

# Telecommunications Sales Tax Rates and Taxability

## Welcome to Telecommunications Sales Tax Rates and Taxability

This bulletin provides important information about the May 2022 release of Telecommunications Rates and Taxability. Please review this bulletin carefully. If you have any questions, additional information is available on CCH [Support Online](#).

## Updates to Current Telecommunications Database - Taxability Changes Effective May 2022

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### Washington Local Utility Gross Receipts Tax - Change of Tax-on-Tax Rules

Among the taxes covered in our database is the Washington Local Utility Gross Receipts Tax (as captured by Tax Type 32/80). One of the key taxability components associated with this tax is whether the rule of tax-on-tax applies, vis-à-vis the tax itself, i.e., whether a recovery charge for this tax is included in the measure of revenues subject to tax. Our thorough research on an individual city basis has demonstrated that the tax-on-tax rules associated with the Washington Local Utility Gross Receipts Tax move in both directions, i.e., in a defined **number** of cases, the rule of tax-on-tax does apply while in the remaining number of cases the rule of tax-on-tax does not apply.

The determining factor as to whether the rule of tax-on-tax does or does not apply is whether each city's municipal code contains a "canned provision" excluding revenues derived from a recovery charge associated with the Washington Local Utility Gross Receipts Tax from the tax base of that tax. If so, the rule of tax-on-tax does not apply. Conversely, if a city's municipal code does not contain such a "canned provision", the rule of tax-on-tax implicitly applies. Based upon a recent quality assurance review of governing legislative sources, we are hereby changing the existing tax-on-tax rule in the following locations:

#### 1. Lind

Prior to this month's release, our database reflected that the rule of tax-on-tax did apply in the town of Lind. However, based upon a review of Lind's amended municipal code, it is now our fresh understanding that the rule of tax-on-tax does not apply in the town of Lind.

To quote the relevant sections of the town's municipal code which establishes this fact:

"There is levied and there shall be collected from every person, firm or corporation engaged in the business activities hereinafter set forth, for the act or privilege of engaging in such activities within the town, a tax to be known as a "utility tax" in the amounts to be determined by the application of rates herein stated against gross income, as follows:

Upon every person, firm or corporation engaged in or carrying on a telephone business, or a combined telephone and telegraph business, a tax equal to six percent of the total gross income, including income from intrastate toll derived from the operation of such business within the town."<sup>1</sup>

The section of the town's municipal code that defines the term "Gross income" contains the relevant "canned provision" as follows:

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<sup>1</sup> Lind, WA Municipal Code § 3.20.030.D.

“Gross income does not include charges which are passed on to subscribers or customers by a taxpayer pursuant to tariffs required by regulatory order to compensate for the cost to the taxpayer of the tax imposed by this chapter.”<sup>2</sup>

Based upon the existence of this canned provision, we are hereby modifying our database effective with this month’s release to reflect that the rule of tax-on-tax does not apply regarding the Local Utility Gross Receipts Tax imposed by the town of Lind (as captured by Tax Type 32/80).

## **2. Oak Harbor**

Prior to this month’s release, our database reflected that the rule of tax-on-tax did not apply in the city of Oak Harbor. However, based upon a review of Oak Harbor’s amended municipal code, it is now our fresh understanding that the rule of tax-on-tax does apply in the city of Oak Harbor.

To quote the relevant sections of the city’s municipal code which establishes this fact:

“Utility Taxes. In addition to the business license fees in OHMC Title 5, there is hereby levied upon all persons engaged in business activities taxable under this chapter a utility tax in the amount to be determined by the application of the respective rates against gross income of such taxpayer. Taxpayers engaged in or carrying on the business shall be charged with collection of the tax as a condition of doing business, and the tax shall be levied thereafter upon their subscribers at the rate set forth below and in proportion to their contribution to gross income as defined by this chapter.”<sup>3</sup>

“Telephones. Upon every person engaged in or carrying on a telephone business, a tax equal to six percent of the total gross income, including revenues for intrastate toll, derived from the operation of such business within the city.”<sup>4</sup>

The section of the town’s municipal code that defines the term “Gross income” recites as follows:

““Gross income of the business” means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.”<sup>5</sup>

Given the fact that the Oak Harbor Municipal Code does not contain the canned provision, the rule of tax-on-tax implicitly applies.

Accordingly, we are hereby modifying our database effective with this month’s release to reflect that the rule of tax-on-tax does apply regarding the Local Utility Gross Receipts Tax imposed by the city of Oak Harbor (as captured by Tax Type 32/80).

## **3. Tenino**

Prior to this month’s release, our database reflected that the rule of tax-on-tax did apply in the city of Tenino. However, based upon a review of Tenino’s amended municipal code, it is now our fresh understanding that the rule of tax-on-tax does not apply in the city of Tenino.

To quote the relevant sections of the town’s municipal code which establishes this fact:

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2 Lind, WA Municipal Code § 3.20.020.

3 Oak Harbor, WA Municipal Code § 3.71.030(2).

4 Oak Harbor, WA Municipal Code § 3.71.040(1).

5 Oak Harbor, WA Municipal Code § 3.71.020(5).

“There is levied and shall be collected a tax on the business activities described in this chapter in an amount to be determined by the application of the rates against gross income as follows:

Upon every business engaged in or carrying on a telephone business, a tax equal to six percent of the gross income, including revenues from intrastate tolls, derived from the operation of such business within the city.”<sup>6</sup>

The section of the city’s municipal code that defines the term “Gross income” contains the relevant “canned provision” as follows:

“The term "gross income" does not include charges which are passed on to the subscribers by a business pursuant to tariffs required by regulatory order to compensate for the cost to the business of the tax imposed by this chapter.”<sup>7</sup>

Based upon the existence of this canned provision, we are hereby modifying our database effective with this month’s release to reflect that the rule of tax-on-tax does not apply regarding the Local Utility Gross Receipts Tax imposed by the city of Tenino (as captured by Tax Type 32/80).

#### 4. Vader

Prior to this month’s release, our database reflected that the rule of tax-on-tax did not apply in the city of Vader. However, based upon a review of Vader’s amended municipal code, it is now our fresh understanding that the rule of tax-on-tax does apply in the city of Vader.

To quote the relevant sections of the city’s municipal code which establishes this fact:

“Utility tax established. There is hereby created and established a utility tax in the sum of six percent of all gross revenues of utilities occurring within the city limits. For purposes of this tax, utilities shall be defined as natural gas, electrical power, telephone, cellular phone service, and cable television service.”<sup>8</sup>

The term “gross revenues” is not defined. Therefore, given the fact that the Vader Municipal Code does not contain the canned provision, the rule of tax-on-tax implicitly applies.

Accordingly, we are hereby modifying our database effective with this month’s release to reflect that the rule of tax-on-tax does apply regarding the Local Utility Gross Receipts Tax imposed by the city of Vader (as captured by Tax Type 32/80).

## Updates to Current Telecommunications Database - System Changes Effective May 2022

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### Rapides Parish, Louisiana - Reconfiguration of the 911 Surcharge

Among the taxes covered in our database is the Rapides Parish, Louisiana 911 Surcharge. Prior to this month’s release, our database reflected that this surcharge was imposed upon monthly recurring charges for VOIP service as captured by Items 001, 002 & 013 in Group 5032 (Fixed VOIP) & Group 5044 (Nomadic VOIP) at the same rates as landline service, namely:

Residential Users (Tax Type 33/04) = \$1.25

Commercial Users (Tax Type 33/03) = \$2.50

However, based upon a review of local legislative sources, it is now our fresh understanding that such VOIP service is instead taxed at a uniform rate of \$1.25 for both Residential & Commercial users – the same rate that is levied upon CMRS users.

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6 Tenino, WA Municipal Code § 6.50.030.A.

7 Tenino, WA Municipal Code § 6.50.020.

8 Vader, WA Municipal Code § 3.08.010(b).

To quote the provision in the governing local ordinance which establishes this fact:

“There is hereby levied a CMRS emergency telephone service charge of \$1.25 on each CMRS and interconnected Voice Over Internet Protocol (VoIP) service connection as described in Louisiana Revised Statutes 33:9109(C)(4) and shall be levied for each connection that has a billing address within the District.”<sup>9</sup>

Based upon the provisions of this ordinance we are hereby reconfiguring the Rapides Parish, Louisiana 911 Surcharge to reflect that monthly recurring charges for VOIP service as captured by Items 001, 002 & 013 in Group 5032 (Fixed VOIP) & Group 5044 (Nomadic VOIP) are subject to this local surcharge at the rate of \$1.25 per month as captured by Tax Type 33/V1.10

In addition, we are changing the tax description for Tax Type 33/06 (i.e., the variation of the Rapides Parish, Louisiana 911 Surcharge that is imposed upon wireless users) to “CMRS Emergency Telephone Charge” which shall serve as the same tax description for Tax Type 33/V1.

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<sup>9</sup> Rapides Parish Communications District Ordinance Number 16-001; Section 2.

<sup>10</sup> Tax Cat ‘74’ = VOIP.