

DEPARTMENT OF TAXATION

2018 Fiscal Impact Statement

1. **Patron** Vivian E. Watts

3. **Committee** House Finance

4. **Title** Communications Sales and Use Tax;
Services Subject to Taxation

2. **Bill Number** HB 1051

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would repeal the Communications Sales and Use Tax exemption for prepaid calling services and would expand the definition of “communications services” to include audio and visual streaming services. The tax would apply regardless of how the customer is billed for communications services.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No

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

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation (“the Department”) considers implementation of this bill as routine and does not require additional funding.

Revenue Impact

The proposed legislation is estimated to have a positive revenue impact of approximately \$7.9 million annually, beginning in Fiscal Year 2019, to localities that receive a Communications Sales and Use Tax distribution. This is due to the expansion of the tax to prepaid calling services and streaming services.

This bill would have no impact on state revenues.

9. **Specific agency or political subdivisions affected:**

Department of Taxation

All localities that receive a distribution from the Communications Sales and Use Tax

10. Technical amendment necessary: No

11. Other comments:

Background

2006 House Bill 568 (*Acts of Assembly* 2006, Chapter 780) replaced many of the 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 imposed a public rights-of-way use fee on cable television providers beginning January 1, 2007.

Under House Bill 568, revenue from the Communications Sales and Use Tax, the Landline E-911 Tax, and the Cable Television Rights-of-Way Fee is collected and remitted monthly by communications services providers to the Department and is deposited into a non-reverting fund known as the Communications Sales and Use Tax Trust Fund ("the Fund"). After transferring moneys from the Fund to the Department to pay for the direct costs of administering the Communications Taxes, the moneys in the Fund are allocated and distributed to localities after payment (1) to the Department of Deaf and Hard-of-Hearing to fund the telephone relay service center and (2) any franchise fee amount due to localities in accordance with any cable television franchise agreements that were in effect as of January 1, 2007.

Each locality's share of the net revenue is distributed as soon as practicable after the end of the month based on the locality's share of total revenues received from the repealed communications taxes and fees in Fiscal Year 2006.

Taxable and Nontaxable Services

Services currently subject to the Communications Sales and Use Tax include:

- 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.

Services that are currently not subject to the Communications Sales and Use Tax include:

- Prepaid calling;

- Digital products that are delivered electronically, such as software, downloaded music, ring tones, and reading materials;
- 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;
- Over-the-air radio and television services broadcast without charge;
- Bad check charges; and
- Charges for billing and collection services.

Bundled Services

Often the services of a communications services provider are bundled. A bundled transaction includes communications services that consist of distinct and identifiable properties, services, or both, that are sold under one nonitemized charge. Under the Communications Sales and Use Tax rules, 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 also be subject to the tax.

Under current law, the tax is not applicable to prepaid calling or to audio and visual streaming services.

Proposal

This bill would repeal the Communications Sales and Use Tax exemption for prepaid calling services and would expand the definition of “communications services” to include audio and visual streaming services. The tax would apply regardless of how the customer is billed for communications services.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/21/2018 SK
DLAS File Name: HB1051F161