

TITLE 3

CHAPTER 2

TAXES

ARTICLE C. TELECOMMUNICATIONS SERVICE PROVIDERS TAX

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3-2C-1: DEFINITIONS: As used in this article:

COMMISSION: The state tax commission.

- CUSTOMER:
- A. For purposes of this article, "customer" means:
 - 1. The person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
 - 2. If the end user is not the person described in subsection B1 of this definition, the end user of telecommunications service.
 - B. "Customer" does not include a reseller:
 - 1. Of telecommunications service; or
 - 2. For mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area. (1-2015, 6-23-15)

END USER: A. The person who uses a telecommunications service.
B. The individual who uses the telecommunications service on behalf of a person who is provided the telecommunications service.

GROSS RECEIPTS ATTRIBUTED TO THE MUNICIPALITY: Those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use taxes under Utah Code Annotated title 59, chapter 12, sales and use tax act, and determined in accordance with Utah Code Annotated section 59-12-207.

GROSS RECEIPTS FROM TELECOMMUNICATIONS SERVICE: The revenue that a telecommunications provider receives for telecommunications service rendered, except for amounts collected or paid as:

- A. A tax, fee or charge:
 - 1. Imposed by a governmental entity;
 - 2. Separately identified as a tax, fee or charge in the transaction with the customer for the telecommunications service; and
 - 3. Imposed only on a telecommunications provider;
- B. Sales and use taxes collected by the telecommunications provider from a customer under Utah Code Annotated title 59, chapter 12, sales and use tax act; or
- C. Interest, a fee or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

MOBILE TELECOMMUNICATIONS SERVICE: As defined in the mobile telecommunications sourcing act, 4 USC 124.

MUNICIPALITY: River Heights City.

PLACE OF PRIMARY USE: A. For telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications;,, service primarily occurs, which shall be:

1. The residential street address of the customer; or
 2. The primary business street address of the customer; or
- B. For mobile telecommunications service, is as defined in the mobile telecommunications sourcing act, 4 USC 124.

SERVICE ADDRESS: Notwithstanding where a call is billed or paid, "service address" means:

- A. If the location described in this definition is known, the location of the telecommunications equipment:
1. To which a call is charged; and
 2. From which the call originates or terminates.
- B. If the location described in subsection A of this definition is not known but the location described in this subsection is known, the location of the origination point of the signal of the telecommunications service first identified by:
1. The telecommunications system of the telecommunications provider; or
 2. If the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or
- C. If the locations described in subsection A or B of this definition are not known, the location of a customer's place of primary use.

TELECOMMUNICATIONS PROVIDER:

- A. Subject to subsections B and C of this definition, "telecommunications provider" means a person that:
1. Owns, controls, operates or manages a telecommunications service; or
 2. Engages in an activity described in subsection A1 of this definition for the shared use with or resale to any person of the telecommunications service.
- B. A person described in subsection A of this definition is a "telecommunications provider" whether or not the public service commission of Utah regulates:

1. That person; or
 2. The telecommunications service that the person owns, controls, operates or manages.
- C. "Telecommunications provider" does not include an aggregator as defined in Utah Code Annotated section 54-8b-2.
- TELECOMMUNICATIONS SERVICE:
- A. "Telephone service", as defined in Utah Code Annotated section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state; and
- B. Mobile telecommunications service, as defined in Utah Code Annotated section 59-12-102:
1. That originates and terminates within the boundaries of one state; and
 2. Only to the extent permitted by the mobile telecommunications sourcing act, 4 USC 116 et seq. (Ord. 04-06-09, 6-8-2004)

3-2C-2: LEVY OF TAX

There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to this municipality. (Ord. 04-06-09, 6-8-2004)

3-2C-3: RATE

The rate of the tax levy shall be four percent (4%) of the telecommunication provider's gross receipts from telecommunications service that are attributed to the municipality, subject to the following:

If the location of a transaction is determined to be other than this municipality, then the rate imposed on the gross receipts for telecommunications services shall be the lower of: a) the rate imposed by the taxing jurisdiction in which the transaction is located; or b) the rate for nonmobile telecommunication services shall be the rate imposed by the municipality in which the customer's service address is located; or for mobile telecommunications service, the rate imposed by the municipality of the customer's primary place of use. (Ord. 04-06-09, 6-8-2004)

3-2C-4: RATE LIMITATION AND EXEMPTION

This rate of this levy shall not exceed four percent (4%) of the telecommunication provider's gross receipts from telecommunication service attributed to the municipality unless a higher rate is approved by a majority vote of the voters in this municipality that vote in:

- A. A municipal general election;
- B. A regular general election; or
- C. A local special election. (Ord. 04-06-09, 6-8-2004)

3-2C-5: EFFECTIVE DATE OF TAX LEVY

This tax shall be levied beginning the earlier of July 1, 2004, or the first day of any calendar quarter after a seventy five (75) day period beginning on the date the commission received notice pursuant to Utah Code Annotated section 10-1-403 that this municipality has enacted the ordinance codified herein. (Ord. 04-06-09, 6-8-2004)

3-2C-6: CHANGES IN RATE OR REPEAL OF TAX

This article is subject to the requirements of Utah Code Annotated section 10-1-403. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given as provided in Utah Code Annotated section 10-1-403. (Ord. 04-06-09, 6-8-2004)

3-2C-7: INTERLOCAL AGREEMENT FOR COLLECTION

On or before the effective date hereof, the municipality shall enter into the uniform interlocal agreement with the commission as described in Utah Code Annotated section 10-1-405 for the collection, enforcement and administration of this municipal telecommunications license tax. (Ord. 04-06-09, 6-8-2004)

3-2C-8: REPEAL OF INCONSISTENT TAXES AND FEES

- A. Any tax or fee previously enacted by this municipality under authority of Utah Code Annotated section 10-1-203, or Utah Code Annotated title 11, chapter 26, local taxation of utilities limitation is hereby repealed.
- B. Nothing in this article shall be interpreted to repeal any municipal ordinance or fee which provides that the municipality may recover from a telecommunications provider the management costs of the municipality caused by the activities of the telecommunications provider in the rights of way of the municipality, if the fee is imposed in accordance with Utah Code Annotated as amended and is not related to the municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right of way, or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right of way, nor does this article limit the municipality's right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this article and locate telecommunications facilities. (Utah Code Annotated section 72-7-108, Ord. 04-06-09, 6-8-2004)