

# Release Bulletin



Sales Tax  
Rates and Taxability  
April 2022

## Welcome to Sales Tax Rates and Taxability for Telecommunications

This bulletin provides important information relating to the Sales Tax Rates & Taxability for Telecomm April 2022 release. If you have any questions or need more information 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>.

### I. New Taxes Added to the Database – April 2022

- Ohio Public Utilities Commission Assessment

- ❖ Detailed Explanation of New Tax

As an enhancement to our database, we are hereby adding the Ohio Public Utilities Commission Assessment as a new regulatory surcharge. The new fee shall be captured by Tax Type & Tax Cat **08/80** and shall be listed with an assessment rate of **0.19633243%** of gross revenues.

To quote the governing statute that establishes this fee:

“For the sole purpose of maintaining and administering the public utilities commission and exercising its supervision and jurisdiction over the railroads and public utilities of this state, an amount equivalent to the appropriation from the public utilities fund created under division (B) of this section to the public utilities commission for railroad and public utilities regulation in each fiscal year shall be apportioned among and assessed against each railroad and **public utility** within this state by the commission by first computing an assessment as though it were to be made in proportion to **the intrastate gross earnings or receipts**, excluding earnings or receipts from sales to other public utilities for resale, of the railroad or public utility for the calendar year next preceding that in which the assessment is made.”<sup>1</sup>

In turn, the term “public utility” is defined as follows:

“As used in this chapter, “**public utility**” includes every corporation, company, copartnership, person, or association, the lessees, trustees, or receivers of the foregoing, defined in section 4905.03 of the Revised Code, including any public utility that operates its utility not for profit, except the following:

Any provider, including a **telephone company**, with respect to its provision of any of the following:

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<sup>1</sup> Ohio Revised Code § 4905.10(A).

(a) Advanced services as defined in 47 C.F.R. 51.5;

(b) Broadband service, however defined or classified by the federal communications commission;

(c) Information service as defined in the “Telecommunications Act of 1996,” 110 Stat. 59, 47 U.S.C. 153(20);

(d) Subject to division (A) of section 4927.03 of the Revised Code, internet protocol-enabled services as defined in section 4927.01 of the Revised Code.”<sup>2</sup>

Meanwhile, as per a web page document published by the Ohio Public Utilities Commission captioned “Telecommunications overview”<sup>3</sup>:

#### **“Wireless telephone service**

The FCC regulates wireless service, while local authorities maintain some jurisdiction over certain aspects of service, including cellular towers. The PUCO registers the providers of wireless service to operate within Ohio. However, the PUCO does **not** regulate the rates of **wireless service.**”

The same web page document adds:

#### **“Internet service**

Internet service utilizes traditional landline service, the wireless technology and other systems, including cable to connect digital communications between global users. It is important to note that the PUCO does **not** regulate **Internet service** or **Internet service providers.**”

Finally, the same web page document concludes:

#### **“Other Services**

Other competitive services and products have expanded as telecommunications technology has grown. Services and products such as **pay phones, voice mail** and **customer-owned equipment** have evolved into competitive markets with many available alternatives. As such, the PUCO does **not** regulate these services and products.”

### **Provisions of the Ohio Public Utilities Commission Assessment**

- **SHOWN ON CUSTOMER’S BILL AS: “OH PUC ASSESSMENT”**
- 1. **Rate** – 0.19633243% of Gross Receipts
- 2. **Pass-through of the Fee to Customers** – PASSFLAG = 2 (Prohibited)
- 3. **Level of Taxation** -

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<sup>2</sup> Ohio Revised Code § 4905.02(A)(5).

<sup>3</sup> See <https://puco.ohio.gov/utilities/telecom/resources/telecom-overview>.

➤ Tax is on the State level

**4. Tax-type –**

➤ 08 = PUC Fee

**5. Tax-cat –**

➤ 80 = Telecommunications & Utilities

**6. Base-type –**

➤ 01 = Seller – Gross Receipts

**7. Effective date = October 1, 2021**

• **West Virginia Special District Excise Tax**

❖ **Detailed Explanation of New Tax**

As an enhancement to our database, we are hereby adding the West Virginia Special District Excise Tax in four local jurisdictions. The new tax shall be captured by Tax Type **03/ET** and shall be listed with a rate of **6%** of consumer sales. Please note that while Tax Type 03 (County Local Sales Tax) has been in our system from Day 1, Tax Cat ‘ET’ which represents the classification “Excise Tax” is brand new.

Please note that this new local sales tax serves as a replacement tax for West Virginia State Sales Tax, given that both taxes are never imposed together upon the same transaction.

To quote the statute that authorizes the imposition of this tax:

**“General.** — The county commission of a county, authorized by the Legislature to levy a special district excise tax for the benefit of an economic opportunity development district, may, by order entered of record, impose that tax on the privilege of selling tangible personal property and rendering select services in the district in accordance with this section.<sup>4</sup>

**Tax base.** — The base of a special district excise tax imposed pursuant to this section shall be identical to the base of the consumers sales and service tax imposed pursuant to article fifteen [§§ 11-15-1 et seq.], chapter eleven of this code on sales made and services rendered within the boundaries of the district. Sales of gasoline and special fuel are not subject to special district excise tax but remain subject to the tax levied by article fifteen [§§ 11-15-1 et seq.], chapter eleven of this code. Except for the exemption provided in section nine-f [§ 11-15-9f] of that article, all exemptions and exceptions from the consumers sales and service tax also apply to the special district excise tax.<sup>5</sup>

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<sup>4</sup> West Virginia Code § 7-22-12(a).

<sup>5</sup> West Virginia Code § 7-22-12(b).

**Tax rate.** — The rate or rates of a special district excise tax levied pursuant to this section shall be identical to the rate or rates of the consumer sales and service tax imposed pursuant to article fifteen, chapter eleven of this code on sales made and services rendered within the boundaries of the district authorized by this section.<sup>6</sup>

**Collection by Tax Commissioner.** — The order of the county commission imposing a special district excise tax shall provide for the tax to be collected by the Tax Commissioner in the same manner as the tax levied by section three [§ 11-15-3], article fifteen, chapter eleven of this code is administered, assessed, collected and enforced.”<sup>7</sup>

The new West Virginia Special District Excise Tax shall be added for the following four local governmental authorities:

- Bridgeport Charles Point Economic Development District
- Fort Henry Economic Development District
- South Charleston Park Place Economic Development District
- University Towne Centre Economic Development District

Please note, however, that although the West Virginia Special District Excise Tax shares the same transactional tax base as the West Virginia State Sales Tax, we are not applying this new tax to the same set of Group & Item codes that are subject to West Virginia State Sales Tax (as coded by Tax Type 01/01). Instead, we are limiting the scope of the West Virginia Special District Excise Tax to a single Group & Item code, namely Group 5014 (Equipment Leasing) / Item 003 (Non-Telecom Equipment – Lease Term in Excess of 30 Days).

Here too, however, we are not entering a straight TAXABLE decision for Item 5014/003. Instead, we are entering a NON-TAXABLE decision for Item 5014/003 for purposes of the West Virginia Special District Excise Tax (as coded by Tax Type 03/ET) which database users will have the option to change to TAXABLE. However, any database user that chooses to take this customized action must remember to simultaneously change the tax decision for West Virginia State Sales Tax (as coded by Tax Type 01/01) for purposes of Item 5014/003 from TAXABLE to NON-TAXABLE in order to prevent an outcome of double taxation.

Any database user that needs assistance in configuring these customized overrides is invited to contact our Professional Services team.

### **Provisions of the West Virginia Special District Excise Tax**

- **SHOWN ON CUSTOMER’S BILL AS: “[NAME OF LOCAL JURISDICTION] SPECIAL DISTRICT EXCISE TAX”**
  1. **Rate** – 6%
  2. **Pass-through of the Fee to Customers** – PASSFLAG = 0 (Optional)

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<sup>6</sup> West Virginia Code § 7-22-12(c).

<sup>7</sup> West Virginia Code § 7-22-12(d).

3. **Level of Taxation** -

➤ Tax is on the Local level

4. **Tax-type** –

➤ 03 = County Local Sales Tax

5. **Tax-cat** –

➤ ET = Excise Tax

6. **Base-type** –

➤ 00 = Consumer – Sale Price

7. **Effective date** = March 18, 2011

## **II. Update to Taxes Covered – Taxability Changes – April 2022**

- **Change to the Taxability Status of Cable TV Advertising Revenues for Purposes of the Arizona City Transaction Privilege Tax & Use Tax**

### **❖ Explanation**

Pursuant to a quality assurance review of our data, we are hereby modifying our database effective with this month's release to reflect that the Arizona City Transaction Privilege Tax & Use Tax (as captured by Tax Types 04/01, 04/70<sup>8</sup> & U4/01<sup>9</sup>) is imposed upon revenues derived from the sale of Cable TV Advertising (as captured by Group & Item code 5031/009) on the state level with the exception of a finite number of cities.

To quote the standard provision of the Arizona Model City Tax Code that establishes a Transaction Privilege Tax on the local level:

“There are hereby levied and imposed, subject to all other provisions of this Chapter, the following Privilege Taxes for the purpose of raising revenue to be used in defraying the necessary expenses of the City, such taxes to be collected by the Tax Collector:

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<sup>8</sup> Tax Type **04/01** applies when the rate of a city's tax imposed upon “local advertising” coincides with the tax rate imposed upon General Merchandise. Conversely, Tax Type **04/70** applies when the rate of a city's tax imposed upon “local advertising” varies from the tax rate imposed upon General Merchandise. (Tax Cat '70' = “Service & Other Activities”).

<sup>9</sup> Tax Type **U4/01** applies to the purchase rather than the sale of such Advertising Services.

a Privilege Tax upon persons on account of their business activities, to the extent provided elsewhere in this Article, to be measured by the gross income of persons, whether derived from residents of the City or not, or whether derived from within the City or from without.”<sup>10</sup>

Meanwhile, to quote the specific provision of the Arizona Model City Tax Code that imposes a Transaction Privilege Tax upon the business of local advertising:

“The tax rate shall be at an amount equal to \_\_\_\_\_ percent (\_\_\_%) of the gross income from the business activity upon every person engaging or continuing in the business of "local advertising" by billboards, direct mail, radio, television, or by any other means.”<sup>11</sup>

However, the same Model Code contains an “op-out” providing which permits individual cities to replace Section 405.00(b)<sup>12</sup> with a customized provision that recites as follows:

“On and after January 1, 1986 "gross income from local advertising" shall be **exempt** from all taxes imposed by this Chapter.”<sup>13</sup>

As per the Arizona Model City Tax Code website maintained by the Arizona Department of Revenue<sup>14</sup>, the following cities have adopted Local Option #G:

- 1 – Eagar
- 2 – Gila Bend
- 3 – Holbrook
- 4 – Lake Havasu City
- 5 – Quartzsite
- 6 – Sahuarita
- 7 – Sedona
- 8 – Thatcher
- 9 – Tolleson

Accordingly, effective with this month’s release, we are modifying the database to reflect that that Arizona City Transaction Privilege Tax & Use Tax (as captured by Tax Types 04/01, 04/70 & U4/01) is imposed upon revenues derived from the sale of Cable TV Advertising (as captured by Group & Item code 5031/009) on the state level with the exception of the cities enumerated above.

- **Change to the Taxability Status of Cable TV Advertising Revenues for Purposes of Arizona Tribal Sales & Use Tax**

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<sup>10</sup> Arizona Model City Tax Code; Section 400.00(a)(1).

<sup>11</sup> Arizona Model City Tax Code; Section 405.00(a).

<sup>12</sup> By default, Section 405.00(b) is merely labeled as “Reserved”.

<sup>13</sup> See Arizona Model City Tax Code; Local Option #G.

<sup>14</sup> See <https://azdor.gov/model-city-tax-code/options-city>.

## ❖ **Explanation**

Pursuant to a quality assurance review of our data, we are hereby modifying our database effective with this month's release to reflect that Arizona Tribal Sales & Use Tax, a variation of the Arizona Local Transaction Privilege Tax (as captured by Tax Types 05/01 & U5/01), is imposed upon revenues derived from the sale of Cable TV advertising (as captured by Group & Item code 5031/009) on the state level with the exception of the following tribal communities:

- Kayenta Indian Community
- Tohono O-Odham Nation Indian Community

### **III. Update to Taxes Covered – System Changes – April 2022**

- **Reconfiguration of the Franklin Parish, Louisiana 911 Surcharge**

## ❖ **Explanation**

Among the taxes covered in our database is the Franklin Parish, Louisiana 911 Surcharge. Prior to this month's release, this surcharge was captured in the form of a flat-fee by Tax Type 33/03 (Commercial Customers) in the amount of \$2.90 per month & Tax Type 33/04 (Residential Customers) in the amount of \$1.30 per month. However, based upon a review of governing state and local legislative sources, we have now determined that the more accurate and correct way to display this surcharge is in the form of a *percentage rate*.

To quote the state-level statute that authorizes parishes in Louisiana to impose a 911 surcharge:

“The governing authority of the district may, when so authorized by a vote of a majority of the persons voting within the district in accordance with law, levy an emergency telephone service charge in an amount not to exceed five percent of the tariff rate; however, if a district is served by more than one service supplier, then the emergency telephone service charge shall not exceed five percent of the highest tariff rate.”<sup>15</sup>

The same statute adds:

“Notwithstanding the provisions of Subparagraph (a) of this Paragraph or any other law to the contrary, the governing authority of a communications district created pursuant to this Part or to Act No. 490 of the 1983 Regular Session of the Louisiana Legislature **may** levy the emergency telephone service charge authorized by this Subsection or such Act on a uniform flat-fee schedule of fixed rates not based on any tariff rate charged in the parish. If the governing authority converts to such a rate schedule for its service charge, such rate shall be equal to the applicable tariff-based rate at the time of conversion unless a higher rate is approved by the voters of the district.”<sup>16</sup>

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<sup>15</sup> Louisiana Revised Statutes § 33:9106.B.(1)(a).

<sup>16</sup> Louisiana Revised Statutes § 33:9106.B.(1)(b).

Based upon the provisions of this statute, it is our interpretation that parishes in Louisiana are permitted to convert their local 911 surcharges from a fixed percentage to a flat-fee schedule, but are not *required* to do so. Instead, such a conversion is purely optional.

In 2016, the Franklin Parish E-911 Communications District amended its 911 surcharge legislation through a new resolution. In relevant part, the resolution declared as follows:

“Be it resolved, that the Franklin Parish Communications District Board, in an effort to correct and maintain the revenue source due to BellSouth, AT&T Collections, and in a means to stabilize wire line revenues once again, hereby amends and corrects Act 758 as to herein authorize all tariff based fixed location emergency service users to be set as stated; residential lines to be set at the rate of 5% of current tariff based fixed location rates; and business lines to be set at 2% of current tariff based fixed location rates and to remove any “flat rate” amount or reference thereto previously imposed.”<sup>17</sup>

Based upon the clear-cut instructions contained in this resolution, we are hereby reconfiguring the Franklin Parish, Louisiana 911 Surcharge as follows, effective with this April 2022 product release:

- The 911 Surcharge levied upon residential customers shall now be coded as Tax Type 33/27<sup>18</sup> at the rate of 5% of service charges.
- The 911 Surcharge levied upon commercial customers shall now be coded as Tax Type 33/26<sup>19</sup> at the rate of 2% of service charges.
- **Change to the Tax Rate of the Gila River Indian Reservation Tribal Sales Tax Applicable to the Sale of Telecommunications Service**

### ❖ Explanation

Among the taxes covered in our database is the Gila River Indian Reservation Tribal Sales Tax. In many ways, the structure of this tax mirrors the state-level Arizona Transaction Privilege Tax insofar as this local tax is imposed upon various classifications such as retail sales and telecommunications, some of which feature special rates. Prior to this month’s release, our database reflected that the tax rate for the Gila River Indian Reservation Tribal Sales Tax, as levied upon telecommunications service providers was **0.375%**, as captured by Tax Type **05/80**.

However, based upon a recent quality assurance review of governing legislative services, we are hereby reinstating the original tax rate for this business classification of **1.5%** based upon the following legislative sources:

As per the preamble to Title 13 of the Gila River Tribal Code (Business Licenses & Taxation), Chapter 3 (Privilege Taxes):

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<sup>17</sup> “Franklin Parish E-911 Communications District Board of Directors of Franklin E-911 Resolution 4 Amending Act 758” [adopted September 27, 2016].

<sup>18</sup> Tax Cat ‘27’ = “Sale Price/Service Charge – Residential Customers”.

<sup>19</sup> Tax Cat ‘26’ = “Sale Price/Service Charge – Commercial Customers”.



“There is levied and there shall be collected a transaction privilege tax measured by the amount or volume of business transacted by persons on account of their activities on the Reservation, and to be measured by the gross proceeds of sales, gross income, or gross receipts of persons on such account, and all of said gross proceeds of sale, gross income, or gross receipts shall be used to measure the tax in accordance with the provisions in this chapter.”<sup>20</sup>

As per the provision that levies a Transaction Privilege Tax upon “Telecommunication Services”:

“The tax rate shall be in the amount of **1.5%** of the gross proceeds of producing, providing, or furnishing telecommunication services to consumers on the Reservation.

Telecommunication services means transmitting signs, signals, writings, images, sounds, messages, data or other information of any nature by wire, radio waves, light waves or other electromagnetic means.”<sup>21</sup>

Meanwhile, a separate provision captioned “Deductions” adds:

“In any case where the gross proceeds from an activity taxable under Chapter 3 of this title are also taxed under the provisions of the ARS, Title 42, or any successor provisions, a deduction equal to 75% of the gross proceeds or gross income from such activities may be taken when computing the tax liability under this title, provided that such Arizona tax is validly imposed on such activities as a matter of federal law. This deduction does **not** apply to ... section 13.306.”<sup>22</sup>

Given the fact that section 13.306 – which is the section that levies a Transaction Privilege Tax upon Telecommunication Services – is explicitly excluded from the scope of the 75% rate deduction, the 1.5% tax rate levied upon Telecommunication Services does not qualify for the 75% rate deduction.

Accordingly, effective with this month’s product release we are hereby changing the tax rate associated with the Gila River Indian Reservation Tribal Sales Tax levied upon telecommunications service (as captured by Tax Type **05/80**) from **0.375%** to the full rate of **1.5%**.

- **Reconfiguration of the Gila River Indian Reservation Tribal Sales Tax Applicable to the Sale of Cable TV Advertising Service**

❖ **Explanation**

Prior to this month’s release, our database reflected that the Gila River Indian Reservation Tribal Sales Tax at the rate of 6% (as captured by Tax Type 05/59) was imposed upon charges for Cable TV advertising service (as captured by Group & Item code 5031/009).

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<sup>20</sup> Gila River Tribal Code § 13.301.

<sup>21</sup> Gila River Tribal Code § 13.306.A.

<sup>22</sup> Gila River Tribal Code § 13.320.B.

Such an application of tax was derived from a provision in the Gila River Tribal Code which recites as follows:

“The tax rate shall be an amount equal to 6% of the gross proceeds from the business activity of any person engaged in advertising by billboards, direct mail, radio, television, and any other means on the Reservation calculated to appeal to prospective purchasers.”<sup>23</sup>

However, as noted above, the Gila River Tribal Code also contains a separate provision captioned “Deductions” which recites as follows:

“In any case where the gross proceeds from an activity taxable under Chapter 3 of this title are also taxed under the provisions of the ARS, Title 42, or any successor provisions, a deduction equal to 75% of the gross proceeds or gross income from such activities may be taken when computing the tax liability under this title, provided that such Arizona tax is validly imposed on such activities as a matter of federal law.”<sup>24</sup>

Given that section 13.307 is not among the set of sections explicitly excluded from the scope of the 75% discounted tax rate, such 75% discount implicitly applies.

Reducing the legislative rate of 6% levied upon advertising activities by the 75% discount yields an adjusted rate of 1.5% - the same rate imposed upon the sale of general merchandise (as captured by Tax Type 05/01).

Therefore, in order to streamline the application of the Gila River Sales Tax, we shall now apply Tax Type 05/01 to Group & Item code 5031/009 since that is the Tax Type & Tax Cat combination which shall apply on the state-level to Group & Item code 5031/009 on a going-forward basis, as noted above. In conjunction with this change, Tax Type 05/59 (at the rate of 6%) in Gila River shall now be expired from the database.

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<sup>23</sup> Gila River Tribal Code § 13.307.

<sup>24</sup> Gila River Tribal Code § 13.320.B.

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