



Fees, Surcharges & Supplemental Costs Telecommunications

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Wyoming Department of Revenue

Occasionally, there are questions regarding the taxability of fees and surcharges added to the sale of telecommunications services. The following are a list of items questioned most frequently on telephone bills and the taxability of each.

Fees and Surcharges

- *Federal Access Charge (FAC)*

Non-taxable; within the telecommunications industry, there are varied names for this charge. Some of them are "End User Common Line Charge (EUCL), Interstate Access Charge, Federal Communications Commission Line Charge, Federal Subscriber Line Charge and Federal Access Service Charge, Subscriber Line Charge, Federal Communications Commission Charge for Network Access and Federal Line Cost Charge. This charge covers the costs of the local phone network.

- *Federal Excise Tax*

Non-taxable; excluded from the definition of "Sales price" as a tax imposed directly upon the consumer per W.S. 39-15-101(a)(viii)(B)(III). Thus, since this tax is not part of sales price, it is not subject to sales tax.

- *Federal Universal Service Fund*

Taxable; this fund supports telecommunications in areas that may otherwise be underserved. This service is incidental to telephone service, and is

therefore part of the taxable sales price of telecommunications services. [W.S. 39-15-101(a)(viii)(A), W.S. 39-15-103(a)(i)(C)]

- *Intrastate Long Distance*

Taxable; W.S. 39-15-103(a)(i)(C) imposes sales tax on "The sales price paid for intrastate telecommunications services including the consideration paid for the sale, rental or leasing of any equipment or ancillary services incidental thereto, and the sales price paid for intrastate calls..."

- *Interstate Long Distance*

Non-taxable; Wyoming does not have a statute that imposes tax on interstate long distance telecommunications charges.

- *Local Franchise Fees*

Taxable; these fees, also known as municipal charges, are assessed by cities to make up for the cost of maintaining the streets under which the cables and lines run. This service is incidental to telephone service. Since these are fees and not taxes, these fees are part of the taxable sales price of telecommunications services. [W.S. 39-15-101(a)(viii)(A), W.S. 39-15-103(a)(i)(C)]

- *Relay Service Fund*

Non-taxable; this statutory fund is for the benefit of Wyoming residents who are hearing impaired. This fee is used to administer a statewide message relay system for Wyoming residents who are communications impaired. This fee is specifically exempted from sales tax per W.S. 16-9-209(f)

- *Telephone Assistance Program (TAP)*

Taxable; this fund is used to provide discounted phone service to low-income, elderly or disabled customers, and applies to all customers within the state. This service is incidental to telephone service, and is therefore part of the taxable sales price of telecommunications services. [W.S. 39-15-101(a)(viii), W.S. 39-15-103(a)(i)(C)]

- *WY Universal Service Fund*

Taxable; State Universal Fund mechanisms are required in all states by Federal law. The monies are used to subsidize smaller local exchange companies. This service is incidental to telephone service and is therefore part of the taxable sales price of telecommunications services. [W.S. 39-15-101(a)(viii), W.S. 39-15-103(a)(i)(C)]

- *911 Emergency Tax*

Non-taxable; this tax is imposed on each access line within a Wyoming governing body's 911 service area [W.S. 16-9-102(a)(v)]. This tax is excluded from the definition of "sales price" as a tax imposed directly on the consumer. W.S. 39-15-101(a)(viii) Thus, since this tax is not part of sales price, it is not subject to sales tax.

Please be advised that this bulletin addresses issues in general terms and cannot be appropriate or applicable in all situations. If your situation is markedly different or you have concerns about this issue, please do not hesitate to contact this department. You can do so by e-mail directed to:
DOR_taxability@wyo.gov

Supporting Authority -

W.S. 16-9-209(f)

"All special fees billed and collected by a local exchange company or radio communications service provider shall not be considered revenues of the local exchange company or radio communications service provider and are not subject to tax under W.S. 39-15-101 through 39-16-311."

W.S. 16-9-102(a)(v)

"911 Emergency Tax" is a tax on service users within the governing body's designated 911 service area set by the governing body in accordance with this act and assessed on each service user's local exchange access lines and wireless communications access to pay the directly related costs of a 911 system as authorized in accordance with W.S. 16-9-105;

W.S. 39-15-101(a)(viii)

"Sales price":

(A) Shall apply to the measure subject to sales tax and means the total amount or consideration, including cash, credit, property and services for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(I) The seller's cost of property sold;

(II) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller and any other expense of the seller;

(III) Charges by the seller for any services necessary to complete the sale other than delivery and installation charges;

(IV) Delivery charges;

(V) Installation charges;

(VI) Repealed by Laws 2007,

Ch. 10,2.

(B) Shall not include:

(I) Discounts, including cash, terms or coupons which are not reimbursed by a third party, which are allowed by a seller and taken by a purchaser on a sale;

(II) Interest, financing and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser; and

(III) Any tax legally imposed directly on the consumer which is separately stated on the invoice, bill of sale or similar document given to the purchaser.

(C) "Sales price" shall include consideration received by the seller from third parties if:

(I) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to the price reduction or discount on the sale;

(II) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(III) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(IV) One (1) of the following criteria is met:

(1) The purchaser presents a coupon,

certificate or other documentation to the seller to claim a price reduction or discount where the coupon certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

(2) The purchaser identifies himself to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron shall not constitute membership in such a group; or

(3) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

W.S. 39-15-103(a)(i)(C)

Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

The sales price paid for intrastate telecommunications services including

the consideration paid for the sale, rental or leasing of any equipment or ancillary services incidental thereto, and the sales price paid for intrastate calls which originate and terminate in a single state and are billed to a customer with a place of primary use in this state from mobile telecommunications services as provided by the Mobile Telecommunications Sourcing Act, 4 U.S.C. 116 through 126. The definitions and provisions of the Mobile Telecommunications Sourcing Act shall apply to this article;