

# Telecommunications Sales Tax Rates and Taxability

## Welcome to the Telecommunications Database

This bulletin provides important information about the January 2023 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>.

## New Taxes Added to the Database Effective January 2023

### California State 988 Surcharge

Pursuant to enacted California legislation,<sup>1</sup> effective January 1, 2023, a new state **988** surcharge will be imposed in the state of California. This surcharge will be imposed at the rate of \$0.08 per month on each landline, wireless, and VOIP access line, as captured by Tax Type, Tax Cat 70/80.

To quote the codified statutory provision that establishes this surcharge:

“Beginning January 1, 2023, a separate 988 surcharge is hereby imposed on each access line for each month or part thereof for which a service user subscribes with a service supplier, at an amount determined under Article 2 (commencing with Section 41030).”<sup>2</sup>

In turn, the term “access line” is defined as follows:

““Access line” shall mean any of the following:

- (a) A wireline communications service line.
- (b) A wireless communications service line.
- (c) A VoIP service line, as defined by Section 41016.5 as added by the act adding this section.”<sup>3</sup>

Finally, as per a bulletin published by the California Department of Tax and Fee Administration which establishes the rate for this surcharge:

### “New 988 Surcharge and Rates for the 911 and 988 Surcharges Effective January 1, 2023

Beginning January 1, 2023, telecommunication service suppliers and sellers of prepaid mobile telephony services (MTS) are responsible for collecting, reporting, and paying the new 988 surcharge imposed on the following:

- Each access line for the month or partial month a service user subscribes with a service supplier.

### Surcharge rates and determination

#### Surcharge - Rate - Effective Period

- 988 - 8 cents (\$0.08) - January 1, 2023, through December 31, 2024”<sup>4</sup>

<sup>1</sup> Enacted California Assembly Bill 988 (2022).

<sup>2</sup> California Revenue & Taxation Code § 41020(a)(1)(A).

<sup>3</sup> California Revenue & Taxation Code § 41007.1.

<sup>4</sup> Special Notice L-880 (Dated November 2022).

## Provisions of the California State 988 Surcharge

### SHOWN ON CUSTOMER'S BILL AS: "CA 988 SURCHARGE"

Rate – \$0.08 per month.

Pass-through of the Fee to Customers – PASSFLAG = 1 (Required)

Level of Taxation - Tax is on the State level

Tax-type – 70

Tax-cat – 80

Base-type – 06

Effective date = January 1, 2023

## California State Prepaid Wireless 988 Surcharge

Pursuant to enacted California legislation,<sup>5</sup> effective January 1, 2023, a new state prepaid wireless **988** surcharge will be imposed in California. This surcharge will be imposed at the rate of \$0.08 on each retail transaction of prepaid wireless services, as captured by Tax Type, Tax Cat 70, TS.

To quote the codified statutory provision that establishes this surcharge:

"Beginning January 1, 2023, a separate 988 surcharge is hereby imposed on the purchase of **prepaid mobile telephony services**, at an amount determined under Article 2 (commencing with Section 41030)."<sup>6</sup>

In turn, the term "prepaid mobile telephony services" is defined as follows:

""Prepaid mobile telephony services" means the right to utilize a mobile device for mobile telecommunications services or information services, including the download of digital products delivered electronically, content, and ancillary services, or both telecommunications services and information services, that must be purchased in advance of usage in predetermined units or dollars."<sup>7</sup>

Meanwhile, a separate provision adds:

"The surcharge imposed on the purchase of prepaid mobile telephony services shall be equal to the amount set forth in subdivision (b) for each **retail transaction** in this state."<sup>8</sup>

In turn, the term "retail transaction" is defined as follows:

""Retail transaction" means the purchase of prepaid mobile telephony services, either alone or in combination with mobile data or other services, from a seller for any purpose other than resale in the regular course of business."<sup>9</sup>

Finally, as per a bulletin published by the California Department of Tax and Fee Administration which establishes the rate for this surcharge:

### "New 988 Surcharge and Rates for the 911 and 988 Surcharges Effective January 1, 2023

Beginning January 1, 2023, telecommunication service suppliers and sellers of prepaid mobile telephony services (MTS) are responsible for collecting, reporting, and paying the new 988 surcharge imposed on the following:

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<sup>5</sup> Enacted California Assembly Bill 988 (2022).

<sup>6</sup> California Revenue & Taxation Code § 41020(a)(2).

<sup>7</sup> California Revenue & Taxation Code § 41007.5(b).

<sup>8</sup> California Revenue & Taxation Code § 41030(f)(2).

<sup>9</sup> California Revenue & Taxation Code § 41007.5(c).

- Each retail purchase of prepaid MTS in California.

#### Surcharge rates and determination

##### Surcharge - Rate - Effective Period

- 988 - 8 cents (\$0.08) - January 1, 2023, through December 31, 2024<sup>10</sup>

##### Provisions of the California State Prepaid Wireless 988 Surcharge

##### SHOWN ON CUSTOMER'S BILL AS: "CA 988 PREPAID WIRELESS SURCHARGE"

Rate – \$0.08 per retail transaction.

Pass-through of the Fee to Customers – PASSFLAG = 1 (Required)

Level of Taxation - Tax is on the State level

Tax-type – 70

Tax-cat – TS

Base-type – 17

Effective date = January 1, 2023

## Updates to Current Telecommunications Database - Taxability Changes Effective January 2023

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### Change to the Taxability Status of Charges for One-Time Access to Electronic Games for Purposes of Kentucky Sales & Use Tax

Among the taxes covered in our database is Kentucky Sales & Use Tax (as captured by Tax Types 01/01 & U1/01). Prior to this month's release, our database reflected that charges for one-time access to electronic games (as captured by Item 005 in Group 5037) were not subject to Kentucky Sales Tax. However, pursuant to legislation enacted in 2022<sup>11</sup> charges for one-time access to electronic games will now be subject to tax, effective January 1, 2023.

To quote the newly codified statutory provision which establishes this rule:

"A tax is hereby imposed upon all retailers at the rate of 6% of the gross receipts derived from:

The furnishing of the following services: **Prewritten computer software access services.**"<sup>12</sup>

In turn, the term "prewritten computer software access services" shall be defined to mean:

"the right of access to prewritten computer software where the object of the transaction is to use the prewritten computer software while possession of the prewritten computer software is maintained by the seller or a third party, wherever located, regardless of whether the charge for the access or use is on a per use, per user, per license, subscription, or some other basis."<sup>13</sup>

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<sup>10</sup> Special Notice L-880 (Dated November 2022).

<sup>11</sup> Kentucky House Bill 8 (2022).

<sup>12</sup> Kentucky Revised Statutes § 139.200(2)(ay).

<sup>13</sup> Kentucky Revised Statutes § 139.010(33).

Based upon these legislative changes, it is our understanding that charges for Software as a Service (otherwise abbreviated as “SaaS”) will now be subject to Kentucky Sales & Use Tax, effective January 2023. Accordingly, given that one-time access to electronic games serves as an example of Software as a Service, we are hereby updating our database effective with this month’s release to reflect that such one-time charges for access to electronic games (as captured by Item 005 in Group 5037) will now be implicitly subject to Kentucky Sales & Use Tax.

#### **Change to the Taxability Status of Charges for Alarm Monitoring Services for Purposes of Kentucky Sales & Use Tax**

Among the taxes covered in our database is Kentucky Sales & Use Tax (as captured by Tax Types 01/01 & U1/01). Prior to this month’s release, our database reflected that charges for alarm monitoring services (as captured by Items 001 & 002 in Group 6004) were not subject to Kentucky Sales & Use Tax. However, pursuant to legislation enacted in 2022<sup>14</sup> charges for alarm monitoring services will now be subject to tax, effective January 1, 2023.

To quote the newly codified statutory provision which establishes this rule:

“A tax is hereby imposed upon all retailers at the rate of 6% of the gross receipts derived from:

The furnishing of the following services: **Residential** and **nonresidential security system monitoring services.**”<sup>15</sup>

Accordingly, we are hereby updating our database effective with this month’s release to reflect that charges for alarm monitoring services (as captured by Items 001 & 002 in Group 6004) will now be subject to Kentucky Sales & Use Tax.

### **System Changes Effective January 2023**

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#### **Reinstatement of the Missouri Universal Service Fund**

Among the taxes covered in our database is the Missouri Universal Service Fund (as captured by Tax Type 26/80). Prior to this month's release, our database reflected that the rate for the Missouri Universal Service Fund was 0% due to the fact that this assessment has been suspended since January 2020.

However, as a result of action taken by the Missouri Public Service Commission, the Missouri Universal Service Fund is now being reinstated effective January 1, 2023.

To quote the official Notice that was published on the Missouri Universal Service Fund website:

**“MISSOURI USF ASSESSMENT REINSTATED EFFECTIVE JANUARY 1, 2023**

The Missouri USF assessment is suspended through December 31, 2022. On January 1, 2023, assessment obligations will resume at the rate of .0015 per a recent Missouri Commission order issued in Case No. TO-2019-0346.”<sup>16</sup>

Accordingly, effective with this month’s January release, our database shall be updated to reflect the fact that the Missouri Universal Service Fund (as captured by Tax Type 26/80) is being reinstated at the rate of 0.15% of Gross Receipts.

#### **Reconfiguration of Texas Local Sales & Use Tax**

Among the taxes covered in our database is Texas Sales & Use Tax. Prior to the December release, on the state level, Texas Sales & Use Tax was captured by a single set of Tax Type & Tax Cat combinations, namely Tax Type & Tax Cat **01/01** for purposes of Sales Tax and Tax Type & Tax Cat **U1/01** for purposes of Use Tax. Likewise, on the county level, Texas Sales & Use Tax was also captured by a single set of Tax Type & Tax Cat combinations, namely Tax Type & Tax Cat **02/01** for purposes of Sales Tax and Tax Type & Tax Cat **U2/01** for purposes of Use Tax. Please note that this singular set of Tax Type & Tax Cat combinations was applied universally to the sale and purchase of both general merchandise and telecommunications service given the fact that the tax rate imposed upon each kind of transaction was identical.

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<sup>14</sup> Kentucky House Bill 8 (2022).

<sup>15</sup> Kentucky Revised Statutes § 139.200(2)(ab).

<sup>16</sup> See <https://www.missouriusf.com/>.

Pursuant to our ongoing process of enhancing the granularity of our database, we announced in last month's Release Notes that we were dividing the rate records for Texas Sales & Use Tax into two separate Tax Cat classifications – i.e., Tax Cat '01' for General Merchandise and Tax Cat '80' for Telecommunications (and other services that clearly fall outside the scope of the sale or lease of general merchandise).

Effective with this January release, we are hereby completing that reconfiguration process by creating a new set of rate records in the database for the remaining levels of Texas Local Sales & Use Tax that will now feature Tax Cat '80' (Telecommunications) rather than '01' (General Merchandise).

Accordingly, this new set of rate records shall be coded in our database as follows:

- County Local Sales & Use Tax = Tax Type, Tax Cat **03/80 & U3/80**
- City Sales & Use Tax = Tax Type, Tax Cat **04/80 & U4/80**
- City Local Sales & Use Tax = Tax Type, Tax Cat **05/80 & U5/80**

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