

# Telecommunications Sales Tax Rates and Taxability

## Welcome to the Telecommunications Database

This bulletin provides important information about the September 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>.

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

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### Change to the Taxability of Cable TV Services for Purposes of the Missouri Video Service Provider Fee

Among the taxes covered in our database is the Missouri Video Service Provider Fee (alternatively known as the Local Cable Franchise Fee) as captured by Tax Type 36/45.

Prior to this month's release, our database reflected that the Missouri Video Service Provider Fee was imposed upon Group 5031 (Cable Services) on the Group level, notwithstanding the fact that this tax did not apply to Wireless Carriers (as captured by Provider Type 05) due to the exclusion from liability carved out for "video programming provided by commercial mobile service providers".<sup>1</sup>

However, pursuant to legislation enacted into law in 2021<sup>2</sup>, it is now our fresh understanding that the Missouri Video Service Provider Fee is only imposed upon monthly recurring charges for video service and event-based charges (as captured by Items 001-003 in Group 5031).

The basis for this fresh understanding is as follows:

As per the state statute that authorizes local jurisdictions (otherwise known as "franchise entities") in Missouri to impose a video service provider fee:

"A franchise entity may collect a video service provider fee equal to not more than 5% of the gross revenues charged to each customer of a video service provider that is providing video service in the geographic area of such franchise entity."<sup>3</sup>

In turn the term "gross revenues" is now affirmatively defined as follows:

"Gross revenues", limited to amounts billed to video service subscribers for the following:

- a. Recurring charges for video service; and
- b. Event-based charges for video service, including but not limited to pay-per-view and video-on-demand charges."<sup>4</sup>

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<sup>1</sup> See Revised Statutes of Missouri § 67.2677(14).

<sup>2</sup> Missouri Senate Bill 153 (2021).

<sup>3</sup> Revised Statutes of Missouri § 67.2689(1).

<sup>4</sup> Revised Statutes of Missouri § 67.2677(6)(a).

The same statute now adds:

“Gross revenues” do **not** include:

\* Rental of set top boxes, modems, or other equipment used to provide or facilitate the provision of video service<sup>5</sup>;

\* Service charges related to the provision of video service including, but not limited to, activation, installation, repair, and maintenance charges;<sup>6</sup> [or]

j. A pro rata portion of all revenue derived from advertising, less refunds, rebates, or discounts.”<sup>7</sup>

Based upon these legislative provisions, we are hereby modifying our database, effective with this month’s release, to reflect that the Missouri Video Service Provider Fee (as captured by Tax Type 36/45) is only imposed upon the following Item codes in Group 5031 (Cable Services) to the exclusion of all other Items in that Group:

- Item 001 = Monthly Basic Service Charges
- Item 002 = Monthly Premium Service Charges
- Item 003 = Pay-Per-View Programming

**Change to the Taxability Status of Private Lines for Purposes of the Texas Public Utility Commission Fee**

Among the taxes covered in our database is the Texas Public Utility Commission (PUC) (as captured by Tax Type 08/80).

Prior to this month’s release, our database reflected that charges for Voice and Data Private Lines on an Intrastate level (as captured by Items 001-003, 008, 010-012, 017-019, 024-026, 031 & 032 in Groups 5023 & 5024) were subject to the Texas PUC Fee.

However, pursuant to a review of governing legal sources, it is now our fresh interpretation that the Texas PUC Fee is not imposed upon charges for either variation of Private Lines.

The basis of this fresh interpretation is as follows:

As per an Audit Manual published by the Texas Comptroller of Public Accounts (i.e., the governmental agency that actually collects this surcharge):

““PUC Exclusions / Exemptions: Private line revenues, because this is a non-basic competitive exchange service over which the PUC does not have jurisdictional authority.”<sup>8</sup>

Based upon this explicit source, we are hereby modifying the database effective with this month’s release to reflect that charges for Voice and Data Private Lines on an Intrastate level (as captured by Items 001-003, 008, 0101-012, 017-019 & 024-026, 031 & 032 in Groups 5023 & 5024) are not subject to the Texas PUC Fee (as captured by Tax Type 08/80).

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<sup>5</sup> Revised Statutes of Missouri § 67.2677(6)(b)g.

<sup>6</sup> Revised Statutes of Missouri § 67.2677(6)(b)h.

<sup>7</sup> Revised Statutes of Missouri § 67.2677(6)(b)j.

<sup>8</sup> “Audit Procedure for Telecommunications Taxes”: Chapter 2 (Public Utility Commission Gross Receipts Assessment – PUC Exclusions/Exemptions – Example # 31.

## Updates to Current Telecommunications Database - System Changes Effective September 2023

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### Change to the Tax Rate Associated with the Missouri Video Service Provider Fee

Among the taxes covered in our database is the Missouri Video Service Provider Fee (alternatively known as the Local Cable Franchise Fee) as captured by Tax Type 36/45.

Prior to this month's release, our database reflected that many cities in Missouri (along with Saint Louis County) imposed this fee at a rate equal to 5% of gross revenues. However, pursuant to the enactment of state legislation, the maximum tax rate for this fee has now been legislatively reduced to 4.5% of gross revenues.

To quote the statutory provisions that establish this maximum rate of taxation:

"A franchise entity may collect a video service provider fee equal to not more than five percent of the gross revenues charged to each customer of a video service provider that is providing video service in the geographic area of such franchise entity. The video service provider fee shall apply equally to all video service providers within the geographic area of a franchise entity."<sup>9</sup>

"Beginning August 28, 2023, franchise entities are prohibited from collecting a video service provider fee *in excess of four and one-half percent of such gross revenues.*"<sup>10</sup>

Accordingly, we are hereby updating our database effective with this month's release to reflect that any local franchising authority in Missouri that previously imposed its Missouri Video Service Provider Fee (as captured by Tax Type 36/45) at a rate equal to 5% of gross revenues can now only impose that same regulatory surcharge at a maximum rate of 4.5% of gross revenues.

### Change to the Pass Flag Code Associated with the Missouri Video Service Provider Fee

Among the taxes covered in our database is the Missouri Video Service Provider Fee (alternatively known as the Local Cable Franchise Fee) as captured by Tax Type 36/45.

Prior to this month's release, our database reflected that this regulatory surcharge featured an optional pass-through to end-users (as captured by Pass Flag code '0').

However, pursuant to a quality assurance review of governing legal sources, it is now our fresh understanding that the pass-through of this regulatory surcharge is actually required.

To quote the statutory provisions that establish this rule:

"A franchise entity may collect a video service provider fee equal to not more than five percent of the gross revenues charged to each customer of a video service provider that is providing video service in the geographic area of such franchise entity. The video service provider fee shall apply equally to all video service providers within the geographic area of a franchise entity."<sup>11</sup>

By virtue of state legislation<sup>12</sup> enacted in 2021, the statutory provision establishing the pass-through rule for this surcharge now recites:

"Any video service provider **shall** identify and **collect** the amount of the video service provider fee and collect any support under subsection 8 of section 67.2703 as separate line items on subscriber bills."<sup>13</sup>

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<sup>9</sup> Revised Statutes of Missouri § 67.2689[1].

<sup>10</sup> Revised Statutes of Missouri § 67.2689[2].

<sup>11</sup> Revised Statutes of Missouri § 67.2689[1].

<sup>12</sup> Missouri Senate Bill 153 (2021).

<sup>13</sup> Revised Statutes of Missouri § 67.2689[6].

Based upon this statutory wording, we are hereby modifying our database effective with this month's release to reflect that the Missouri Video Service Provider Fee (as captured by Tax Type 36/45) is required to be collected from end-users (as captured by Pass Flag code '1').

### **Change to the Tax Rate Associated with the Illinois Prepaid Wireless 911 Surcharge for Locations Inside the City of Chicago**

Among the taxes covered in our database is the Illinois Prepaid Wireless 911 Surcharge (as captured by Tax Type 06/TS).

Prior to this month's release, our database reflected that the rate for this surcharge for sales of prepaid wireless service for locations sourced to the city of Chicago was 7%.

However, pursuant to legislation enacted into law in 2021<sup>14</sup>, it is now our fresh understanding that the rate for such transactions inside the city of Chicago is actually 9%.

The basis for this fresh understanding is as follows:

As per the state statute that authorizes home rule cities whose population exceeds 500,00 (an implicit reference to the city of Chicago) to impose a Prepaid Wireless 911 Surcharge at a rate that exceeds the standard 3% rate applicable elsewhere throughout the state:

"On or after the effective date of this amendatory Act of the 98th General Assembly and until December 31, 2023, **a home rule municipality having a population in excess of 500,000** (this is a reference to the city of Chicago) on the effective date of this amendatory Act **may** impose a **prepaid wireless 9-1-1 surcharge not to exceed 9% per retail transaction** sourced to that jurisdiction and collected and remitted in accordance with the provisions of subsection (b-5) of this Section."<sup>15</sup>

Please note that the City of Chicago has indeed authorized the imposition of the prepaid wireless surcharge at this maximum 9% rate.

To quote the provision of the city's code that reflects such action:

"Pursuant to the Prepaid Wireless 9-1-1 Surcharge Act, Public Act 97-0463, as amended, there is hereby imposed on consumers **a prepaid wireless 9-1-1 surcharge** of 9.0 percent per retail transaction.

On and after July 1, 2017, the rate shall be 7.0 percent per retail transaction, unless the General Assembly has authorized a rate of **9.0 percent** per retail transaction, in which case the rate shall be **9.0 percent per retail transaction**."<sup>16</sup>

Accordingly, merging these two sets of legislative provisions, our tax team has now determined that the rate for the Prepaid Wireless 9-1-1 Surcharge for the city of Chicago is currently imposed at a rate of 9%.

Based upon this fresh determination, we are hereby updating our database, effective with this month's release, to reflect that the rate for the Illinois Prepaid Wireless 911 Surcharge (as captured by Tax Type 06/TS) for sales of prepaid wireless service for locations sourced to the city of Chicago is currently 9%.

### **Tax-on-Tax Adjustment for the Federal Cost Recovery Fee, Federal Cost Recovery Charge, and the Federal ITSP Regulatory Fee**

Among the taxes covered in our database are the Federal Cost Recovery Charge (as captured by Tax Type 60/80), the Federal Cost Recovery Fee (as captured by Tax Type 60/28), and the Federal ITSP Charge (as captured by Tax Type 56/80).

Prior to this month's release, our database reflected that other Federal, state, and local taxes and fees that were provider-based (i.e., the incidence of the tax is on the provider and not the consumer) were imported into and included in the taxable base of these three Federal charges for purposes of tax-on-tax.

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<sup>14</sup> Illinois House Bill 3743 (2021).

<sup>15</sup> 50 Illinois Compiled Statutes § 753/15(a-5).

<sup>16</sup> Chicago, Illinois Municipal Code § 7-51-030.A.

However, based on a quality assurance of these tax-on-tax decisions, effective with this September 1<sup>st</sup> database release, we will now be changing the tax-on-tax decisions for all other taxes and fees that are imported into the taxable base of these three Federal charges from Taxable to Non-Taxable.

The rationale for this change is that all of these three Federal surcharges are recovery charges from customers that are intended to recoup the Federal TRS and Federal Regulatory Fee assessments which telecom providers are assessed by the Federal Communications Commission (“FCC”), and are not supposed to have any other taxes and fees included in their taxable base for tax-on-tax purposes, as this would violate truth-in-billing rules which do not allow for providers to collect FCC fees and assessments above the official assessment rate.

Accordingly, effective with this monthly product release, we are hereby updating our database to reflect that no Federal, state, and local taxes will be included in the taxable base of the Federal Cost Recovery Charge, the Federal Cost Recovery Fee, and the Federal ITSP Charge for purposes of the calculation of tax-on-tax.

## Geography

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The geography content in our data is updated on a monthly basis, with larger quarterly updates. Changes include adding new geocodes, expiring geocodes that are no longer necessary, and remapping ZIP+4s to both existing geocodes and to new ones. For your convenience, a list of expired geocodes is provided below.

### FAQ

#### What is a geocode?

A geocode represents a unique set of state, county, city and tax district areas.

#### Why do geocodes matter to my company?

Taxes are associated with geocodes, so proper calculation of taxes is dependent on accurate mapping of addresses to geocodes.

#### What should I do next?

Users do not need to do anything unless they are using mapped geocodes for recurring transactions. Should this be the case, it is strongly recommended that users refresh their mapped geocodes to make sure the proper geocodes will be used for future transactions, as changes other than expired geocodes can impact your tax rate.

#### How do I find a new geocode if the old geocode is expired or reassigned?

Please pass your address to the system and obtain a proper geocode again. In some cases, the geocode will not change if the address is still within the boundary of the new geographic segments.

#### Expired geocodes

GeoCode	State	County	BlockDesc	TaxDistrictDescription
US1905319360	IA	DECATUR	DECATUR CITY	
US1914535760	IA	PAGE	HEPBURN	
US1601103970	ID	BINGHAM	ATOMIC CITY	
US1716714845	IL	SANGAMON	CLEAR LAKE	
US1807317722	IN	JASPER	DE MOTTE	
US20057A0008	KS	FORD	DODGE CITY	DODGE CITY SCOOTERS WYATT EARP CID
US22103A0003	LA	SAINT TAMMANY	PEARL RIVER	ROOMS TO GO ECON DEV DIST
US22103A0005	LA	SAINT TAMMANY	UNINCORPORATED COUNTY AREA	ROOMS TO GO ECON DEV DIST
US29183A0080	MO	SAINT CHARLES	SAINT CHARLES	ZUMBEHL ROAD CID
US29183A0008	MO	SAINT CHARLES	SAINT CHARLES	ZUMBEHL ROAD HIGHWAY 94

				CID
US3708505040	NC	HARNETT	BENSON	
US3400758920	NJ	CAMDEN	PINE VALLEY	
US35055A0008	NM	TAOS	TAOS	TAOS PUEBLO INDIAN RES
US35055A0012	NM	TAOS	TAOS	TAOS/TAOS PUEBLO 2 INDIAN RES
US32031A0005	NV	WASHOE	RENO	MOGUL CDP
US36087A0017	NY	ROCKLAND	SOUTH NYACK	METRO COMMUTER TRANS DIST
US48029A0043	TX	BEXAR	BULVERDE	BULVERDE / BEXAR CO EMRG SRVC DIST 3
US4803933980	TX	BRAZORIA	HILLCREST	
US48201A0236	TX	HARRIS	UNINCORPORATED COUNTY AREA	HARRIS CO MUNIC UTILITY DIST 412 / HOUSTON MTA
US4825759066	TX	KAUFMAN	POST OAK BEND CITY	
US49045A0007	UT	TOOELE	ERDA	TOOELE CO ERDA AREA / UTAH TRANS AUTH (TOOELE)
US49045A0008	UT	TOOELE	ERDA	TOOELE CO LAKEPOINT AREA / UTAH TRANS AUTH (TOOELE)
US49045A0009	UT	TOOELE	ERDA	TOOELE CO STANSBURY PARK AREA / UTAH TRANS AUTH (TOOELE)
US49045A0001	UT	TOOELE	UNINCORPORATED COUNTY AREA	TOOELE CO ERDA AREA / UTAH TRANS AUTH (TOOELE)
US49045A0002	UT	TOOELE	UNINCORPORATED COUNTY AREA	TOOELE CO LAKEPOINT AREA / UTAH TRANS AUTH (TOOELE)
US51095A0001	VA	JAMES CITY	UNINCORPORATED COUNTY AREA	HAMPTON ROADS REGION SALES TAX DIST
US51830A0001	VA	WILLIAMSBURG CITY	WILLIAMSBURG	HAMPTON ROADS REGION SALES TAX DIST
US51199A0001	VA	YORK	UNINCORPORATED COUNTY AREA	HAMPTON ROADS REGION SALES TAX DIST

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