

Telecommunications Sales Tax Rates and Taxability

Welcome to the Telecommunications Database

This bulletin provides important information about the October 2022 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 October 2022

Change to the Taxability Status of Text Messaging Services for Purposes of the Alabama Cellular Services Tax

Among the taxes covered in our database is the Alabama Cellular Services Tax (as captured by Tax Types 10/06 & UM/06¹). Prior to this month's release, our database reflected that charges for Text Messaging Services (as captured by Group & Item Code 5037/007) were exempt from this tax. However, pursuant to an e-mail response received from the Alabama Department of Revenue, it is our fresh understanding that charges for Text Messaging Services are actually subject to the Alabama Cellular Services Tax.

As a starting point, the statute that imposes this tax recites as follows:

"There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as provided herein, a privilege or license tax against every home service provider doing business in the State of Alabama on account of the furnishing of mobile telecommunications service to a customer with a place of primary use in the State of Alabama by said home service provider.

The amount of the tax shall be determined by the application of the rates against gross sales or gross receipts, as the case may be, from the **monthly charges** from the furnishing of mobile telecommunications service to a customer with a place of primary use in the State of Alabama and shall be computed monthly with respect to each person to whom services are furnished at the rate of four percent on bills dated prior to February 1, 2002, and at the rate of six percent on bills dated on or after February 1, 2002, regardless of when the services being billed were provided."²

In turn, the term "monthly charges" is defined as follows:

Effective for customer bills dated on or after February 1, 2002, monthly charges shall be the **monthly recurring access charges** and all **airtime charges**, regardless of when the services being billed were provided."³

Meanwhile, as per a staff member with the Alabama Department of Revenue:

"The Utility Gross Receipts Tax would apply to Vertical Features and VOIP. [In contrast] however, Text Messaging would fall under the Mobile Telecommunications Tax."⁴

¹ Tax Type UM/06 is the Use Tax variation of the Alabama Cellular Services Tax.

² Alabama Code § 40-21-121(a).

³ Alabama Code § 40-21-120(1)e.

⁴ E-mail response from Brenda Wallace, Revenue Examiner III, Miscellaneous Taxes Division – Alabama Department of Revenue.

Based upon this official advice, we are hereby modifying our database effective with this month's release to reflect that the Alabama Cellular Services Tax (as captured by Tax Types 10/06 & UM/06) is imposed upon charges for Text Messaging Services (as captured by Group & Item Code 5037/007).

Change to the Taxability Status of Wireless Enhanced Services for Purposes of Puerto Rico Sales & Use Tax

Among the taxes covered in our database is Puerto Rico Sales & Use Tax on the state and local level (as captured by Tax Types 01/01, 02/01, U1/01 & U2/01). Prior to this month's release, our database reflected that charges for Wireless Enhanced Services (as captured by Group 5037) were exempt from Puerto Rico Sales & Use Tax on the Group level. However, based upon a quality assurance review of governing legal sources, it is now our fresh interpretation that Items 001-006 in Group 5037 are subject to Puerto Rico Sales & Use Tax based upon the following line of reasoning:

ITEM 001 = Cellular Ringtones

As per a regulation published by the Puerto Rico Treasury Department: "Rules for determining the source of the income generated for the sale of taxable items: For the purposes of the sale of **specific digital products**, as defined in Article 4010.01(gg)-2 of this Regulation, the source of income from such sales shall be the physical address of the buyer to whom the sale is made."⁵ The term "specific digital products" is cross-defined to mean "electronically transferred digital audiovisual works, **digital audio works**, or other digital products, etc."⁶ In turn, the term "digital audio work" is defined to mean "a work that results from the fixation of a series of musical, spoken or other sounds, including a **ringtone**."⁷

ITEM 002 = Information Alerts

As per a regulation published by the Puerto Rico Treasury Department: "Rules for determining the source of the income generated for the sale of taxable items: For the purposes of the sale of **specific digital products**, as defined in Article 4010.01(gg)-2 of this Regulation, the source of income from such sales shall be the physical address of the buyer to whom the sale is made."⁸ The term "specific digital products" is cross-defined to mean "electronically transferred digital audiovisual works, digital audio works, or **other digital products**, etc."⁹ The term "other digital products" is defined to include "**news or information products**."¹⁰

ITEMS 003 & 004 = Digitized Media

As per a regulation published by the Puerto Rico Treasury Department: "Rules for determining the source of the income generated for the sale of taxable items: For the purposes of the sale of **specific digital products**, as defined in Article 4010.01(gg)-2 of this Regulation, the source of income from such sales shall be the physical address of the buyer to whom the sale is made."¹¹ The term "specific digital products" is cross-defined to mean "electronically transferred **digital audiovisual works**, digital audio works, or other digital products, etc."¹² The term "digital audiovisual work" is defined to mean "a series of related images that, when displayed in succession, convey an impression of movement, along with the sounds that accompany it, if any."¹³

ITEMS 005 & 006 = Electronic Games

As per a regulation published by the Puerto Rico Treasury Department: "Rules for determining the source of the income generated for the sale of taxable items: For the purposes of the sale of **specific digital products**, as defined in Article 4010.01(gg)-2 of this Regulation, the source of income from such sales shall be the physical address of the buyer to whom the sale is made."¹⁴ The term "specific digital

⁵ Regulation Number 9237; Article 4020.03-1(j).

⁶ Regulation Number 9237; Article 4010.01(gg)-2(a).

⁷ Regulation Number 9237; Article 4010.01(gg)-2(a)(2).

⁸ Regulation Number 9237; Article 4020.03-1(j).

⁹ Regulation Number 9237; Article 4010.01(gg)-2(a).

¹⁰ Regulation Number 9237; Article 4010.01(gg)-2(a)(6).

¹¹ Regulation Number 9237; Article 4020.03-1(j).

¹² Regulation Number 9237; Article 4010.01(gg)-2(a).

¹³ Regulation Number 9237; Article 4010.01(gg)-2(a)(1).

¹⁴ Regulation Number 9237; Article 4020.03-1(j).

products" is cross-defined to mean "electronically transferred digital audiovisual works, digital audio works, or **other digital products**, etc."¹⁵ The term "other digital products" is defined to include "greeting cards, images, **video or electronic games** or entertainment, etc."¹⁶

System Changes Effective October 2022

Texas Local Sales Tax: One Additional Local Jurisdiction Now Taxes Telecommunications Service

Effective October 1, 2022, the following additional local jurisdiction in Texas will now impose its local option sales and use tax on telecommunication services: City of Menard (in Menard County) - captured by Tax Type, Tax Cat 04,01 & U4,01.¹⁷

Reconfiguration of Tennessee Sales & Use Tax for Purposes of Cable TV Installation Charges

Among the taxes covered in our database is Tennessee Sales & Use Tax which is imposed on the state, county and city levels.

Meanwhile, the rates associated with the taxation of Cable TV Installation Charges (as captured by **Item 008** in Group 5031) are governed by the statutory provision that recites as follows:

"There is levied a tax at the rate of the tax levied on the sale of tangible personal property at retail by § 67-6-202 on the sales price of all **services** taxable under this chapter."¹⁸

The same statute adds:

"The retail sale of the following services are taxable under this chapter:

The **installing of tangible personal property** that remains **tangible personal property** after installation and the installing of computer software, where a charge is made for the installation, whether or not **the installation** is made as an incident to the sale of **tangible personal property** or computer software, and whether or not any **tangible personal property** or computer software is transferred in conjunction with the installation service."¹⁹

Accordingly, effective with this month's release, we are hereby reconfiguring our database to reflect that charges for the installation of cable television (as captured by Group & Item code 5031/008) are subject to Tennessee State & Local Sales & Use Tax at the standard non-tiered rates associated with the sale of most services (as captured by Tax Types **01/01, 02/77, 04/77, U1/01, U2/77 & U4/77**).

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. IF LEGAL, ACCOUNTING, TAX OR OTHER EXPERT ASSISTANCE IS REQUIRED, THE SERVICES OF A COMPETENT PROFESSIONAL SHOULD BE OBTAINED.

¹⁵ Regulation Number 9237; Article 4010.01(gg)-2(a).

¹⁶ Regulation Number 9237; Article 4010.01(gg)-2(a)(6).

¹⁷ See <https://comptroller.texas.gov/taxes/publications/96-339.php>.

¹⁸ Tennessee Code § 67-6-205(a).

¹⁹ Tennessee Code § 67-6-205(c)(6).

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.

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.

© 2022 CCH Incorporated and its affiliates and licensors. All rights reserved.