of primary use or taxing jurisdiction is in error, the provider must correct the error and refund or credit the amount of tax erroneously collected from the customer for a period of up to two years. If this review shows that the amount of tax or assignment of place of primary use or taxing jurisdiction is correct, the provider must provide a written explanation to the customer.

These procedures are the first course of remedy available to customers seeking correction of assignment of place of primary use or taxing jurisdiction or a refund of or other compensation for taxes erroneously collected by the provider. No cause of action based upon a dispute arising from such taxes will accrue until the customer has exercised these rights and procedures. (Source: *Code of Va.* § 58.1-652)

Compliance Provisions

The retail sales and use tax compliance provisions set forth in *Code of Va.* §§ 58.1-630 through 58.1-637 and applicable Retail Sales and Use Tax Regulations will apply to the communications sales tax, except as specifically provided in the communications sales tax. Whenever the term “dealer” is used in these sections, the term “communications services provider” shall be substituted:

- *Code of Va.* § 58.1-630 Dealer Bonds;
- *Code of Va.* § 58.1-631 Jeopardy Assessments;
- *Code of Va.* § 58.1-632 Memoranda of Lien;
- *Code of Va.* § 58.1-633 Recordkeeping Requirements;
- *Code of Va.* § 58.1-634 Period of Limitations;
- *Code of Va.* § 58.1-635 Failure to File Return; Fraudulent Returns; Civil Penalties (and Interest);
- *Code of Va.* § 58.1-636 Penalty for Failure to File Return or Making False Return; and
- *Code of Va.* § 58.1-637 Bad Checks.

(Source: *Code of Va.* § 58.1-661)

Exceptions to Taxpayer Confidentiality

TAX is authorized to provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any provider registered for the collection of the communications sales tax, a list of the names, business addresses, and dates of registration of all providers registered for such tax. (Source: *Code of Va.* § 58.1-3 C)

E-911 Tax On Landline Telephone Service

Effective January 1, 2007, a new landline E-911 tax will be imposed on the end users of landline telephone service. The new landline E-911 tax will be state tax administered by TAX and will be imposed on the end user of each access line at the rate of \$0.75 per access line. The new tax will appear as a line item on customers’ bills. Providers will be allowed a dealer discount of three percent of the amount of the landline E-911 tax revenues. (Source: *Code of Va.* § 58.1-1730) The revenues collected will be remitted monthly to TAX by each provider when it files its Form CT-75, Virginia Communications Taxes Return (see “Communications Taxes Return”).

When a customer purchases landline telephone services from an out-of-state provider that is not registered and is not required to remit the landline E-911 tax, the customer will be required to remit the tax directly to TAX using Form CT-7, Virginia Communications Taxes Consumer Use Return. Form CT-7 and instructions are available on-line in the Download Forms section of TAX’s web site, located at www.tax.virginia.gov. Form CT-7 should be used by both business and residential customers. No prior registration with TAX is required for taxpayers filing a Form CT-7.

The tax will not be imposed on federal, state and local government agencies or on consumers of CMRS (mobile telecommunications service as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124). Customer remedy procedures for billing errors for the E-911 tax are the same as those for the communications sales tax. (Source: *Code of Va.* § 58.1-1730)

The penalty for failure to file a return or pay the tax is 5 percent of the tax due, or if the failure to pay in full was fraudulent, a penalty of 100 percent of the tax due. For late payment of the tax, interest shall be assessed at the rate established in Internal Revenue Code § 6621, plus 2%. (Source: *Code of Va.* §§ 58.1-1812 and § 58.1-15)

Definitions

For purposes of the E-911 tax, the following definitions are applicable:

“**Access lines**” are defined to include residence and business telephone lines and other switched (packet or circuit) lines connecting the customer premises to the public switched telephone network for the transmission of outgoing voice-grade-capable telecommunications services. Centrex, PBX or other multistation telecommunications services will incur an E-911 tax charge on every line or trunk (Network Access Registrar or PBX trunk) that allows simultaneous unrestricted outward dialing to the

public switched telephone network. ISDN Primary Rate Interface services will be charged five E-911 tax charges for every ISDN Primary Rate Interface network facility established by the customer. Other channelized services in which each voice-grade channel is controlled by the provider will be charged one tax for each line that allows simultaneous unrestricted outward dialing to the public switched telephone network. Access lines do not include local, state, and federal government lines; access lines used to provide service to users as part of the Virginia Universal Service Plan; interstate and intrastate dedicated WATS lines; special access lines; off-premises extensions; official lines internally provided and used by providers of telecommunications services for administrative, testing, intercept, coin, and verification purposes; and commercial mobile radio service.

“**Automatic location identification**” or “**ALI**” means a telephone network capability that enables the automatic display of information defining the geographical location of the telephone used to place a wireline 9-1-1 call.

“**Automatic number identification**” or “**ANI**” means a telephone network capability that enables the automatic display of the telephone number used to place a wireline 9-1-1 call.

“**Centrex**” means a business telephone service offered by a local exchange company from a local central office; a normal single line telephone service with added custom calling features including but not limited to intercom, call forwarding, and call transfer.

“**Communications services provider**” has the same meaning as it does for the communications sales tax.

“**Enhanced 9-1-1 service**” or “**E-911**” means a service consisting of telephone network features and PSAPs provided for users of telephone systems enabling users to reach a PSAP by dialing the digits “9-1-1.” Such service automatically directs 9-1-1 emergency telephone calls to the appropriate PSAPs by selective routing based on the geographical location from which the emergency call originated, and provides the capability for ANI and ALI features.

“**ISDN Primary Rate Interface**” means 24 bearer channels, each of which is a full 64,000 bits per second. One of the channels is generally used to carry signaling information for the 23 other channels.

“**Network Access Register**” means a central office register associated with Centrex service that is required in order to complete a call involving access to the public switched telephone network outside the confines of that Centrex company. Network Access Register may be incoming, outgoing, or two-way.

“**PBX**” means public branch exchange and is telephone switching equipment owned by the customer and located on the customer’s premises.

“**PBX trunk**” means a connection of the customer’s PBX switch to the central office.

“**Public safety answering point**” or “**PSAP**” means a communications facility equipped and staffed on a 24-hour basis to receive and process 911 calls.

Public Rights-of-Way Use Fee

Effective January 1, 2007, cable television providers that use the public rights-of-way will be required to collect a state public rights-of-way use fee similar to that currently imposed on providers of landline telephone service. On a monthly basis, each cable television provider will collect the fee from its subscribers and remit the fee to TAX when it files its Form CT-75, Virginia Communications Taxes Return (see “Communications Taxes Return”).

The amount of the fee will be the same as the public rights-of-way use fee imposed on providers of landline telephone service, which is calculated annually by the Department of Transportation (VDOT). By January 15 of each year, VDOT informs telephone providers of any change in the fee, which takes effect beginning each July 1.

An entity, or entities which are members of an affiliated group of entities, providing both local telecommunications service and cable service to the same ultimate end user may collect only one public rights-of-way use fee from that ultimate end user based on (1) the local telecommunications service if the locality in which the ultimate end user resides has imposed a public rights-of-way use fee on local telecommunications service or (2) cable service if the locality in which the subscriber resides has not imposed a public rights-of-way use fee on local telecommunications service. Information regarding the public rights-of-way use fee on local telecommunications service is available from the Virginia Department of Transportation at www.vdot.virginia.gov/business/row-usefee.asp.

The fee will, when billed, be stated as a distinct item separate and apart from the monthly charge for local telecommunications service and cable service. Until the ultimate end user pays the fee to the cable operator, the fee will be a debt of the consumer to TAX. If any ultimate end user or subscriber refuses to pay the fee, the cable operator will notify TAX. All fees collected will be deemed to be held in trust by the cable operator until remitted to TAX. (Source: *Code of Va.* § 56-468.1)

The penalty for failure to file a return or pay the tax is 5 percent of the tax due, or if the failure to pay in full was fraudulent, a penalty of 100 percent of the tax due. For late payment of the tax, interest shall be assessed at the rate established in *Internal Revenue Code* § 6621, plus 2%. (Source: *Code of Va.* § 58.1-1812 and § 58.1-15)

Definitions

For purposes of the public rights-of-way use fee, the following definitions are applicable:

“**Affiliated group**” means:

1. One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:
 - a. Stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one or more of the other corporations subject to inclusion; and
 - b. The common parent corporation directly owns stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of at least one of the other subject to inclusion corporations. As used in this subdivision, the term “stock” does not include nonvoting stock which is limited and preferred as to dividends; the phrase “corporation subject to inclusion” means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term “receipts” includes gross receipts and gross income.
2. Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:
 - a. At least eighty percent of the total combined voting power of all classes of stock entitled to vote or at least eighty percent of the total value of shares of all classes of the stock of each corporation; and
 - b. More than fifty percent of the total combined voting power of all classes of stock entitled to vote or more than fifty percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the corporations subject to inclusion, including the common parent corporation, is a nonstock corporation, the term “stock” as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

3. Two or more entities if such entities satisfy the requirements in subdivision 1 or 2 of this definition as if they were corporations and the ownership interests therein were stock.

“**Cable operator**” means any person or group of persons that (1) provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in a cable system or (2) otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system, whether or not the operator has entered into a franchise agreement with a locality. Cable operator does not include a provider of wireless or direct-to-home satellite transmission service. (Source: *Code of Va.* § 15.2-2108.1:1 A)

“**Cable system**” or “**cable television system**” means any facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community, except that such definition shall not include:

- A system that serves fewer than 20 subscribers;
- A facility that serves only to retransmit the television signals of one or more television broadcast stations;
- A facility that serves only subscribers without using any public right-of-way;
- A facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, 47 U.S.C. § 201 et seq., except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;
- Any facilities of any electric utility used solely for operating its electric systems;
- Any portion of a system that serves fewer than 50 subscribers in any locality, where such portion is a part of a larger system franchised in an adjacent locality; or
- An open video system that complies with § 653 of Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 573. (Source: *Code of Va.* § 15.2-2108.1:1 A)

“**Subscriber**” means a person who receives video programming, as defined in 47 U.S.C. § 522 20, distributed by a cable operator, as defined in *Code of Va.* § 15.2-2108.1:1 A, and does not further distribute it. (Source: *Code of Va.* § 56-468.1)

Cable Franchise Fees

Cable franchise agreements entered into or renegotiated after January 1, 2007 will not include a franchise fee. Cable franchise agreements in effect as of January 1, 2007 will remain in effect until their expiration. Cable providers will not bill or collect from customers any cable franchise fees accruing after January 1, 2007. Instead of paying franchise fee payments directly to localities, each franchisee will include with its monthly communications sales tax return a report listing by locality the franchise fees that accrued that month (see “Communications Taxes Return”). Although each franchise fee will be reported on an accrual basis, in all other respects the amount of the franchise fee will be determined in accordance with the franchise agreement. TAX will pay the accrued franchise fees to localities from the Fund on a monthly basis after deducting its administrative costs and the costs of the Virginia Relay Center but prior to making other calculations and distributions from the Fund. Localities will retain the right to audit cable franchisees and to otherwise enforce franchise agreements. (Source: *Code of Va. § 15.2-2108.1:1 C*)

Definitions

For purposes of cable franchise fees, the following definitions are applicable:

“**Cable operator**” has the same meaning as set forth above for the cable rights-of-way use fee. (Source: *Code of Va. § 15.2-2108.1:1 A*)

“**Cable service**” has the same meaning as set forth above for the communications sales tax. (Source: *Code of Va. § 15.2-2108.1:1 A*)

“**Cable system**” or “**cable television system**” has the same meaning as set forth above for the cable rights-of-way use fee (Source: *Code of Va. § 15.2-2108.1:1 A*)

“**Franchise**” means an initial authorization, or renewal thereof, issued by a franchising authority, including a locality or the Commonwealth Transportation Board, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction or operation of a cable system, a telecommunications system, or other facility in the public rights-of-way, including either a negotiated cable franchise or an ordinance cable franchise. (Source: *Code of Va. § 15.2-2108.1:1 A*)

Communications Taxes Return

Every provider will be required to file a monthly Form CT-75, Virginia Communications Taxes Return and remit the communications taxes due on or before the twentieth day of the month following the month in which the tax is billed. A return must be filed by each registered provider even though the provider is not liable to remit any tax for the period covered by the return. The communications taxes for each period become delinquent on the twenty-first day of the succeeding month if not paid. (Source: *Code of Va. § 58.1-654*)

Providers will be required to report the communications sales tax, landline E-911 tax and cable rights-of-way use fee due as separate line items on Form CT-75. Providers will also be required to report gross sales and personal use of taxable communications services by type of service. Form CT-75 will include separate lines for landline telephone, wireless telephone, cable television, satellite television, satellite radio and an additional line for all other communications services.

Additionally, cable providers will be required to report, by locality, cable franchise fees accruing from unexpired cable franchise agreements in effect on January 1, 2007 on Form CT-75B, Virginia Cable Franchise Fee Schedule. Cable providers may use the Form CT-75B provided by TAX or a reproduction approved by TAX. In the event that a cable provider needs to add or remove a locality from the list of localities in which it is subject to a cable franchise fee subsequent to registration with TAX, the cable provider will be required to file Form CT-1, Franchise Agreement Report with TAX. These forms and instructions are available on-line in the Download Forms section of TAX’s web site, located at www.tax.virginia.gov.

Virginia Relay Center

TAX will disburse funding for the costs of the Virginia Relay Center for the hearing impaired. Any funds held by the State Corporation Commission (SCC) for the Virginia Relay Center as of January 1, 2007 will be transferred to the Fund. (Source: Acts of Assembly 2006, Chapter 780, Enactment Clause 5).

Auditor of Public Accounts Report

The APA is required to determine the amount of revenues received by every locality for Fiscal Year 2006, at rates adopted on or before January 1, 2006, for each of the following taxes and fees:

- Local consumer utility tax on landline and wireless telephone service;
- Local E-911 tax on landline telephone service;
- The portion of the local BPOL tax on public service companies exceeding .5% currently billed to customers in some grandfathered localities;
- Cable television franchise fees;
- Local consumer utility tax on cable television; and
- Video programming excise tax on cable television services.

(Source: Acts of Assembly 2006, Chapter 780, Enactment Clause 8)

Based on each locality's percentage of the total Fiscal Year 2006 receipts from these sources, the APA will calculate each locality's percentage share of future distributions from the Fund. Local governments and service providers must cooperate with the APA and provide requested information. Every town with a population of less than 3,500, and any other locality whose annual audited financial statement cannot be completed by October 1, 2006, must provide to the APA by that date a statement of its receipts during Fiscal Year 2006 from such sources, verified in writing by an independent certified public accountant. Any locality that fails to furnish the information required to make this calculation in a timely manner will not be entitled to participate in the distribution of the communications taxes, and its percentage share will be disregarded in calculating the distribution to other localities. The APA and his agents are prohibited from divulging any information acquired by him in the performances of his duties that may identify specific service providers. The APA will report his findings on a tax-by-tax basis to the chairmen of the House and Senate Finance Committees and TAX no later than December 1, 2006. (Source: Acts of Assembly 2006, Chapter 780, Enactment Clause 8)

Additionally, on an annual basis, the APA is required to collect from local governments and providers any data necessary to determine changes in (1) market area and number of customers served, (2) types of services available, (3) population, and (4) possible local reimbursement. The APA is required to make an annual report of his findings to the chairmen of the House and Senate Finance Committees no later than December 1 each year. (Source: Acts of Assembly 2006, Chapter 780, Enactment Clause 8)

Communications Sales and Use Tax Trust Fund

The revenues from the communications sales tax, the landline E-911 tax and the cable rights-of-way use fee will be collected and remitted monthly by providers to TAX and deposited into the Communications Sales and Use Tax Trust Fund ("Fund"). After transferring moneys from the Fund to TAX to pay for the direct costs of administering the communications sales tax, the moneys in the Fund will be allocated and distributed to localities after payment (1) to VDDHH to fund the Virginia Relay Center and (2) any franchise fee amount due to localities in accordance with any cable television franchise agreements in effect as of January 1, 2007. Each locality's share of the net revenue will be distributed as soon as practicable after the end of the month based on the locality's share of total local revenues received from the following taxes and fees in Fiscal Year 2006 from local tax rates adopted on or before January 1, 2006:

- Local consumer utility tax on landline and wireless telephone service;
- Local E-911 tax on landline telephone service;
- The portion of the local BPOL tax on public service companies exceeding .5% currently billed to customers in some grandfathered localities;
- Cable television franchise fees;
- Video programming excise tax on cable television services; and
- Consumer utility tax on cable television.

An amount equal to the cable franchise fee paid to each locality with a cable franchise existing on January 1, 2007 at the rate in existence on January 1, 2007 will be subtracted from the amount owed to such locality prior to the distribution of moneys from the Fund.

Any errors made in any distribution, or adjustments that are otherwise necessary, will be made in the distribution for the next month or for subsequent months. Any funds remaining in the Fund at the end of a biennium will not revert to the general fund but will remain in the Fund. Interest earned on the funds will be credited to the Fund. (Source: *Code of Va.* § 56-662)

Example 1:

Total state communications taxes collected for the month are \$40,000,000. TAX has administrative costs of \$100,000. VDDHH has costs of \$1,000,000. The APA has determined that Locality X's share of the net communications taxes revenue is 1 percent (.01). The cable provider for Locality X reports an accrued monthly cable television franchise fee of \$350,000. Locality X's distribution for the month would be determined as follows:

Total state communications taxes revenues: \$40,000,000
Less: 1. TAX costs: \$100,000
2. VDDHH costs: \$1,000,000 <\$1,100,000>

Net revenues available for distribution to localities: \$38,900,000

Locality X would be entitled to a cable franchise fee distribution of \$350,000. Additionally, Locality X would be entitled to a distribution based on its percentage share of the net communications taxes revenues: $.01 \times \$38,900,000 = \$389,000$.

The distribution based on the percentage share must be reduced by the amount of the cable franchise fee distribution:

Percentage share of distribution: \$389,000
Less cable franchise fee distribution: <\$350,000>
\$39,000

Locality X's total distribution for the month would be $\$350,000 + 39,000 = \$389,000$.

Example 2:

Same facts, except that the accrued cable franchise payment was \$400,000.

Total state communications taxes revenues: \$40,000,000
Less (1) TAX costs: \$100,000
(2) VDDHH costs: \$1,000,000 <\$1,100,000>

Net revenues available for distribution to localities: \$38,900,000

Locality X would be entitled to a cable franchise fee distribution of \$400,000.

Locality X's percentage share of the net communications taxes revenues is: $.01 \times \$38,900,000 = \$389,000$.

As Locality X's percentage share of the net revenues must be reduced by the amount of the cable franchise fee distribution it would not be entitled to a distribution based on its percentage share:

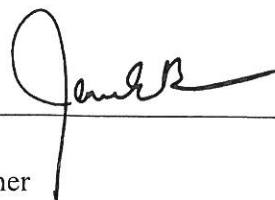
Percentage share of distribution: \$389,000
Less cable franchise fee distribution: <\$400,000>
<\$11,000>

Locality X's total distribution for the month would be limited to the \$400,000 cable franchise fee distribution. As the cable franchise fee distribution to Locality X exceeded its percentage share of the Fund by \$11,000, the total revenues available for distribution to all localities based on their APA determined percentage would be reduced by \$11,000. Although the total amount paid from the Fund to Locality X and other localities which receive their entire distribution as a cable franchise fee distribution would not be affected, the amount distributed to localities entitled to a distribution based on their APA determined percentage would be proportionately reduced based on their APA determined percentage. This reduction will have no effect on distributions in subsequent months.

Additional Information

These guidelines and rules are available on-line in the Tax Policy Library section of TAX's web site, located at www.tax.virginia.gov. For additional information, please contact the Office of Customer Services at (804) 367-8037.

Approved:



Janie E. Bowen
Tax Commissioner
November 1, 2006

Right of Way Use Fee

Mileage of Highway System

7,996.11	Primary
48,808.62	Secondary
11,570.20	Urban
327.52	Frontage Roads
362.72	Arlington
1337.18	Henrico
70,402.35	Total

Number of access lines as of September 30, 2011, reported by certificated providers of telecommunication services: 3,074,270

Number of feet of new installations within public rights of way between October 1, 2010, and September 30, 2011, by certificated providers of telecommunications services: 3,492,372

Right of Way Use Fee Calculation

Use:	70,402.35 x \$425	=	\$29,920,998.75
New Installation:	3,492,372 x \$1.00	=	<u>\$3,492,372.00</u>
			\$33,413,370.75
Monthly Rate:	<u>\$33,413,370.75</u>	=	\$10.8687 ÷ 12 = \$0.9057
	3,074,270		

For July 1, 2012 – June 30, 2013, the monthly Right of Way Use Fee is \$0.91

1/9/12

Andrea Moreland - Holistic Approach Understanding, etc for Working Group

From: "LINDSEY, GARY S" <gl2121@att.com>
To: "'Andrea Moreland'" <morelana@dor.state.fl.us>
Date: 11/8/2012 10:21 AM
Subject: Holistic Approach Understanding, etc for Working Group

Andrea,

As follow-up to my phone call I want to send this note to the Working Group – to lay out my basic understanding about the “holistic” option to be sure that I am on the same page with everyone after our Oct 31 meeting - and to also add something for the “white board”.

Holistic Option Understanding

- My understanding from Bob McKee’s info and calculations is that applying a new state sales tax rate of 6.34% and the existing local discretionary sales surtaxes (e.g., the county sales tax) to communications services and to all purchases of other goods or services that currently are subject to Florida sales tax would provide a revenue neutral replacement for the revenue currently produced by the state and local CST. *(Note: I had initially thought that the .34% alone was computed to cover the existing state and local CST revenues, however I now understand that Bob’s calculations assume under this methodology that the local discretionary sales surtax would also be applied to communications services).*
- Therefore the Holistic approach would eliminate the state and local CST and going forward - the 6.34% state sales tax and the local discretionary sales tax would apply to all communications services as well as to all purchases of other goods or services that currently are subject to Florida sales tax. (Communications services would therefore be sourced to the county level going forward to allow collection of the discretionary sales surtax).
- The DOR would distribute the new “replacement revenues” generated by this new sales tax rate and base to the PECO funding and to the local governments under a distribution methodology to be determined.

White Board Item

Because the Holistic approach will still include a local component in the discretionary sales surtax, the Working Group will need to add to the Holistic approach the creation of a new state level sales tax that would be applied to DBS (satellite), consistent with the current CST state tax structure that is currently applied to DBS.

I appreciate you sharing this with the Working Group to help ensure that my understanding is in synch with everyone, and to also offer the above “White Board” addition.

Thanks

gary

Gary S. Lindsey

AT&T

Rethink PossibleSM

DIRECTOR - EXTERNAL TAX POLICY - AT&T

PHONE: 404.499.3051

FAX: 866.605.6638

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Andrea Moreland - For CST Meeting Packet

From: "Sharon Fox" <Sharon.Fox@ci.tampa.fl.us>
To: "Andrea Moreland" <morelana@dor.state.fl.us>
Date: 11/28/2012 12:30 PM
Subject: For CST Meeting Packet
CC: <bill@billpeebles.com>, "John Wayne Smith" <john@billpeebles.com>, "Sonya Little" <Sonya.Little@ci.tampa.fl.us>, <ahughes@flcities.com>, <kconn@flcities.com>
Attachments: CST Options Paper for December Mtg 11 26 12 v2.docx

Andrea: Attached, please find municipal government comments regarding the various solutions discussed during the last working group meeting. Most importantly, municipal government has concerns we feel must be addressed in any sales tax solutions to be considered.

Thanks.

sf

Sharon R. Fox, CFE, CPPT
Revenue & Finance
City of Tampa
306 E. Jackson, 8N
Tampa, FL 33602
(813) 274-8558
(813) 274-8127 fax

Discussion Re: CST Working Group Options
Sharon Fox, Working Group Member Representing Municipal Governments
December 7, 2012

The Communications Services Tax (CST) was implemented in 2001 as a replacement or swap for existing tax and fee revenues that were critical to the funding of municipal governments in Florida from their inception. The CST was not new-found money, but simply replaced funding that had been received through the separate revenue streams of negotiated franchise fees for private use of the public rights-of-way; locally imposed utility taxes, which appear to have been put in place in the 1940's to help fund local government; and permit fees for construction and inspections of work performed in local rights-of-way for the safety of the traveling public. Two of these revenues were, and continue to be in their rebirth as the CST, used to secure municipal bonds.

The design of the CST came about at the request of the communications industry, as a way to simplify the then current multi-tax and fee structure, which also included state and county taxes and fees. It taxed like services no matter what type of company was providing them, and eased the volume of reports required to be filed and the number of governmental entities to which industry was reporting. In return, local governments were promised a more stable revenue stream covering a broader tax base, to protect them from income erosion due to changes brought about by the type of company or method of service delivery utilized. Through consensus, the CST language was designed expansively, so that state and local governments would continue to receive bondable funding on communications services and participate in the benefits realized by growth in the market, no matter how the services were provided.

The CST functioned as designed for several years, but regulatory changes and technology developments have again blurred the lines between taxable and non-taxable services, diminishing the taxable base and eroding this vital local government revenue stream. The migration to provisioning services over the Internet, coupled with the federal moratorium on taxing Internet access, is taking an increasing toll on the CST taxable base. Without the elimination of the moratorium, the sustainability of even current levels of tax revenues is highly unlikely. Additionally, the communications industry expresses frustration regarding the difficulty in accounting for the taxes collected within the many Florida jurisdictions; the tax rates which, while lower than the individual rates paid prior to the CST, are higher than for other commodities in the state that do not use local rights-of-ways for provision to their customers; and the disparate treatment of like services depending upon the method of delivery or the company providing the services.

Solution Components:

Prepaid Services: Of immediate concern is the current treatment of prepaid wireless communications services, the bulk of which appear to be charged the regular sales tax rate at the point of sale, instead of being charged the Communications Services Tax, because of the misunderstanding of a limited prepaid calling arrangement tax exemption which has little bearing on current market offerings of prepaid services. In order to eliminate the misunderstanding, the tax exemption must be eliminated in its entirety. Retail vendors of/outlets for prepaid calling products indicate they are not equipped to charge a different tax rate other than the sales and use tax rate in their county, which causes disparate tax treatment, depending upon whether similar wireless services are sold postpaid or prepaid. The Working Group heard testimony indicating, however, that a surcharge at the point of sale on prepaid services could be

accommodated to address the tax disparity. Additional comments seemed to indicate that a tiered surcharge, based upon the amount of sale, was do-able, to prevent overcharging on minimum service offerings and undercharging on premium prepaid products.

We believe that this solution is within the realm of possibility for the immediate legislative session, both helping stem the erosion of CST revenues to both state and local government, and correcting, if only for the short term, the disparity of tax treatment for similar services.

Unbundling: Again of immediate concern, is the option to use books and records in the determination of sales price of taxable services in bundled offerings. HB 809, enacted in 2012, took a marked change in direction than has long been allowed under Florida tax policy and law. Chapter 202.105(13)(b)8, F.S. now allows books and records kept in the regular course of business anywhere in the dealer's entire service area, to be used to determine sales price for CST purposes on all charges for bundled services.

Florida's sales and use tax provisions at Chapter 212.02(16), F.S., continue to strictly limit the unbundling for sales tax purposes to "charges of Internet access services which are not itemized on the customer's bill," and only "to the extent required by federal law." Providers continue to have the ability to prevent customers from being taxed on "charges for property or other services that are not part of the sale of communications services, if such charges are stated separately from the charges for communications services" per Chapter 202.105(13)(b)7. The new ability for providers to pick and choose taxable sales prices from books and records anywhere in their nationwide service area or beyond has the potential for significant revenue loss to the State of Florida and local governments. It also makes the calculation of CST on a customer's bundled bill impossible for the customer to calculate, and time consuming for the Florida Department of Revenue to verify. Additionally, this new provision will cost more for DOR to audit, making the tax even more difficult to administer.

The impact of early adopters of this law allowing the reduction of the CST tax base when bundling is utilized is already proving that local government was justified in fears of the negative effect to the local government revenue stream. Since the CST revenues are bonded, a noticeable reduction in the amount received without an offsetting increase in revenues from another source may have the unintended consequence of impacting local government bond ratings. This situation can be addressed in the immediate legislative session by reversing the unbundling provision adopted in 2012 for purposes of CST. Should industry wish to address the taxation of non-taxable services which they also provide, they would continue to have the option of separately stating charges for those items on the bill, thereby preventing their customers from being taxed on them.

Elimination of the State Residential CST Exemption: This solution piece would make the administration and audit of the Communications Services Tax less burdensome for DOR, by further homogenizing the base for both the local and state components of the tax. It would also assist in reducing the current erosion of tax revenues for the state and local governments.

Alternate Sources of Revenues:

The nature of the industry seems to be gravitating to greater use of Internet access technologies in the provision of communications services, which, because of the current federal moratorium of Internet access taxation, appears to greatly impair the long-term viability of the CST for municipal funding purposes. To that end, we believe that the Legislature, the communications industry, the State of Florida, and local governments need to again address the bigger picture in a search for various other funding sources, whatever they might be. What

those other funding sources are remains to be seen, however, a few potential components that have been discussed during the working group meetings are addressed below:

Rights-of-Way Fees: While rights-of-way fees alone are not sufficient to address the fiscal replacement of the CST, the solution chosen should include a component consisting of payment for use of the rights-of-way to the jurisdictions in which rights-of-way are being used, by the communications companies that derive benefit from use of the public rights-of-way for their shareholders' benefit. The State of Virginia has a component of their communications services tax design that takes into consideration such use of public rights-of-way for private benefit. A monthly fee is assessed of each communications customer in order to provide the industry's share of the burden it places on each community through use of public rights-of-way.

A different methodology to consider for a rights-of-way component is that of allowing the return to the negotiated franchise fee agreement between every company that utilizes rights-of-way and the corresponding jurisdiction where that company has communications facilities in the rights-of-way, such as is done for users of the local rights-of-way for non-communications purposes.

State-imposed Local Option Sales Tax: An option that might be considered is the uniform sales and use tax for the state plus a guaranteed local option sales tax for the local jurisdictions. This local option component would initially be imposed by the state, as a substitution for the CST, with the rate for each county to be established by the state in a manner similar to that which was utilized upon the inception and implementation of the CST in 2001. Local municipalities have several concerns regarding a sales tax solution that must be addressed in order for this to be a viable replacement revenue source, as the CST is one of the few sources municipalities have that is a locally-assessed revenue stream with no prohibitions or strings attached as to how the funds can be utilized:

- 1) The initial rate for each individual county would be a composite calculated from the amounts of all jurisdictions received within the county, plus a percentage to cover lost revenues from prepaid services to date, in order to produce sufficient revenue to hold each local jurisdiction in the county harmless. Each jurisdiction must be guaranteed what it was getting prior to the date of the swap, in order to accommodate any bond stipulations for currently-pledged CST funds.
- 2) The Legislature must enact the replacement revenue stream as a direct substitution to the CST, without any required action by a city/county.
- 3) Any growth must be distributed amongst the cities and unincorporated county based upon the proportion of the guaranteed portion due each jurisdiction.
- 4) The replaced revenue must hold current bondholders of CST pledges secure, and there must be clear authority and express authorization for local governments to pledge the revenues (i.e. the revenue stream must be 100% accessible for local government bond pledging, if that is the will of the local government). This must include pledges on Utilities Tax Bonds, Communications Services Tax Bonds, Loans, Covenants to Budget and Appropriate (CB & A bond issues), etc., as CST funds are included in the funds municipalities currently receive to secure those methods of financing.
- 5) There must be some provision to accommodate unused CST capacity for jurisdictions within a county that does not harm other jurisdictions in that county, as well as an

accommodation for annexations and newly incorporated cities, and separate trust funds for cities and counties.

- 6) This option would continue to require a separate, state-imposed DBS rate. However, with the elimination of the prepaid exemption, it may not require a prepaid surcharge component, as the local option tax would be applied to prepaid sales the same as to postpaid sales, at the rate of the county in which the sale was made.

Statewide Sales Tax Replacement: Another source that has been discussed during the Working Group meetings has been the substitution of a uniform statewide sales tax increase for the Communications Services Tax, to provide full replacement to the state and local governments. This substitution of revenue stream for sales tax has been suggested to function similarly to the half-cent sales tax distribution currently received by local government. Again, local municipalities have concerns regarding a sales tax solution that must be addressed in order for this to be a viable replacement revenue source:

- 1) Local governments must have a guaranteed amount of replacement funds annually, to include a growth factor, as well as an accommodation for annexations and newly incorporated cities. The total replacement amount should hold each jurisdiction harmless, and should take into consideration the lost prepaid tax revenues which should have been collected.
- 2) The sales tax must be an increase to the statewide sales and use tax rate. The Legislature must enact the replacement revenue stream as a direct substitution to the CST, without any required action by a city/county.
- 3) Any distribution formula for cities/counties must provide, on a per jurisdiction basis, the greater of:
 - a) the guaranteed revenue replacement amount or
 - b) the amount produced by the distribution formula.
- 4) The replaced revenue must hold current bondholders of CST pledges secure, and there must be clear authority and express authorization for local governments to pledge the revenues (i.e. the revenue stream must be 100% accessible for local government bond pledging, if that is the will of the local government). This must include pledges on Utilities Tax Bonds, Communications Services Tax Bonds, Loans, Covenants to Budget and Appropriate (CB & A bond issues), etc., as CST funds are included in the funds municipalities currently receive to secure those methods of financing.
- 5) There must be some provision for unused CST capacity.
- 6) There should be separate trust funds for cities and counties.

These issues are vital to the continued financial health of local government. Currently outstanding bonds must not be impaired nor have the appearance of potential impairment. Favorable credit ratings save taxpayers money over the extended term of bonds used to finance local infrastructure repairs and improvements. It would be irresponsible to embody criteria in any statutory changes of the current CST laws that would create a failure to comply with covenants to existing bondholders or cause taxpayers to pay more for infrastructure financing for decades to come.

These options are suggestions of things to be considered, and are not intended to be all inclusive, but merely places to begin in the reinvention of a revenue stream that has been relied upon in one form or another by Florida municipalities for almost 80 years.

If the CST is to be reinvented, it is incumbent upon this working group to consider all options that might satisfy the direction provided by Section 12 of Chapter 2012-70, Laws of Florida, providing the removal of competitive advantages within the industry as it relates to the state's tax structure without unduly reducing revenue to local governments.

Information from the Office of Tax Research

(This information was discussed at the October 31st meeting)

- **Request 1:** Estimate of Revenue from Assessing a Flat Rate of \$0.50 on Prepaid Transactions
- **Request 2:** Estimate of Discretionary Sales Surtax Necessary to Replace Local Communications Services Tax
- **Request 3:** Estimate of the Rate of Sales Tax Necessary to Replace Communications Services Tax Revenues

Request 1

Estimate of Revenue from Assessing a Flat Rate of \$0.50 on Prepaid Transactions

(Prepared by Florida Department of Revenue, Office of Tax Research)

At the October 16, 2012, meeting of the Communications Service Tax Working Group, Working Group members requested an estimate of the revenue that could be generated from assessing a flat rate of \$0.50 per transaction on prepaid communications services.

Methodology: The data presented previously at the July 25, 2012 Communications Services Tax Working group was used to generate this report. The data presented included the number of prepaid wireless phone lines and estimates for the amount of revenue that might be generated if the Communications Services Tax (CST) was applied to the sales of prepaid wireless. The analysis consists of two parts:

Part 1 – How much revenue would be generated using the \$0.50 flat rate on one transaction per month per prepaid wireless line.

Part 2 – If the flat fee were to generate the same amount of revenue as assessing CST on the sales of prepaid wireless how many transactions per month per line would be necessary to meet this revenue level. This calculation is shown for each of the three levels of spending expectations that were presented at the July 25, 2012 meeting.

Results:

\$0.50 Flat fee per Line per Month for Wireless Prepaid:

State Fiscal Year	\$0.50 per Transaction (Millions)
2010-11	\$26.6
2011-12	\$30.6
2012-13	\$34.5
2013-14	\$38.2
2014-15	\$41.1
2015-16	\$43.6
2016-17	\$45.8
2017-18	\$47.8
2018-19	\$49.4
2019-20	\$50.7
2020-21	\$51.6

**Transactions per line per month under the previously presented
revenue estimates**

Low:

The low estimate as presented previously was based on a \$35 per month per line expenditure.
The results of this estimate were as follows:

State Fiscal Year	Implied Tax Base at \$35 Average Monthly Service (low)	Additional Gross receipts revenues at Current rate (2.52%)	Additional Local Revenues at Current Effective Rate (5.04%)	Additional State Revenues at Current Rate (6.65%) less 6% sales tax
2010-11	\$1,864,031,470	\$46,973,593	\$93,947,186	\$12,116,205
2011-12	\$2,141,494,546	\$53,965,663	\$107,931,325	\$13,919,715
2012-13	\$2,412,812,174	\$60,802,867	\$121,605,734	\$15,683,279
2013-14	\$2,676,399,324	\$67,445,263	\$134,890,526	\$17,396,596
2014-15	\$2,873,910,183	\$72,422,537	\$144,845,073	\$18,680,416
2015-16	\$3,051,916,484	\$76,908,295	\$153,816,591	\$19,837,457
2016-17	\$3,209,416,142	\$80,877,287	\$161,754,574	\$20,861,205
2017-18	\$3,345,375,984	\$84,303,475	\$168,606,950	\$21,744,944
2018-19	\$3,458,730,453	\$87,160,007	\$174,320,015	\$22,481,748
2019-20	\$3,548,381,620	\$89,419,217	\$178,838,434	\$23,064,481
2020-21	\$3,613,197,525	\$91,052,578	\$182,105,155	\$23,485,784

The table below presents the number of transactions per month per line that would be necessary to generate the above revenue with a flat fee of \$0.50.

State Fiscal Year	Number of Prepaid Lines	Transactions for Gross Receipts Replacement	Transactions for Local Revenue Replacement	Transactions for Additional State Revenue	Total Number of Transactions
2010-11	4,438,170	1.76	3.53	0.46	5.75
2011-12	5,098,797	1.76	3.53	0.46	5.75
2012-13	5,744,791	1.76	3.53	0.46	5.75
2013-14	6,372,379	1.76	3.53	0.46	5.75
2014-15	6,842,643	1.76	3.53	0.46	5.75
2015-16	7,266,468	1.76	3.53	0.46	5.75
2016-17	7,641,467	1.76	3.53	0.46	5.75
2017-18	7,965,181	1.76	3.53	0.46	5.75
2018-19	8,235,073	1.76	3.53	0.46	5.75
2019-20	8,448,528	1.76	3.53	0.46	5.75
2020-21	8,602,851	1.76	3.53	0.46	5.75

Middle:

The Middle estimate as presented previously was based on a \$45 per month per line expenditure. The results of this estimate were as follows:

State Fiscal Year	Implied Tax Base at \$45 Average Monthly Service (middle)	Additional Gross receipts revenues at Current rate (2.52%)	Additional Local Revenues at Current Effective Rate (5.04%)	Additional State Revenues at Current Rate (6.65%) less 6% sales tax
2010-11	\$2,396,611,890	\$60,394,620	\$120,789,239	\$15,577,977
2011-12	\$2,753,350,131	\$69,384,423	\$138,768,847	\$17,896,776
2012-13	\$3,102,187,080	\$78,175,114	\$156,350,229	\$20,164,216
2013-14	\$3,441,084,846	\$86,715,338	\$173,430,676	\$22,367,051
2014-15	\$3,695,027,379	\$93,114,690	\$186,229,380	\$24,017,678
2015-16	\$3,923,892,622	\$98,882,094	\$197,764,188	\$25,505,302
2016-17	\$4,126,392,183	\$103,985,083	\$207,970,166	\$26,821,549
2017-18	\$4,301,197,694	\$108,390,182	\$216,780,364	\$27,957,785
2018-19	\$4,446,939,154	\$112,062,867	\$224,125,733	\$28,905,104
2019-20	\$4,562,204,940	\$114,967,564	\$229,935,129	\$29,654,332
2020-21	\$4,645,539,675	\$117,067,600	\$234,135,200	\$30,196,008

The table below presents the number of transactions per month per line that would be necessary to generate the above revenue with a flat fee of \$0.50.

State Fiscal Year	Number of Prepaid Lines	Transactions for Gross Receipts Replacement	Transactions for Local Revenue Replacement	Transactions for Additional State Revenue	Total Number of Transactions
2010-11	4,438,170	2.27	4.54	0.59	7.39
2011-12	5,098,797	2.27	4.54	0.59	7.39
2012-13	5,744,791	2.27	4.54	0.59	7.39
2013-14	6,372,379	2.27	4.54	0.59	7.39
2014-15	6,842,643	2.27	4.54	0.59	7.39
2015-16	7,266,468	2.27	4.54	0.59	7.39
2016-17	7,641,467	2.27	4.54	0.59	7.39
2017-18	7,965,181	2.27	4.54	0.59	7.39
2018-19	8,235,073	2.27	4.54	0.59	7.39
2019-20	8,448,528	2.27	4.54	0.59	7.39
2020-21	8,602,851	2.27	4.54	0.59	7.39

High:

The High estimate, as presented previously, was based on a \$55 per month per line expenditure. The results of this estimate were as follows:

State Fiscal Year	Implied Tax Base at \$55 Average Monthly Service (high)	Additional Gross receipts revenues at Current rate (2.52%)	Additional Local Revenues at Current Effective Rate (5.04%)	Additional State Revenues at Current Rate (6.65%) less 6% sales tax
2010-11	\$2,929,192,310	\$73,815,646	\$147,631,292	\$19,039,750
2011-12	\$3,365,205,715	\$84,803,184	\$169,606,368	\$21,873,837
2012-13	\$3,791,561,987	\$95,547,362	\$191,094,724	\$24,645,153
2013-14	\$4,205,770,367	\$105,985,413	\$211,970,826	\$27,337,507
2014-15	\$4,516,144,574	\$113,806,843	\$227,613,687	\$29,354,940
2015-16	\$4,795,868,760	\$120,855,893	\$241,711,786	\$31,173,147
2016-17	\$5,043,368,224	\$127,092,879	\$254,185,758	\$32,781,893
2017-18	\$5,257,019,404	\$132,476,889	\$264,953,778	\$34,170,626
2018-19	\$5,435,147,854	\$136,965,726	\$273,931,452	\$35,328,461
2019-20	\$5,576,028,260	\$140,515,912	\$281,031,824	\$36,244,184
2020-21	\$5,677,881,825	\$143,082,622	\$286,165,244	\$36,906,232

The table below presents the number of transactions per month per line that would be necessary to generate the above revenue with a flat fee of \$0.50.

State Fiscal Year	Number of Prepaid Lines	Transactions for Gross Receipts Replacement	Transactions for Local Revenue Replacement	Transactions for Additional State Revenue	Total Number of Transactions
2010-11	4,438,170	2.77	5.54	0.72	9.03
2011-12	5,098,797	2.77	5.54	0.72	9.03
2012-13	5,744,791	2.77	5.54	0.72	9.03
2013-14	6,372,379	2.77	5.54	0.72	9.03
2014-15	6,842,643	2.77	5.54	0.72	9.03
2015-16	7,266,468	2.77	5.54	0.72	9.03
2016-17	7,641,467	2.77	5.54	0.72	9.03
2017-18	7,965,181	2.77	5.54	0.72	9.03
2018-19	8,235,073	2.77	5.54	0.72	9.03
2019-20	8,448,528	2.77	5.54	0.72	9.03
2020-21	8,602,851	2.77	5.54	0.72	9.03

Request 2

Estimate of the Rate of Discretionary Sales Surtax Necessary to Replace Local Communication Services Tax

(Prepared by Florida Department of Revenue, Office of Tax Research)

At the October 16, 2012, meeting of the Communication Service Tax Working Group, Working Group members requested an estimate of the necessary rate of local option sales surtax that would generate revenues sufficient to replace the local component of the Communication Services Tax (CST). In calculating the rate, both current levies and unutilized local CST capacity are to be replaced.

Methodology: In order to estimate the necessary replacement rate, the estimates of local CST revenues and tax base for 2012-13 were used. The tax base and revenues for the Board of County Commissioners and for the municipalities within a county were summed. The unrealized capacity that was provided to the Working Group at the July 25, 2012, meeting was also added to this sum to develop the amount of revenue needed to be replaced. The estimates for the amount of revenue generated by a 1% sales surtax was used to develop the rate necessary to replace the local CST for counties and cities within a given county. Attached is a spreadsheet that provides at the county level the data used in the analysis as well as the resulting surtax amounts necessary to replace the local CST.

Results: A rate necessary to replace municipal and county local CST revenues was calculated. The highest replacement rate was 0.482% for Clay County and the lowest replacement rate was 0.101% for Walton County. To replace all revenue statewide would require a local option rate of 0.282%.

Note: in calculating the replacement rate, only utilized and unutilized local CST and utilized Discretionary Sales Surcharges (DSS) were included. Unutilized DSS levies were not included. The imposition of a discretionary sales surcharge results in an additional rate of local CST imposed countywide. Currently there is \$57 million in utilized Discretionary Sales Surcharge - CST that was included in the analysis. There is an additional \$225 M in unutilized DSS-CST that was not included in the analysis. Current law allows up to 4% DSS in certain counties. However, no county has ever imposed more than 1.5%. There is currently \$73 M in unutilized DSS-CST if all counties were to levy a discretionary surcharge at a rate of 1.5%

Communication Services Tax Working Group

	Estimated CST Base - Board of County Commissioners (BOCC)	Estimated CST Base - Municipalities	Total Estimated CST Base	BOCC CST Levies	Municipal CST Levies	Total Estimated CST Levies	Unused Capacity - Local CST	Estimated Realized DSS Revenues from CST	1% Sales Surcharge Estimated Revenues	Total local rate, DSS utilized only
Alachua	\$ 68,605,274	\$ 105,756,152	\$ 174,361,426	\$ 4,940,127	\$ 5,904,231	\$ 10,844,358	3,322	\$ -	\$ 31,406,551	0.345%
Baker	\$ 7,588,935	\$ 4,300,574	\$ 11,889,509	\$ 139,597	\$ 281,091	\$ 420,688	410	\$ 59,448	\$ 1,792,411	0.257%
Bay	\$ 50,329,906	\$ 82,947,306	\$ 133,277,212	\$ 1,019,572	\$ 4,649,185	\$ 5,668,938	34,008	\$ 399,832	\$ 32,060,193	0.190%
Bradford	\$ 6,517,000	\$ 5,563,521	\$ 12,080,521	\$ 42,584	\$ 286,311	\$ 328,956	100,000	\$ 72,483	\$ 2,206,287	0.227%
Brevard	\$ 155,053,996	\$ 279,947,746	\$ 435,001,742	\$ 8,332,805	\$ 15,733,279	\$ 24,066,084	7,073	\$ -	\$ 62,324,023	0.386%
Broward	\$ 28,711,792	\$ 1,607,303,697	\$ 1,636,015,489	\$ 1,385,594	\$ 87,526,488	\$ 88,912,062	306,486	\$ -	\$ 280,902,924	0.318%
Calhoun	\$ 3,583,653	\$ 2,364,671	\$ 5,948,324	\$ 66,167	\$ 124,375	\$ 190,543	-	\$ 47,587	\$ 759,864	0.313%
Charlotte	\$ 99,909,153	\$ 18,801,435	\$ 118,710,588	\$ 5,331,268	\$ 996,185	\$ 6,327,453	-	\$ 712,264	\$ 20,381,944	0.345%
Citrus	\$ 76,806,066	\$ 10,895,465	\$ 87,701,531	\$ 1,815,146	\$ 599,573	\$ 2,414,719	-	\$ -	\$ 12,133,086	0.199%
Clay	\$ 111,064,781	\$ 20,429,981	\$ 131,494,762	\$ 6,858,845	\$ 1,096,231	\$ 7,955,077	-	\$ 788,969	\$ 17,893,261	0.489%
Collier	\$ 233,528,936	\$ 69,685,194	\$ 303,214,130	\$ 5,079,452	\$ 3,735,735	\$ 8,815,187	7,046	\$ -	\$ 58,861,343	0.150%
Columbia	\$ 22,296,926	\$ 14,541,838	\$ 36,838,764	\$ 322,286	\$ 835,336	\$ 1,157,622	144,851	\$ 221,033	\$ 7,128,568	0.214%
Dade	\$ 828,146,230	\$ 1,398,669,623	\$ 2,226,815,853	\$ 44,906,690	\$ 76,266,644	\$ 121,173,334	69,844	\$ 11,134,079	\$ 404,561,426	0.327%
Desoto	\$ 8,022,203	\$ 4,885,122	\$ 12,907,325	\$ 195,553	\$ 268,645	\$ 464,198	-	\$ 77,444	\$ 2,065,535	0.262%
Dixie	\$ 4,489,517	\$ 1,707,915	\$ 6,197,432	\$ 88,250	\$ 52,365	\$ 140,615	42,102	\$ 30,987	\$ 796,104	0.268%
Duval	\$ 745,649,522	\$ 42,621,876	\$ 788,271,398	\$ 39,853,539	\$ 2,430,446	\$ 42,283,985	-	\$ 6,306,171	\$ 135,245,033	0.359%
Escambia	\$ 162,562,319	\$ 67,888,511	\$ 230,450,830	\$ 3,153,171	\$ 3,596,199	\$ 6,739,906	33,881	\$ 1,382,705	\$ 41,291,184	0.198%
Flagler	\$ 11,101,099	\$ 58,366,259	\$ 69,467,358	\$ 228,045	\$ 3,131,106	\$ 3,359,151	26,290	\$ 486,272	\$ 8,663,369	0.447%
Franklin	\$ 5,543,213	\$ 2,941,786	\$ 8,484,999	\$ 50,266	\$ 125,215	\$ 175,481	84,300	\$ 76,365	\$ 1,575,477	0.213%
Gadsden	\$ 12,287,329	\$ 11,935,545	\$ 24,222,874	\$ 302,492	\$ 563,523	\$ 866,015	41,699	\$ 121,114	\$ 2,836,674	0.363%
Gilchrist	\$ 5,235,295	\$ 1,843,245	\$ 7,078,540	\$ 110,409	\$ 101,995	\$ 212,405	1,722	\$ 35,393	\$ 695,388	0.359%
Glades	\$ 3,606,873	\$ 614,175	\$ 4,221,048	\$ 68,241	\$ 7,972	\$ 76,213	24,690	\$ 25,326	\$ 398,241	0.317%
Gulf	\$ 4,778,486	\$ 4,934,117	\$ 9,712,603	\$ 87,633	\$ 264,662	\$ 352,295	-	\$ 48,563	\$ 1,221,896	0.328%
Hamilton	\$ 4,117,544	\$ 1,686,735	\$ 5,804,279	\$ 15,584	\$ 89,243	\$ 104,827	68,826	\$ 34,826	\$ 772,183	0.270%
Hardee	\$ 6,944,274	\$ 3,724,835	\$ 10,669,109	\$ 102,336	\$ 178,189	\$ 280,525	62,255	\$ 53,346	\$ 1,690,057	0.234%
Hendry	\$ 12,526,439	\$ 7,589,992	\$ 20,116,431	\$ 243,539	\$ 376,427	\$ 619,966	35,915	\$ 60,349	\$ 2,781,916	0.257%
Hernando	\$ 98,972,273	\$ 8,176,335	\$ 107,148,608	\$ 1,499,174	\$ 433,949	\$ 1,933,123	219,570	\$ 642,892	\$ 15,712,091	0.178%
Highlands	\$ 38,933,005	\$ 16,613,166	\$ 55,546,191	\$ 738,131	\$ 913,729	\$ 1,671,861	-	\$ 333,277	\$ 9,219,672	0.217%
Hillsborough	\$ 620,687,231	\$ 495,014,596	\$ 1,115,701,827	\$ 25,246,299	\$ 26,090,522	\$ 51,336,821	7,607,095	\$ 6,694,211	\$ 192,205,978	0.341%
Holmes	\$ 5,225,802	\$ 2,798,556	\$ 8,024,358	\$ 97,007	\$ 150,198	\$ 247,206	21,732	\$ 48,146	\$ 875,681	0.362%
Indian River	\$ 70,182,247	\$ 48,470,164	\$ 118,652,411	\$ 1,445,443	\$ 2,607,051	\$ 4,052,494	57,282	\$ 1,067,872	\$ 18,931,417	0.273%
Jackson	\$ 14,630,897	\$ 10,143,532	\$ 24,774,429	\$ 290,488	\$ 512,470	\$ 802,958	34,451	\$ 133,872	\$ 4,048,744	0.237%
Jefferson	\$ 5,042,966	\$ 2,369,646	\$ 7,412,612	\$ 59,441	\$ 115,616	\$ 175,057	52,362	\$ 37,063	\$ 776,755	0.340%
Lafayette	\$ 1,302,891	\$ 1,324,892	\$ 2,627,783	\$ 25,538	\$ 27,695	\$ 53,233	42,662	\$ 13,139	\$ 302,768	0.360%
Lake	\$ 94,348,996	\$ 119,880,871	\$ 214,229,867	\$ 1,918,166	\$ 6,502,716	\$ 8,420,881	7,371	\$ -	\$ 32,385,236	0.260%
Lee	\$ 259,083,070	\$ 241,130,212	\$ 500,213,282	\$ 9,658,882	\$ 11,556,474	\$ 21,215,356	5,459,873	\$ 4,501,920	\$ 96,603,443	0.323%

Communication Services Tax Working Group

	Estimated CST Base - Board of County Commissioners (BOCC)	Estimated CST Base - Municipalities	Total Estimated CST Base	BOCC CST Levies	Municipal CST Levies	Total Estimated CST Levies	Unused Capacity - Local CST	Estimated Realized DSS Revenues from CST	1% Sales Surcharge Estimated Revenues	Total local rate, DSS utilized only
Leon	\$ 64,837,969	\$ 147,064,317	\$ 211,902,286	\$ 3,460,797	\$ 9,067,496	\$ 12,528,294	-	\$ 1,271,414	\$ 35,856,413	0.385%
Levy	\$ 13,635,102	\$ 6,352,289	\$ 19,987,391	\$ 254,885	\$ 312,135	\$ 567,020	36,201	\$ 159,899	\$ 3,040,566	0.251%
Liberty	\$ 2,873,261	\$ 510,693	\$ 3,383,954	\$ 17,330	\$ 26,647	\$ 43,978	35,628	\$ 27,072	\$ 300,508	0.355%
Madison	\$ 5,203,881	\$ 3,366,596	\$ 8,570,477	\$ 98,688	\$ 183,311	\$ 281,993	1,682	\$ 25,711	\$ 1,041,608	0.297%
Manatee	\$ 185,567,376	\$ 62,994,126	\$ 248,561,502	\$ 3,562,586	\$ 3,669,647	\$ 7,232,233	-	-	\$ 46,574,056	0.155%
Marion	\$ 156,249,476	\$ 68,019,036	\$ 224,268,512	\$ 2,870,614	\$ 3,612,992	\$ 6,483,606	186,276	-	\$ 33,766,753	0.198%
Martin	\$ 107,700,841	\$ 25,675,403	\$ 133,376,244	\$ 2,148,239	\$ 1,349,366	\$ 3,497,605	54,856	\$ 800,257	\$ 23,343,291	0.186%
Monroe	\$ 37,673,440	\$ 49,580,068	\$ 87,253,508	\$ 651,329	\$ 2,631,822	\$ 3,283,151	76,071	\$ 785,282	\$ 27,652,899	0.150%
Nassau	\$ 39,143,786	\$ 15,990,157	\$ 55,133,943	\$ 795,219	\$ 822,165	\$ 1,617,384	21,853	\$ 330,804	\$ 8,220,252	0.240%
Okaloosa	\$ 80,172,552	\$ 84,999,961	\$ 165,172,513	\$ 1,911,580	\$ 4,667,913	\$ 6,579,493	31,683	-	\$ 31,649,702	0.209%
Okeechobee	\$ 13,216,945	\$ 5,430,560	\$ 18,647,505	\$ 117,412	\$ 297,423	\$ 414,834	143,973	\$ 111,885	\$ 3,988,009	0.168%
Orange	\$ 505,994,665	\$ 471,513,231	\$ 977,507,896	\$ 26,490,712	\$ 25,366,376	\$ 51,857,088	-	\$ 2,932,524	\$ 347,823,909	0.158%
Oscola	\$ 115,488,542	\$ 73,090,226	\$ 188,578,768	\$ 6,159,074	\$ 3,884,358	\$ 10,023,432	27,866	\$ 942,894	\$ 40,205,637	0.273%
Palm Beach	\$ 455,005,837	\$ 762,574,755	\$ 1,217,580,592	\$ 27,092,301	\$ 41,419,016	\$ 68,511,317	1,084,820	-	\$ 205,217,052	0.339%
Pasco	\$ 281,215,099	\$ 36,077,241	\$ 317,292,340	\$ 5,376,005	\$ 2,015,021	\$ 7,391,026	51,358	\$ 1,903,754	\$ 44,291,816	0.211%
Pinellas	\$ 205,862,078	\$ 578,901,416	\$ 784,763,494	\$ 11,007,857	\$ 32,558,011	\$ 43,565,867	305,452	\$ 4,708,581	\$ 130,153,658	0.379%
Polk	\$ 210,524,024	\$ 182,796,799	\$ 393,320,823	\$ 11,199,299	\$ 11,280,673	\$ 22,479,972	66,346	\$ 2,359,925	\$ 65,702,081	0.379%
Putnam	\$ 25,077,530	\$ 10,784,003	\$ 35,861,533	\$ 506,691	\$ 326,489	\$ 833,179	1,254	\$ 215,169	\$ 5,647,829	0.186%
Saint Johns	\$ 129,413,969	\$ 24,883,131	\$ 154,297,100	\$ 2,549,800	\$ 1,383,891	\$ 3,933,691	124	-	\$ 24,933,150	0.158%
Saint Lucie	\$ 52,480,987	\$ 146,087,753	\$ 198,568,740	\$ 1,070,455	\$ 7,903,189	\$ 8,973,644	16,884	\$ 595,706	\$ 26,019,758	0.368%
Santa Rosa	\$ 81,863,154	\$ 17,790,562	\$ 99,653,716	\$ 1,369,676	\$ 916,874	\$ 2,286,550	301,719	\$ 298,961	\$ 13,194,985	0.219%
Sarasota	\$ 216,989,244	\$ 131,198,294	\$ 348,187,538	\$ 10,748,035	\$ 7,331,859	\$ 18,079,893	867,957	\$ 2,089,125	\$ 56,750,550	0.371%
Seminole	\$ 153,753,490	\$ 206,241,998.00	\$ 359,995,488	\$ 8,177,441	\$ 12,428,823.65	\$ 20,606,265	153,753	-	\$ 57,454,486	0.361%
Sumter	\$ 46,161,964	\$ 7,585,976	\$ 53,747,940	\$ 877,378	\$ 406,364	\$ 1,283,742	2,282	\$ 268,740	\$ 9,463,179	0.164%
Suwannee	\$ 15,126,014	\$ 5,685,162	\$ 20,811,176	\$ 286,461	\$ 317,113	\$ 603,574	10,833	\$ 124,867	\$ 3,104,304	0.238%
Taylor	\$ 6,245,508	\$ 5,385,401	\$ 11,630,909	\$ 124,714	\$ 305,462	\$ 430,177	-	\$ 69,785	\$ 2,031,381	0.246%
Union	\$ 3,173,436	\$ 1,650,246	\$ 4,823,682	\$ 58,952	\$ 90,278	\$ 149,229	2,085	\$ 24,118	\$ 556,799	0.315%
Volusia	\$ 75,758,785	\$ 292,820,101	\$ 368,578,886	\$ 4,180,122	\$ 16,364,440	\$ 20,544,563	1,166	\$ 1,105,737	\$ 63,250,930	0.342%
Wakulla	\$ 13,855,970	\$ 516,482	\$ 14,372,452	\$ 731,228	\$ 15,998	\$ 747,226	11,451	\$ 86,235	\$ 1,840,680	0.459%
Walton	\$ 46,494,747	\$ 6,126,501	\$ 52,621,248	\$ 339,184	\$ 246,325	\$ 585,509	611,172	\$ 315,727	\$ 14,673,501	0.103%
Washington	\$ 6,991,659	\$ 3,425,276	\$ 10,416,935	\$ 145,035	\$ 189,580	\$ 334,615	5,287	\$ 52,085	\$ 1,570,003	0.250%
Statewide	\$ 7,241,167,470	\$ 8,212,987,066	\$ 15,454,154,536	\$ 300,117,579	\$ 449,472,162	\$ 749,589,741	18,707,230	\$ 57,243,202	\$ 2,832,846,478	0.291%

Request 3

Estimate of the Rate of Sales Tax Necessary to Replace Communication Services Tax Revenues

(Prepared by Florida Department of Revenue, Office of Tax Research)

At the October 16, 2012, meeting of the Communication Service Tax Working Group, Working Group members requested an estimate of the necessary rate of state sales tax that would generate revenues sufficient to replace the Communication Services Tax (CST).

Methodology: The official forecasts for CST and for state General Revenue for 2012-13, 2013-14, and 2014-15 were used to produce the requested estimate. Additional data was used to isolate taxable sales of electricity, upon which current law imposes a sales tax of 7%.

Step 1 – The current CST tax base was estimated using the forecast Gross Receipts – CST revenues, correcting for that portion of the Gross Receipts tax base to which the exemption in section 202.125, Florida Statutes (residential exemption) applies.

Step 2 – Sales tax base was estimated using the official forecast for General Revenue. That portion of the sales tax base that is taxable electric purchases was estimated using return data.

Step 3 - It was assumed the sales and use tax base is increased by the amount of the existing (forecast) CST base. The revenues that needed to be replaced by the new sales tax rate were estimated by adding the current sales tax forecast revenues with the appropriate forecast CST Revenues. A replacement rate was calculated for just the local portion of the CST and for all CST revenues (local, state and gross receipts portions). The new sales tax rate was then determined by dividing the revenue amounts by the expanded sales tax base.

Two tax base scenarios were generated. In one scenario the replacement sales tax rate applied only to that portion of the tax base for which the sales tax rate is 6% (excluded taxable sales of electricity). In the second scenario the replacement sales tax rate was estimated including the entire estimated sales tax base. It was assumed that the incremental rate necessary to replace CST revenues applied both to the general 6% sales tax rate and the 7% rate for taxable sales of electricity.

Results: Local CST only: The percentages represent the increase to the statewide rate necessary to replace the Local portion of the CST.

	Local portion From Gross Receipts 07/12 (Millions)	Replacement Rate w/ Electric	Replacement Rate w/o Electric
FY12-13	\$747.12	0.24%	0.25%
FY13-14	\$750.41	0.23%	0.24%
FY14-15	\$754.15	0.22%	0.23%
FY15-16	\$757.78	0.21%	0.22%

Entire CST:

Example calculations for replacement rate for the entire CST with Electricity sales tax revenue and base included.

Communications Services Tax (Millions)	State Fiscal Year 2013-14
Gross receipts	\$411.67
State (less state rate)	\$978.97
local	\$750.41
Additional Direct to Home Satellite	\$56.48
Implied Base for Gross Receipts (Millions)	\$16,391.57
Sales and Use Tax (Millions)	
Sales Tax Collections	\$20,492.90
Sales Tax Base	\$341,548.33
Combined Values (Millions)	
Sales Tax and CST Collections	\$22,690.43
Sales Tax and Gross Receipts Base	\$357,939.90
Replacement rate	6.34%

Replacement Rates for Entire CST

	Forecast CST Total (Millions)	Replacement Rate w/ Electric	Replacement Rate w/o Electric
FY12-13	\$2,180.68	6.355%	6.357%
FY13-14	\$2,197.53	6.339%	6.341%
FY14-15	\$2,216.27	6.323%	6.323%
FY15-16	\$2,236.32	6.308%	6.308%