

# Telecommunications Sales Tax Rates and Taxability

## Welcome to the Telecommunications Database

This bulletin provides important information about the August 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 - New Taxes Added to the Database August 2024

---

### Corvallis, Oregon Right-of-Way Usage Fee – Communication Service Providers

#### ❖ Detailed Explanation of New Tax (Tax Type & Tax Cat 37/80)

Pursuant to our ongoing process of legislative review, we are hereby adding a new Right-of-Way Usage Fee in the city of Corvallis, Oregon applicable to the provision of telecommunication services equal to 7% of gross revenues.

The new tax shall be coded in our database as Tax Type 37/80, reflecting the fact that the revenue base associated with this tax is extremely inclusive on a transactional level and is also imposed on a provider-neutral basis (i.e., both ILECs and Non-ILECs are subject to this tax).

To quote the key legislative provision (captioned “Right-of-Way Usage Fee”) that established the imposition of this tax:

“Every Person that owns Utility Facilities in the City and every person that uses Utility Facilities in the City to provide **Utility Service**, whether or not the Person owns the Utility Facilities used to provide the **Utility Services**, shall pay the ROW usage fee for every **Utility Service** provided using the ROW in the amount set forth in the license granted by the City.”<sup>1</sup>

Meanwhile, as per the section captioned “Right-of-Way Licenses” that establishes the process by which utilities acquire a license:

“License Required.

1. Except those Utility Operators and Utility Providers with a valid telecommunications franchise agreement from the City, every Person providing **Communications Services** shall obtain a license or permit from the City.

2. Every person that owns, controls, or uses Utility Facilities in the ROW as of the effective date of this Ordinance shall apply for a license from the City within thirty (30) Days of the later of: (1) the effective date of this Ordinance, or (2) the expiration of a valid franchise from the City, unless a new franchise is granted by the City pursuant to subsection F of this Section.”<sup>2</sup>

---

<sup>1</sup> Corvallis, Oregon Ordinance 2018-24; Section 11.A.

<sup>2</sup> Corvallis, Oregon Ordinance 2018-24; Section 5.A.

Meanwhile, the term “utility service” is defined within Ordinance 2018-24 to mean “the provision, by means of Utility Facilities located within, under or above the ROW, whether or not such facilities are owned by the service provider, of electricity, natural gas, **Communications Services** or Cable Services to or from customers within the City limits, or the transmission or provision of any of these services through the City whether or not customers within the City are served by those transmissions.”<sup>3</sup>

In turn, the term “communications services” is defined as follows:

“Communications Services” means any service provided for the purpose of transmission of information including, but not limited to, voice, video, or data, without regard to the transmission protocol employed, whether or not the transmission facilities are owned by the provider itself. Communications Service includes all forms of telephone services and voice, video, data, or information transport, but does not include: (1) Cable Service; (2) open video system service, as defined in 47 C.F.R. 76; (3) Private Communications System services provided without using the public right-of-way; (4) over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; (5) direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act and (6) public communications systems.”<sup>4</sup>

As per correspondence received from the City of Corvallis, communication service providers pay 7% of gross revenues.<sup>5</sup>

As per that same email response, VOIP providers and wireless carriers are equally liable for paying this 7% fee.

Accordingly, based upon this combination of legislative resources and administrative advice, we are hereby adding a new Right-of-Way Usage Fee in the city of Corvallis, Oregon equal to 7% of gross revenues (as coded by Tax Type 37/80), effective with this month’s release.

**Provisions of the Corvallis, Oregon Right-of-Way Usage Fee [Communications Providers]**

- **SHOWN ON CUSTOMER’S BILL AS: “RIGHT-OF-WAY USAGE FEE”**
- 1. **Rate** – 7% of Gross Revenues
- 2. **Pass-through of the Fee to Customers** – PASSFLAG = 0 (Optional)
- 3. **Level of Taxation** - Tax is on the City level
- 4. **Tax-type** – 37 = Local Telecommunications Tax
- 5. **Tax-cat** - 80 = Telecommunications & Utilities
- 6. **Base-type** – 08 = Seller – Gross Revenue
- 7. **Effective date** = October 10, 2018.

**Corvallis, Oregon Right-of-Way Usage Fee – Cable Service Providers**

❖ **Detailed Explanation of New Tax (Tax Type & Tax Cat 37/45)**

Pursuant to our ongoing process of legislative review, we are hereby adding a new Right-of-Way Usage Fee in the city of Corvallis, Oregon applicable to the provision of cable television services equal to 5% of gross revenues. The new tax shall be coded in our database as Tax Type 37/45.

To quote the key legislative provision (captioned “Right-of-Way Usage Fee”) that established the imposition of this tax:

---

<sup>3</sup> Corvallis, Oregon Ordinance 2018-24; Section 4.Z.

<sup>4</sup> Corvallis, Oregon Ordinance 2018-24; Section 4.I.

<sup>5</sup> Email response from Pam Vaughan, Franchise Utility/ROW Specialist – City of Corvallis, Oregon dated July 10, 2024.

“Every Person that owns Utility Facilities in the City and every person that uses Utility Facilities in the City to provide **Utility Service**, whether or not the Person owns the Utility Facilities used to provide the **Utility Services**, shall pay the ROW usage fee for every **Utility Service** provided using the ROW in the amount set forth in the license granted by the City.”<sup>6</sup>

Meanwhile, as per the section captioned “Right-of-Way Licenses” that establishes the process by which utilities acquire a license:

“License Required.

Every person that owns, controls, or uses Utility Facilities in the ROW as of the effective date of this Ordinance shall apply for a license from the City within thirty (30) Days of the later of: (1) the effective date of this Ordinance, or (2) the expiration of a valid franchise from the City, unless a new franchise is granted by the City pursuant to subsection F of this Section.”<sup>7</sup>

Meanwhile, the term “utility service” is defined within Ordinance 2018-24 to mean “the provision, by means of Utility Facilities located within, under or above the ROW, whether or not such facilities are owned by the service provider, of electricity, natural gas, Communications Services or **Cable Services** to or from customers within the City limits, or the transmission or provision of any of these services through the City whether or not customers within the City are served by those transmissions.”<sup>8</sup>

In turn, the term “cable service” is defined as follows:

““Cable Service” is to be defined consistent with federal laws and means the one-way transmission to subscribers of: (i) video programming, or (ii) other programming service; and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.”<sup>9</sup>

As per correspondence received from the City of Corvallis, cable service providers pay 5% of gross revenues.<sup>10</sup>

Accordingly, based upon this combination of legislative resources and administrative advice, we are hereby adding a new Right-of-Way Usage Fee in the city of Corvallis, Oregon equal to 5% of gross revenues (as coded by Tax Type 37/45), effective with this month’s release.

**Provisions of the Corvallis, Oregon Right-of-Way Usage Fee [Cable Providers]**

- **SHOWN ON CUSTOMER’S BILL AS: “RIGHT-OF-WAY USAGE FEE”**
  1. **Rate** – 5% of Gross Revenues
  2. **Pass-through of the Fee to Customers** – PASSFLAG = 0 (Optional)
  3. **Level of Taxation** - Tax is on the City level
  4. **Tax-type** – 37 = Local Telecommunications Tax
  5. **Tax-cat** - 45 = Cable Service
  6. **Base-type** – 08 = Seller – Gross Revenue
  7. **Effective date** = October 10, 2018.

---

<sup>6</sup> Corvallis, Oregon Ordinance 2018-24; Section 11.A.

<sup>7</sup> Corvallis, Oregon Ordinance 2018-24; Section 5.A.2.

<sup>8</sup> Corvallis, Oregon Ordinance 2018-24; Section 4.Z.

<sup>9</sup> Corvallis, Oregon Ordinance 2018-24; Section 4.B.

<sup>10</sup> Email response from Pam Vaughan, Franchise Utility/ROW Specialist – City of Corvallis, Oregon dated July 10, 2024.

## Updates to Current Telecommunications Database - System Changes Effective August 2024

---

### Reconfiguration of the Kentucky Wireless 911 Fee for Purposes of Lifeline Subscribers

Among the taxes in our database is the Kentucky Wireless 911 Fee (as captured by Tax Type 06/06). Prior to this month's release, our database reflected that this surcharge was levied upon a monthly recurring charge for postpaid wireless service (as captured by Items 001 & 011 in Group 5006 and Items 001 & 017 in Group 5025 (Cellular Monthly Service) on a Customer-Type neutral basis without any distinction in assessment liability between Lifeline users<sup>11</sup> versus Non-Lifeline users.

To quote the statutory provision that establishes the basic parameters of this assessment:

"The [Kentucky 911 Services Board] shall administer the provisions of KRS 65.7621 to 65.7643, and shall have the following powers:

To collect **the CMRS service charge** from each **CMRS connection** with a place of primary use, as defined in 4 U.S.C. sec. 124, within the Commonwealth; etc."<sup>12</sup>

Meanwhile, the same statute adds:

"The **CMRS postpaid service charge** shall be 70 cents per month per **CMRS connection**, to be calculated, collected, and remitted in accordance with KRS 65.7635."<sup>13</sup>

Meanwhile, as per the referenced statute:

"Each CMRS provider shall act as a collection agent of the **CMRS postpaid service charge** for the CMRS fund. From its customers, the provider shall, as part of the provider's billing process, collect the **CMRS postpaid service charges** levied upon CMRS connections under KRS 65.7629(3) from each **CMRS connection** to whom the billing provider provides CMRS. Each billing provider shall list the **CMRS postpaid service charge** as a separate entry on each bill which includes a **CMRS postpaid service charge**."<sup>14</sup>

As per a separate statutory provision, the term "CMRS connection" is defined as follows:

"“CMRS connection” means a mobile handset telephone number assigned to a **CMRS customer**."<sup>15</sup>

In turn, the term "CMRS customer" is defined as follows:

"“CMRS customer” means an end user to whom a mobile handset telephone number is assigned and to whom **CMRS** is provided in return for compensation."<sup>16</sup>

In turn, the term "CMRS" is defined as follows:

"“CMRS” means **commercial mobile radio service** under Sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. secs. 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, as it existed on August 10, 1993. The term includes the term "**wireless**" and service provided by any **wireless real time two-way voice communication device**, including radio-telephone communications used in **cellular telephone service**, personal communications service, and the functional or competitive equivalent of a

---

<sup>11</sup> Lifeline users are captured in our database by Customer Type '09'.

<sup>12</sup> Kentucky Revised Statutes § 65.7629(3)(a)1.

<sup>13</sup> Kentucky Revised Statutes § 65.7629(3)(b).

<sup>14</sup> Kentucky Revised Statutes § 65.7635(1).

<sup>15</sup> Kentucky Revised Statutes § 65.7621(6).

<sup>16</sup> Kentucky Revised Statutes § 65.7621(7).

radio-telephone communications line used in **cellular telephone service**, a personal communications service, or a network radio access line.”<sup>17</sup>

As per state legislation signed into law in 2020<sup>18</sup>, the Kentucky Legislature established a special set of rules by which providers of wireless Lifeline service are required to comply with the Kentucky CMRS Service Charge.

To quote the relevant provisions contained in that legislation:

“A **Lifeline provider** shall be liable for a **CMRS service charge** equal to the amount of the **CMRS postpaid service charge** levied under KRS 65.7629 and shall remit a monthly payment to the Kentucky 911 Services Board equal to the product of the following factors:

(a) The amount of the **postpaid CMRS service charge** levied under KRS 65.7629; and

(b) The number of unique end users with Kentucky addresses for which the **Lifeline provider** received reimbursement from the universal service fund during the immediately preceding month.”<sup>19</sup>

The same codified statute defines the term “Lifeline provider” as follows:

““Lifeline provider” means a **CMRS provider** that the Kentucky Public Service Commission has deemed or deems eligible to participate in **the wireless low-income Lifeline program** and to receive reimbursement from the universal service fund managed by the Federal Communications Commission pursuant to the federal Telecommunications Act of 1996.”<sup>20</sup>

Meanwhile, a separate provision contained within that same statute precludes a Lifeline provider from dipping into the Lifeline fund in order to pay the surcharge, clearly implying that the CMRS surcharge must be treated by that provider as a pure business expense.

To quote that legislative provision:

“A **Lifeline provider** shall not use any moneys received for participation in the **wireless low-income Lifeline program** from the **universal service fund** managed by the Federal Communications Commission pursuant to the federal Telecommunications Act of 1996, 41 U.S.C. secs. 151 et seq., to pay for any portion of the **CMRS service charge** levied on the **Lifeline provider** under this section.”<sup>21</sup>

In the aftermath of the enactment of this legislation, a trade organization known as “CTIA” sued the Kentucky 911 Board to enjoin enforcement of this remittance obligation, claiming such an obligation was preempted by federal law. As a consequence of that litigation, the 911 Board declared a moratorium suspending the remittance of the CMRS Service Charge by wireless Lifeline providers, pending the outcome of that litigation. However, based upon the outcome of that litigation in favor of the 911 Board, the Board announced its intention to reinstate the obligation of such wireless Lifeline providers to remit the surcharge in an open letter to one of the major providers of wireless Lifeline service – a company known as “Amerimex Communications Corporation” otherwise known as “SafetyNet Wireless”.

To quote the key excerpts of that letter:

“SUBJECT: Reinstatement of the collection of 911 fees for Kentucky providers of wireless Lifeline service and request for payment of fees retroactive to April 1, 2021.

Following a negative court ruling on March 30, 2021, by the U.S. District Court for the Eastern District of Kentucky in the case CTIA-The Wireless Association v. Kentucky 911 Services Board (case no. 3:20-CV-00043-GFVT), the Kentucky 911 Services Board **suspended** the collection of 911 fees for wireless providers of the federally subsidized low-income Lifeline program under KRS 65.7636(2).

The U.S. Sixth Circuit **reversed** the lower court ruling on December 3, 2021, holding that KRS 65.7636 was **not** preempted by federal law and remanded the case back to the District Court. On March 29, 2024, the Eastern District Court ruled in favor of the Board on all issues and

---

<sup>17</sup> Kentucky Revised Statutes § 65.7621(5).

<sup>18</sup> Kentucky House Bill 208 (2020).

<sup>19</sup> Kentucky Revised Statutes § 65.7636(2).

<sup>20</sup> Kentucky Revised Statutes § 65.7636(1).

<sup>21</sup> Kentucky Revised Statutes § 65.7636(5).

found the fees at issue were **not** preempted whatsoever by federal law. CTIA elected not to appeal that decision, thus ending the litigation in the Board's favor.

With the question of the validity and enforceability of KRS 65.7636 finally settled, the 911 Services Board voted at its June 11, 2024, meeting to both **reinstate** collection of 911 fees on providers on wireless Lifeline service and to collect 911 fees **retroactive** to April 1, 2021, through the May 2024 reporting period.

As stated in KRS 65.7636(2):

A Lifeline provider shall be liable for a CMRS service charge equal to the amount of the CMRS postpaid service charge levied under KRS 65.7629 and shall remit a monthly payment to the Kentucky 911 Services Board equal to the product of the following factors: (a) The amount of the postpaid CMRS service charge levied under KRS 65.7629; and (b) The number of unique end users with Kentucky addresses for which the Lifeline provider received reimbursement from the universal service fund during the immediately preceding month.

**The current postpaid rate is \$.70 per month per wireless connection.**"<sup>22</sup>

Equally significant, however, the decision of the United States Circuit Court of Appeals in the case of **CTIA v. Kentucky 911 Services Board** established the clear-cut rule that Lifeline providers doing business in Kentucky are legislatively **barred** from recovering the CMRS Surcharge from their Lifeline subscribers but must instead pay that surcharge out of their own corporate funds.

To quote the relevant excerpt from that decision establishing this unambiguous rule:

"But HB 208 does not require Lifeline providers "to collect from, or remit on behalf of," a charge "imposed on" an end user.

[Instead] HB 208 provides that "[a] Lifeline provider shall be liable for a [911] service charge . . . and shall **remit** a monthly payment to the Kentucky 911 Services Board." Ky. Rev. Stat. 65.7636(2) (effective Mar. 27, 2020). *HB 208 imposes the 911 service charge on the Lifeline provider, not the end user*, as CTIA recognized in its complaint. Furthermore, HB 208 does **not** require Lifeline providers to pay the 911 service charge "on behalf of" end users. Because HB 208 places **no** obligation on end users to pay the 911 service charge, there is nothing for Lifeline providers to pay on their behalf. HB 208 deleted the prior language identifying the provider as "a collection agent of the service charge" and allowing the provider to "bill and collect from each end user the charges calculated . . . with respect to each end user."<sup>23</sup>

The only question remaining to be resolved was whether providers of **prepaid** Lifeline service are required to remit the CMRS Surcharge based upon the **higher** flat-fee amount levied upon "retail transactions" associated with **prepaid** CMRS service (currently equal to 93 cents per retail transaction<sup>24</sup>) or the **lower** flat-fee amount levied upon **postpaid** CMRS service (currently equal to 70 cents per CMRS connection as noted above). Based upon advice received from a high-ranking staff person with the 911 Board, it is the **lower** fee amount that applies.

To quote the correspondence that reflects this administrative policy:

"The ACP/Lifeline fee is collected at the rate of the postpaid fee of \$0.70 per subscriber. The fee for prepaid is \$0.93 per subscriber. We do not classify ACP/Lifeline customers as postpaid or prepaid but chose to collect the fee at the **postpaid** rate instead of the **prepaid** rate for all ACP/Lifeline subscribers."<sup>25</sup>

Based upon the sources of law referenced above, we are hereby updating our database effective with this month's release to reflect that the Kentucky Wireless 911 Fee (as captured by Tax Type 06/06) is levied upon a monthly recurring charge for **postpaid** wireless service (as captured by Items 001 & 011 in Group 5006 (Cellular Service) and Items 001 & 017 in Group 5025 (Cellular Monthly Service) for all Customer Types in the database with the exception of Customer Type '09' (Lifeline).

---

<sup>22</sup> Letter from the Kentucky Office of Homeland Security (the parent agency of the 911 Services Board) to Amerimex Communications dated June 17, 2024.

<sup>23</sup> *CTIA v. Keats* 2021 U.S. App. LEXIS 39602 (U.S. Court of Appeals - 6th Circuit, 2021). **[NOTE:** The defendant (Keats) was Josiah Keats – Chairperson of the Kentucky 911 Services Board.]

<sup>24</sup> See Kentucky Revised Statutes § 65.7634(1).

<sup>25</sup> Email response from Shelly Clark, Compliance Specialist – Kentucky 911 Services Board dated June 28, 2024.

By the same token, however, our tax team is hereby introducing a brand-new Tax Type & Tax Cat combination of **06/21**<sup>26</sup> which shall be applied to the exact same Group & Item combinations listed above but only for Customer Type '09' (Lifeline).

In addition, this same new Tax Type & Tax Cat combination of 06/21 will also be applied to the following prepaid wireless Group & Item codes in the database, in conformity with the statutory and administrative rules outlined above:

- Group 5018 (Cellular Prepaid Service) / Item 006 = (Monthly Service Charge - Recurring)
- Group 5036 (Cellular Prepaid – Retail) / Item 004 (Unit Based Monthly Access Charges)
- Group 5052 (Prepaid Wireless Service) / Item 001 (Prepaid Wireless Service – Monthly Plan)

Finally, this new Tax Type & Tax Cat combination of 06/21 will feature the following set of values:

- Tax Description = "CMRS LIFELINE SERVICE CHARGE"
- Fee Amount = 70 cents
- Unit Type = '24' (Per Subscriber)
- Pass Flag = '2' (Prohibited)
- Pass Type = '04' (Cost of Doing Business)
- Base Type = '19' (Seller – Number of End Users)
- Effective Date = April 1, 2021

Please note that Pass Type '04' and Base Type '19' are specifically being added to the database this month in order to more accurately reflect the provisions associated with the newly reinstated Kentucky CMRS Lifeline Service Charge.

Additionally, please note that on a going-forward basis, Tax Type 06/06 shall be renamed in our database as the "CMRS Postpaid Service Charge" in order to more clearly reflect the distinction between that variation of the CMRS Service Charge as compared with the existing "CMRS Prepaid Service Charge" (which is captured in the database by Tax Type **06/TS** and which only applies to "Retail Transactions").

#### **Reconfiguration of the Mississippi County-Level 911 Surcharge for Purposes of Voice over Internet Protocol Subscribers**

Among the taxes in our database is the Mississippi County-Level 911 Surcharge (as generically captured by Tax Type '33').

Prior to this month's release, our database reflected that the assessment rate of this surcharge for purposes of Voice over Internet Protocol subscribers coincided with the rate for residential subscribers (as captured by Tax Type & Tax Cat 33/04), thereby allowing us to utilize the exact same Tax Type & Tax Cat combination of 33/04 for VOIP-enabled access lines in the large majority of cases<sup>27</sup>.

To quote the governing statutory provision upon which this equivalency rule is based:

"The board of supervisors may levy an emergency telephone service charge in an amount not to exceed \$1.00 per residential telephone subscriber line per month, \$1.00 per Voice over Internet Protocol subscriber account per month, and \$2.00 per commercial telephone subscriber line per month for exchange telephone service. Any emergency telephone service charge shall have uniform application and shall be imposed throughout the entirety of the district to the greatest extent possible in conformity with availability of such service in any area of the district.

---

<sup>26</sup> Tax Cat '21' = "Assessment Not Passed On to Customer".

<sup>27</sup> In the remaining finite number of cases, Tax Type 33/V1 was used instead.

Those districts which exist on the date of enactment of Chapter 539, Laws of 1993, shall convert to the following structure for service charge levy: If the current charge is 5% of the basic tariff service rate, the new collection shall be 80 cents per month per residential subscriber line and \$1.60 per month per commercial subscriber line.”<sup>28</sup>

However, upon further contemplation, our tax team has determined that the use of the same Tax Type & Tax Cat combination of 33/04, as applied to residential VOIP lines is somewhat confusing insofar as that same Tax Type & Tax Cat combination also applies to commercial customers (as captured by Customer Types 01 & 02).

Accordingly, effective with this month’s release, we are hereby reconfiguring the Tax Type & Tax Cat combination applicable to VOIP subscribers as Tax Type **33/V1**<sup>29</sup> to more accurately reflect that the assessment rate for VOIP subscribers is uniformly imposed upon both residential and commercial customers.

The Group & Item codes in the database for which this reconfiguration applies to are as follows:

- Group 5032 (Fixed VOIP) / Items 001, 002 & 013
- Group 5041 (Wireless VOIP) / Items 001 & 002
- Group 5044 (Nomadic VOIP) / Items 001, 002 & 013

#### **Reconfiguration of the Wyoming Universal Service Fund to Reflect the Use of the Inverse FCC Safe Harbor Ratio for Mobile Telecommunication Service**

Among the taxes in our database is the Wyoming Universal Service Fund (as currently captured by Tax Type 26/80).

As per the statutory provision which establishes this fund:

“There is hereby established the universal service fund to be administered in accordance with this section. The fund shall be administered by the commission. All telecommunications companies shall contribute to the universal service fund.”

The same statute adds:

“The commission shall after notice and opportunity for hearing, designate the method by which the contributions shall be calculated, collected and distributed. The commission shall authorize a monthly charge to customers, in the amount specified by the commission, to recover each contributor’s required payment to the universal service fund.

Any charge related to **mobile telecommunications service** shall only apply if the customer’s place of primary use is in this state as provided by the Mobile Telecommunications Sourcing Act, 4 U.S.C. §§ 116 to 126.”<sup>30</sup>

Meanwhile, a corresponding regulation recites as follows:

“All Companies realizing **intrastate retail revenue** from **telecommunications services** in Wyoming are required to report such gross revenues to the Commission as described in (a) and contemporaneously pay into the fund the assessment amount calculated by multiplying the **Company’s gross revenue**, less any wholesale transactions described in paragraph (d), by the assessment rate.”<sup>31</sup>

Prior to this month’s release, our database reflected that a fixed monthly recurring charge for cellular service that provides a subscriber with the ability to initiate and receive both Intrastate and Interstate phone calls (as captured by Group & Item codes 5006/001 & 5025/001) is subject to the Wyoming USF at the full rate of assessment (as captured by Tax Type 26/80) - currently 1.9% of gross revenues.

---

<sup>28</sup> Mississippi Code § 19-5-313(1).

<sup>29</sup> Tax Cat ‘V1’ = VOIP.

<sup>30</sup> Wyoming Statutes § 37-15-501(a).

<sup>31</sup> Code of Wyoming Rules § 023-0002-5; Section 3(f).



However, pursuant to advice received from a high-ranking staff person with the Wyoming Public Service Commission, it is now our fresh understanding that wireless carriers are indeed allowed to use the inverse FCC safe harbor ratio for cellular communications to calculate their Intrastate revenues subject to Wyoming USF contribution liability.

To quote that communication:

“The WUSF rate has been set at 1.90% effective 7/1/24. Yes, using the safe harbor percentage rates (**intrastate** percentages: 62.9% for wireless providers and 35.1% for VoIP providers) to calculate the gross **intrastate** retail revenue to be used in reporting gross **intrastate** retail revenue for both WUSF and PSC assessment purposes is acceptable.”<sup>32</sup>

Accordingly, based upon this response, we are hereby modifying our database, effective with this month’s release to reflect that bundled charges for mobile communications service are subject to the Wyoming USF at the inverse FCC safe harbor ratio of 62.9% of total revenues (which calculates to an assessment rate of  $1.9\% \times 62.9\% = 1.1951\%$  of total revenues) as captured by a Percent Taxable value of 62.9%.

Please note that this new safe harbor rate shall apply to the following Groups in the database:

- Group 5006 = Cellular Service
- Group 5025 = Cellular Monthly Service
- Group 5026 = Cellular Toll Service [Items 001 & 010 only]
- Groups 5029 & 5030 = Wireless Data

#### GENERAL LEGAL DISCLAIMER:

CCH Incorporated (“we”, “us”, “CCH” or “our”) is pleased to provide the requested research materials (“materials”) but must make clear that we are providing these materials to assist you in your research and analysis relating to the subject matter thereof. Our providing these materials is conditioned upon the following terms and your reliance upon or use in any respect of the materials or communications confirms your acceptance and agreement to these terms (the “terms”):

THE MATERIALS ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. CCH EXPRESSLY DISCLAIMS ALL WARRANTIES RELATING TO THE MATERIALS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

CCH IS NOT ENGAGED IN RENDERING LEGAL, ACCOUNTING, TAX OR OTHER PROFESSIONAL SERVICES OR ADVICE. IF LEGAL, ACCOUNTING, TAX OR OTHER EXPERT ASSISTANCE IS REQUIRED, THE SERVICES OF A COMPETENT PROFESSIONAL SHOULD BE OBTAINED.

YOU ASSUME ALL RESPONSIBILITIES AND OBLIGATIONS WITH RESPECT TO ANY DECISIONS OR ADVICE MADE OR GIVEN AS A RESULT OF THE USE OF THE MATERIALS. YOU EXPRESSLY AGREE THAT USE OF THE MATERIAL IS AT YOUR OWN RISK AND THAT THE MATERIALS ARE NOT INTENDED TO REPLACE YOUR PROFESSIONAL SKILL AND JUDGMENT.

NEITHER CCH NOR ANY OF ITS AFFILIATES SHALL HAVE ANY LIABILITY TO YOU OR ANYONE ELSE FOR ANY INACCURACY, ERROR OR OMISSION CONTAINED IN THE MATERIALS OR ARISING FROM YOUR USE IN ANY RESPECT OF THE MATERIALS, REGARDLESS OF THE CAUSE. THE FOREGOING EXCLUSION OF LIABILITY IS INTENDED TO APPLY REGARDLESS OF THE FORM OF CLAIM.

THE MATERIALS RELATE TO PRODUCTS AND/OR SERVICES ACQUIRED BY YOU, PURSUANT TO OTHER AGREEMENTS BETWEEN CCH AND YOU AND SUBJECT TO OUR GENERAL TERMS AND CONDITIONS IN THE FOREGOING AGREEMENTS.

THE PROVISION OF THESE RESEARCH MATERIALS IS NOT INTENDED TO CHANGE OR OTHERWISE AFFECT, AND IN NO WAY CHANGES OR OTHERWISE AFFECTS, THE RIGHTS AND OBLIGATIONS UNDER THOSE AGREEMENTS; YOUR USE OF SUCH PRODUCTS AND/OR SERVICES SHALL CONTINUE TO BE GOVERNED BY THE TERMS OF THOSE AGREEMENTS AND THESE TERMS.

---

<sup>32</sup> Email response from Melisa Mizel, Manager, Wyoming USF dated July 3, 2024.

FINALLY, THE MATERIALS BEING PROVIDED ARE CONFIDENTIAL AND ARE BEING PROVIDED TO YOU FOR YOUR PERSONAL AND NON-COMMERCIAL USE. YOU MAY NOT DISTRIBUTE ANY PORTION OF THE MATERIALS OUTSIDE OF YOUR COMPANY WITHOUT OUR PRIOR WRITTEN AUTHORIZATION, NOR RESELL OR USE THE MATERIALS FOR ANY COMMERCIAL USE WHATSOEVER.

© 2024 CCH Incorporated and its affiliates and licensors. All rights reserved.