

DEPARTMENT OF TAXATION

2008 Fiscal Impact Statement

1. **Patron** Timothy D. Hugo

3. **Committee** House Finance

4. **Title** Sales and Use Tax; Tax Preferences for
Certain Telecommunications Service
Providers

2. **Bill Number** HB 1433

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would provide a sales and use tax exemption for tangible personal property that was sold or leased to a telecommunications company for use or consumption by such a company directly in the rendition of its public service. This bill would also provide a sales and use tax exemption for tangible personal property that was sold or leased to a telephone company chartered in the Commonwealth that is exclusively a local mutual association and is not designated to accumulate profits for the benefit of, or to pay dividends to, the stockholders or members thereof, for use or consumption by such company directly in the rendition of its public service.

The effective date of this bill is not specified.

6. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

7. Budget amendment necessary: Yes.

Page 1, Revenue Estimates

8. Fiscal implications:

Administrative Costs

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

This bill would have an unknown negative revenue impact on state and local revenues. Based on information regarding plant additions by telecommunications companies obtained from the State Corporation Commission and survey results obtained from responding telecommunications companies, the estimated annual state and local revenue loss at the current level of spending would likely be more than \$41 million if the exemption was fully restored. As the growth of expenditures for this industry is difficult to estimate, this estimate does not reflect any growth in purchases.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Until 2004, public service corporations had an exemption for the purchase of all tangible personal property used directly in the rendition of their public service. Direct usage refers to those activities that are an integral part of the rendition of a public utility service, including all steps of a utility's production, generation or initiation process as well as a utility's transmission or distribution process, but not including incidental public utility functions such as administration and management. This exemption was enjoyed by (i) public service corporations subject to state franchise or license tax on gross receipts, (ii) telecommunications companies and certain telephone companies, and (iii) common carriers of property or passengers by motor vehicle or railway.

With the exception of common carriers by railway, the 2004 tax reform (House Bill 5018, Chapter 3, 2004 Acts of Assembly, Special Session I) repealed all the exemptions for public service corporations. These included all public service corporations subject to the state franchise and license tax on gross receipts, telecommunications and certain telephone companies, and motor vehicle common carriers.

The law that repealed these exemptions also contained an enactment clause, which allows those entities that are now required to pay a sales and use tax to impose a separate line item surcharge on customers' bills in order to recoup the taxes paid as a result of the repeal of the exemption. This enactment clause does not apply to motor vehicle common carriers.

Proposal

This bill would provide a sales and use tax exemption for tangible personal property that was sold or leased to a telecommunications company for use or consumption by such a company directly in the rendition of its public service. This bill would also provide a sales and use tax exemption for tangible personal property that was sold or leased to a

telephone company chartered in the Commonwealth that is exclusively a local mutual association and is not designated to accumulate profits for the benefit of, or to pay dividends to, the stockholders or members thereof, for use or consumption by such company directly in the rendition of its public service.

Similar Legislation

House Bill 924 and **Senate Bill 117** would provide a nonrefundable individual and corporate income tax credit to taxpayers who purchase and install wireless and broadband equipment in order to provide communications services, including Internet access, to rural areas within the Commonwealth. This bill would also provide a sales and use tax exemption for tangible personal property that was sold or leased to a telecommunications company for use or consumption by such a company directly in the rendition of its public service phased in over 3 years.

cc : Secretary of Finance

Date: 2/1/2008 AM
HB1433F161