

Telecommunications Sales Tax Rates and Taxability

Welcome to the Telecommunications Database

This bulletin provides important information about the February 2024 release of Telecommunications Rates and Taxability. Please review this bulletin carefully. If you have any questions or require more information, please call 1-800-739-9998. You can also submit a ticket at <http://support.cch.com/ticket> or use <http://support.cch.com/chat/salestax>.

Updates to Current Telecommunications Database - System Changes Effective February 2024

Reconfiguration of the Hawaii Telecommunications Relay Service Surcharge

Among the taxes covered in our database is the Hawaii Telecommunications Relay Services (TRS) Surcharge (as captured by Tax Type 09/80). Prior to this month's release, our database reflected that this surcharge was imposed upon bundled charges for mobile telecommunications service (such as Group & Item Code 5025/001 = Cellular Monthly Service / Basic Service Charges) at the full assessment rate of 0.23% of gross revenues. However, pursuant to a recent quality assurance review of governing legal sources, it is now our fresh understanding that such bundled charges qualify for the inverse safe harbor percentage of 62.9% based upon the following:

As a starting point, the statute which authorizes the imposition of a surcharge to fund telecommunication relay service recites as follows:

"The commission may establish a surcharge to collect customer contributions for telecommunications relay services required under this section.¹ The commission may adopt rules to establish a mechanism to recover the costs of administering and providing telecommunications relay services required under this section."²

Meanwhile, a governing regulation that establishes the framework for the Hawaii TRS Surcharge recites as follows:

"All telecommunications carriers operating or providing telecommunications service within the State shall contribute to the universal service fund³.

Telecommunications carriers subject to this subsection include:

- (1) The incumbent telecommunications carrier; and
- (2) All carriers certified by or registered with the commission pursuant to § 269-7.5(b), HRS, or § 6-80- 18(a) or (b), including:
 - (A) Carriers or providers of **commercial mobile radio service**;
 - (B) Resellers; and

¹ Hawaii Revised Statutes § 269-16.6(d).

² Hawaii Revised Statutes § 269-16.6(e).

³ Universal service in Hawaii also encompasses "access to telecommunications relay service" [See Hawaii Administrative Rules § 6-81-19(a) & 6-81-20(1) for illustrations of this fact].

(C) Narrow and broadband personal communications service providers, private network providers, cable television firms, power companies, enhanced service providers, and very small aperture satellite service providers.”⁴

The same regulation defines the term “commercial mobile radio service” as follows:

“Commercial mobile radio service” means the same as in 47 U.S.C. §§ 153(n) and 332(d)(1). It includes cellular, paging, and personal communications services.”⁵

Meanwhile, the same regulation adds:

“Amount of contributions.

The commission shall annually, by order, set the amount of the contribution required to be made to the universal service fund by each telecommunications carrier, based on a percentage of the carrier’s **gross operating revenues** from the retail provision of **intrastate telecommunications services** during the preceding calendar year.”⁶

Meanwhile, as per a Hawaii PUC Order establishing the current assessment rate for the Hawaii TRS Fund:

“By this Decision and Order, the commission establishes the Telecommunications Relay Services (“TRS”) carrier contribution factor at 0.0023 and establishes the projected TRS fund size at approximately \$309,492.00, effective July 1, 2017, which apply to the 2017 TRS funding period and each period going forward, until revised otherwise by the commission.”⁷

The same Order added:

“Every carrier, except Commercial Mobile Radio Service (“CMRS”) providers, shall comply with the 30-day notice requirement of HRS § 269-16 (b) and HAR § 6-80-40 (b) for any TRS surcharge imposed on its customers, both residential and business, to recover the amount of its contribution. **CMRS providers** shall place information regarding their TRS surcharges on their websites, consistent with Decision and Order No. 20890, filed on April 7, 2004, in Docket No. 03-0186.”⁸

In an email dated January 17, 2024, our tax team posed the following query to the administrator of the Hawaii TRS Fund at Solix:

“Is it acceptable for a mobile telecommunications carrier to utilize the inverse FCC wireless safe harbor ratio (i.e., 62.9% of total revenues) for calculating its Intrastate revenues for purposes of the Hawaii TRS Surcharge?”

In an email response, the administrator of the Hawaii TRS Fund confirmed that such a use of the inverse FCC wireless safe harbor ratio indeed represents an acceptable method for calculating intrastate revenues subject to assessment.⁹

In a subsequent set of email replies, the same administrator also confirmed that charges for prepaid wireless telecommunication services are equally subject to the Hawaii TRS Surcharge and that the very same inverse FCC wireless safe harbor ratio can also be utilized to calculate the Intrastate portion of such revenues subject to assessment liability.¹⁰

Accordingly, effective with this month’s product release, we are hereby reconfiguring our database to reflect that the following Group & Item codes are subject to the Hawaii TRS Surcharge (as captured by Tax Type 09/80) at a Percent Taxable value of 62.9%:

⁴ Hawaii Administrative Rules § 6-81-33(a).

⁵ Hawaii Administrative Rules § 6-81-4.

⁶ Hawaii Administrative Rules § 6-81-34(a).

⁷ Hawaii Public Utilities Commission Docket Number 2017-0142; Decision Number 34665 [Dated June 28, 2017].

⁸ Hawaii Public Utilities Commission Docket Number 2017-0142; Decision Number 34665 [Dated June 28, 2017].

⁹ Email reply from Salvatore Cooper, Manager, Hawaii TRS Fund – Solix, Inc. dated January 17, 2024.

¹⁰ Email replies from Salvatore Cooper, Manager, Hawaii TRS Fund – Solix, Inc. dated January 18, 2024.

- Group 0015 (Late Payment Charges); Items 005 & 006 [Provider Type 05 = Wireless only]
- Group 5006 (Cellular Service); Items 001-012 & 014
- Group 5013 (Directory Assistance); Item 001 [Provider Type 05 = Wireless only]
- Group 5018 (Cellular Prepaid Service); Items 004-007
- Group 5025 (Cellular Monthly Service); Group-Level
- Group 5026 (Cellular Toll Service); Items 001 & 010
- Group 5029 (Wireless Data Service – Non-PSTN); Items 001-003
- Group 5029 (Wireless Data Service – PSTN); Items 001-003
- Group 5033 (Miscellaneous Revenues); Group-Level [Provider Type 05 = Wireless only]
- Group 5036 (Cellular Prepaid - Retail); Items 001-003
- Group 5052 (Prepaid Wireless Service); Items 001 & 002

Removal of the Oswego, New York Local Utility Gross Receipts Tax from the Database

Prior to this month’s release, our database reflected that the city of Oswego, New York imposed a Local Utility Gross Receipts Tax upon utilities doing business in the city equal to 1% of the gross income derived from telephone or telegraph service at the rate of 1% of such gross income (as captured by Tax Type 32/80). However, pursuant to a recent quality assurance review of the local legislation that originally established this tax¹¹, it is now our fresh understanding that the period of time covering the legal imposition of this tax has since expired.

Accordingly, effective with this month’s release, we have deleted this tax from the database.

Updates to Current Telecommunications Database - Geography Changes Effective March 2024

Connecticut Geography Changes – Counties Replaced by Planning Regions

Connecticut has made major changes to their county-level government structure, replacing all counties with planning regions. The planning regions only roughly correspond to the former counties, which may affect some cities. Effective with the March 2024 data release next month, all county boundaries and names and all geocodes will reflect the new county equivalents. Note that our database uniformly uses the term “county” in all states, even those that have other legal descriptions for their county equivalents.

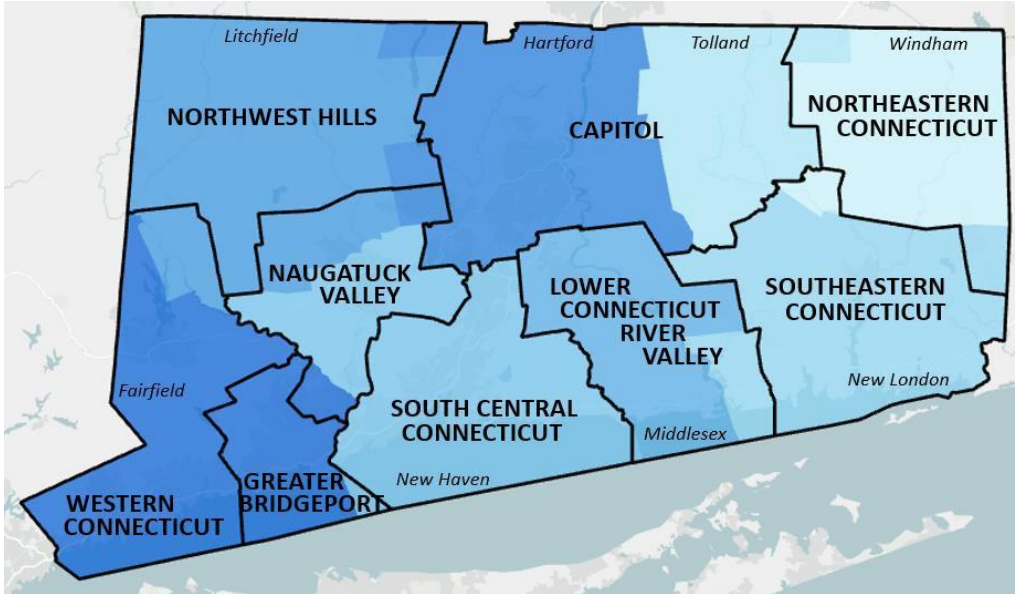
NEW GEOGRAPHIC NAMES AND BOUNDARIES

FORMER		NEW	
COUNTY NAME	ST COUNTY GEO	COUNTY NAME	ST COUNTY GEO
Fairfield	09001	Capitol	09110
Hartford	09003	Greater Bridgeport	09120
Litchfield	09005	Lower Connecticut River Valley	09130

¹¹ Local Ordinance Number 7 of 1937.

Middlesex	09007	Naugatuck Valley	09140
New Haven	09009	Northeastern Connecticut	09150
New London	09011	Northwest Hills	09160
Tolland	09013	South Central Connecticut	09170
Windham	09015	Southeastern Connecticut	09180
		Western Connecticut	09190

MAP ILLUSTRATING THE NEW BOUNDARIES



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