

## CHAPTER 65 SALES AND USE TAX

### SUBCHAPTER 18. SOURCING PURSUANT TO THE STREAMLINED SALES AND USE TAX ADMINISTRATION ACT

#### 710:65-18-5. Sourcing of telecommunications and other related services

(a) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meanings unless the context clearly indicates otherwise:

- (1) *"Air-to-ground radiotelephone service"* means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft;
- (2) *"Call-by-call basis"* means any method of charging for telecommunications services where the price is measured by individual calls;
- (3) *"Communications channel"* means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;
- (4) *"Customer"* means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service. *"Customer"* does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area;
- (5) *"Customer channel termination point"* means the location where the customer either inputs or receives the communications;
- (6) *"End user"* means the person who utilizes the telecommunications service. In the case of an entity, *"end user"* means the individual who utilizes the service on behalf of the entity. [68 O.S.Supp.2003, § 1354.30(A)(6)]
- (7) *"Home service provider"* means the same as that term is defined in Section 124(5) of Public Law 106-252, the Mobile Telecommunications Sourcing Act. [68 O.S.Supp.2003, § 1354.30(A)(7)]
- (8) *"Mobile telecommunications service"* means the same as that term is defined in Section 124(5) of Public Law 106-252, the Mobile Telecommunications Sourcing Act;
- (9) *"Place of primary use"* means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, *"place of primary use"* must be within the licensed service area of the home service provider;
- (10) *"Post-paid calling service"* means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to which a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service, except a prepaid wireless calling service that would be a prepaid calling service except it is not exclusively a telecommunications service;
- (11) *"Prepaid calling service"* means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;

(12) **"Prepaid wireless calling services"** means a telecommunications wireless service that provides the right to utilize mobile wireless service as well as other nontelecommunication services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount. [68 O.S. Supp 2007 1354.30(A)(12)]

(13) **"Private communication service"** means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels; and

(14) **"Service address"** means:

(A) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(B) If the location in (A) of this paragraph is not known, "service address" means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller; and,

(C) If the locations in (A) and (B) of this paragraph are not known, "service address" means the location of the customer's place of primary use.

(b) **Services sold on a call-by-call basis.** Except for those telecommunications services defined in (d) of this Section, sales of telecommunications which are sold on a "call-by-call" basis are sourced in accordance with the following:

(1) When the call both originates and terminates in the same jurisdiction, the call is sourced to that jurisdiction.

(2) The jurisdiction in which the service address is located when the call either originates or terminates in that jurisdiction.

(c) **Services sold on a basis other than on a call-by-call basis.** For those telecommunications services sold on a basis other than on a call-by-call basis, and except for those services defined in (d) of this Section, the sale is sourced to the customer's place of primary use.

(d) **Other telecommunication services.** The sale of the following services shall be sourced as in the following manner:

(1) A sale of mobile telecommunications services other than air-to-ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by the provisions of Section 55001 of Title 68 of the Oklahoma Statutes;

(2) A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either:

(A) The seller's telecommunications system, or

(B) Information received by the seller from its service provider, where the system used to transport such signals is not that of the seller;

(3) A sale of prepaid calling service or a sale of a prepaid wireless calling service is sourced in accordance with 710:65-18-3. Provided, in the case of a sale of a prepaid wireless calling service, the provisions of paragraph (5) of 710:65-18-3 shall apply; and

(4) A sale of a private communication service is sourced as follows:

(A) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located,

*(B) Service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located,*

*(C) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced fifty (50) percent in each level of jurisdiction in which the customer channel termination points are located, and*

*(D) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points. [68 O.S.Supp.2003, § 1354.30]*

**(e) Ancillary services.** The sale of an ancillary service is sourced to the customer's place of primary use.