

# S&U-10 Telecommunications

## ***Introduction***

*Most telecommunications products and services are subject to New Jersey sales tax. This bulletin explains what is meant by telecommunications and provides a guide to which telecommunications services are subject to tax and which are not.*

## **General Information**

Retail sales of intrastate telecommunications services and interstate telecommunications services charged to a service address in New Jersey are subject to New Jersey sales tax, regardless of where such services are billed or paid. The tax is imposed on the transmission charge, not on the value of the message or data being transmitted. Telecommunications transmissions which merely pass over or through New Jersey without originating or terminating in this State are not subject to tax.

If sales tax is not collected by the provider of taxable telecommunications services then use tax is due directly to the State of New Jersey, calculated at the same rate as sales tax.

Retail sales of telecommunications equipment and apparatus are also subject to sales tax, as are charges for the installation, repair, maintenance and servicing of such equipment. The law does provide exemption from sales and use tax for certain telecommunications equipment sold to a telecommunications service provider and for certain equipment used directly and primarily in the production or transmission of radio or television broadcasts by a commercial broadcaster.

## **Definitions**

***Telecommunications*** means the act or privilege of originating or receiving messages or information by means of any one-way or two-way electronic or electromagnetic communication method and all services and equipment provided

in connection therewith. Telecommunications includes, but is not limited to, transmission by voice, video, facsimile, teletypewriter, computer, cellular mobile or portable telephone, mobile or portable pager or other type of communication.

**Service address** means the location of the telecommunications equipment from which telecommunications services are originated *or* received. In the case of mobile telephones, radios, paging systems, etc., “service address” is the primary use location of such equipment as defined by telephone number (NPA-NXX number), authorization code or location within New Jersey where bills for such use are sent.

**Intrastate** telecommunications are those which originate **and** terminate within New Jersey (regardless of the actual path of transmission). All intrastate telecommunications are taxable, no matter how or where they are billed.

**Interstate** telecommunications are those which originate **or** terminate inside New Jersey, including international telecommunications. (See page 3 for examples.)

**Retail sales** means sales to end-users (consumers) by a service provider or retailer, including retailers who operate or provide radio repeater services, paging services, facsimile transmission services and party line services. Hotels and other traffic aggregators who sell telecommunications services to guests or other persons at retail are retailers of telecommunications services for purposes of the law.

**Taxable receipt** means the amount charged, in money, credits, services or property of any kind, for originating or receiving telecommunications.

## Taxable Charges

A taxable receipt includes, but is not limited to, charges for:

- Alarm monitoring services;
- Answering services;
- Cellular mobile or portable telephone service;
- Directory information;
- Equipment: sales, rental, leasing, installation, maintenance, repair and servicing of;
- Facsimile transmission services;
- Operator assistance;
- Paging services, including specialized mobile or portable pager services;
- Pay per view service;
- Radio repeater services;
- Radio subscription services;
- Electronic transmittal of tax returns to a public revenue agency (electronic filing);
- Telephone service, including premium services such as time, weather, gab line, party line, and opinion poll services, Caller ID, Call Block and Tone Block, Call-Forwarding, Call-Waiting, Call Trace, Priority Call, Repeat Call, Return Call, Speed Calling, Three-Way Calling, Touch-tone service, etc.;
- Unlisted or unpublished number charges;
- Voice mail services.

## Nontaxable Charges

A taxable receipt does not include charges for:

- Automated data storage and/or retrieval, or charges for processing data or information in order to change its form or content;

- Automatic teller machine services (ATMs);
- Cable television subscriber's fees;
- Calls subject to the local calling rate, paid by inserting coins into a coin-operated telecommunications device available to the public;
- Federal excise tax (imposed under Section 4251 of the Internal Revenue Code);
- Leased time on computers, data processing, tabulating, accounting or other equipment, including the use of computers under a time-sharing agreement;
- News media services (AP, UPI, etc.);
- One-way radio or television broadcast transmissions available to the general public without a fee;
- Wire transfer services and other related services provided by financial institutions;
- Internet access service charges that include the routing of Internet traffic.

### **Billing Both Taxable and Nontaxable Services**

If a telecommunications vendor provides both taxable transmission services and other nontaxable services, the charges for each must be separately identified on the customer's billing statement and in the vendor's books and records. If the charges are not shown separately, sales tax must be charged on the total amount of the bill. For example, a customer who accesses an online computer database would be subject to tax on any charges related to the transmission of data but would not be subject to tax on the charges for data processing or inquiry, provided the invoice lists such charges separately.

### **Examples**

The following examples illustrate how sales and use tax applies to *interstate* telecommunications (those which originate *or* terminate inside New Jersey):

1. A call placed from New Jersey to a location outside of the State is taxable if the call is charged to a service address in this State, including a call billed through a telephone credit card.
2. A call placed from outside New Jersey to a location within this State is taxable if the call is charged to a service address in this State, including a call billed through a telephone credit card.
3. An interstate call which is billed through the use of any credit or payment mechanism other than one based upon a service address is taxable, if the call originates from this State.
4. A collect call placed from within New Jersey to a location outside of this State is not taxable because the call is being charged to a service address outside New Jersey.
5. A collect call placed from a location outside New Jersey to a location within this State is taxable because the call is being charged to a service address within New Jersey.
6. A call from in-State or out-of-State to a "toll free" number (i.e., 800 or 888) located within New Jersey is taxable to the sponsor of the number.
7. A call to a 900 number is taxable if the call is charged to a service address in this State.

An intrastate call (originates *and* terminates within New Jersey, regardless of the path of transmission) is taxable regardless of how or where it is billed.

### **Prepaid Calling Cards**

The retail sale of prepaid telephone calling cards is not subject to tax. The purchaser of the card is buying the intangible right to X number of minutes of telephone calls, which may or may not be subject to New Jersey tax as a telecommunications service. The tax is imposed once the card is used to make calls that are subject to New Jersey tax, at which time the company that actually provides the telecommunications service is responsible for remitting any tax due. The sponsor of the calling card or wholesaler is considered the consumer of all calls that are transmitted through the switch and, therefore, must pay any applicable tax to the service provider based on their per unit cost, not the retail rate.

### **Purchases of Services for Resale**

Sales tax is imposed only on retail sales of telecommunications; sales for resale are exempt. Purchases of telecommunications by a telecommunications provider for use as a component part of telecommunications provided to an ultimate retail consumer who originates or terminates the taxable end-to-end communications are sales for resale. For example, access charges paid to a local exchange by a telecommunications service provider are exempt from tax since they are sales for resale, whereas those same access charges are taxable when paid directly to the local exchange carrier by the end user.

When a person or organization who is not engaged in the business of offering telecommunications services to the public provides such services for their own private and exclusive use within the organization, there is no retail sale involved and no sales tax due. However, if any of the unused, excess telecommunications ca-

capacity is sold to another, the transaction is a taxable retail sale.

### **Charges Taxed by Another State**

To prevent duplicate taxation, the law provides a reciprocal credit for sales tax legally imposed by another state which the consumer actually pays on any interstate telecommunication also subject to tax in New Jersey, provided the other state has comity with New Jersey for sales tax.

### **Billing/Collection Agents**

If a local exchange carrier, acting as an agent on behalf of a long distance carrier, collections contractor or other principal, bills local customers for local and long distance services (including any sales tax due on those services) and remits part of the amount collected to the principal, the agent is liable for submitting sales tax only on the amount it retains. However, the agent must be able to provide billing and collection data to the principal and to the State of New Jersey. Amounts turned over to the principals are their responsibility.

Long distance carriers, inter-exchange carriers and other retailers who retain local exchange carriers, or other agents in New Jersey to bill and collect gross charges from customers in New Jersey, are considered to be retailers maintaining a place of business in New Jersey. As such, they are required to register with New Jersey and file sales and use tax returns.

**Taxpayers' Bill of Rights**

The New Jersey Taxpayers' Bill of Rights ensures that taxpayers are accorded fair and equitable treatment and receive the information and assistance they need to understand and meet their State tax responsibilities. To find out more, contact the Division of Taxation.

**For More Information**

For more information about telecommunications, contact the Division's Tax Hotline at 609-588-2200, or write to:

NEW JERSEY DIVISION OF TAXATION  
TECHNICAL SERVICES TSB/OCE  
PO BOX 281  
TRENTON NJ 08646-0281

Many State tax forms and publications are now available, both by fax and through the World Wide Web. Call NJ TaxFax at 609-588-4500 from your fax machine's phone, or access the Division's home page via your computer's modem at: <http://www.state.nj.us/treasury/taxation/>