

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Simplified Municipal Telecommunications Tax  
5 Act is amended by changing Section 5-7 as follows:

6 (35 ILCS 636/5-7)

7 Sec. 5-7. Definitions. For purposes of the taxes authorized  
8 by this Act:

9 "Amount paid" means the amount charged to the taxpayer's  
10 service address in such municipality regardless of where such  
11 amount is billed or paid.

12 "Department" means the Illinois Department of Revenue.

13 "Gross charge" means the amount paid for the act or  
14 privilege of originating or receiving telecommunications in  
15 such municipality and for all services and equipment provided  
16 in connection therewith by a retailer, valued in money whether  
17 paid in money or otherwise, including cash, credits, services  
18 and property of every kind or nature, and shall be determined  
19 without any deduction on account of the cost of such  
20 telecommunications, the cost of the materials used, labor or  
21 service costs or any other expense whatsoever. In case credit  
22 is extended, the amount thereof shall be included only as and  
23 when paid. "Gross charges" for private line service shall  
24 include charges imposed at each channel termination point  
25 within a municipality that has imposed a tax under this Section  
26 and charges for the portion of the inter-office channels  
27 provided within that municipality. Charges for that portion of  
28 the inter-office channel connecting 2 or more channel  
29 termination points, one or more of which is located within the  
30 jurisdictional boundary of such municipality, shall be  
31 determined by the retailer by multiplying an amount equal to  
32 the total charge for the inter-office channel by a fraction,

1 the numerator of which is the number of channel termination  
2 points that are located within the jurisdictional boundary of  
3 the municipality and the denominator of which is the total  
4 number of channel termination points connected by the  
5 inter-office channel. Prior to January 1, 2004, any method  
6 consistent with this paragraph or other method that reasonably  
7 apportions the total charges for inter-office channels among  
8 the municipalities in which channel termination points are  
9 located shall be accepted as a reasonable method to determine  
10 the taxable portion of an inter-office channel provided within  
11 a municipality for that period. However, "gross charge" shall  
12 not include any of the following:

13 (1) Any amounts added to a purchaser's bill because of  
14 a charge made pursuant to: (i) the tax imposed by this Act,  
15 (ii) the tax imposed by the Telecommunications Excise Tax  
16 Act, (iii) the tax imposed by Section 4251 of the Internal  
17 Revenue Code, (iv) 911 surcharges, or (v) charges added to  
18 customers' bills pursuant to the provisions of Section  
19 9-221 or 9-222 of the Public Utilities Act, as amended, or  
20 any similar charges added to customers' bills by retailers  
21 who are not subject to rate regulation by the Illinois  
22 Commerce Commission for the purpose of recovering any of  
23 the tax liabilities or other amounts specified in those  
24 provisions of the Public Utilities Act.

25 (2) Charges for a sent collect telecommunication  
26 received outside of such municipality.

27 (3) Charges for leased time on equipment or charges for  
28 the storage of data or information for subsequent retrieval  
29 or the processing of data or information intended to change  
30 its form or content. Such equipment includes, but is not  
31 limited to, the use of calculators, computers, data  
32 processing equipment, tabulating equipment or accounting  
33 equipment and also includes the usage of computers under a  
34 time-sharing agreement.

35 (4) Charges for customer equipment, including such  
36 equipment that is leased or rented by the customer from any

1 source, wherein such charges are disaggregated and  
2 separately identified from other charges.

3 (5) Charges to business enterprises certified as  
4 exempt under Section 9-222.1 of the Public Utilities Act to  
5 the extent of such exemption and during the period of time  
6 specified by the Department of Commerce and Economic  
7 Opportunity ~~Community Affairs~~.

8 (6) Charges for telecommunications and all services  
9 and equipment provided in connection therewith between a  
10 parent corporation and its wholly owned subsidiaries or  
11 between wholly owned subsidiaries when the tax imposed  
12 under this Act has already been paid to a retailer and only  
13 to the extent that the charges between the parent  
14 corporation and wholly owned subsidiaries or between  
15 wholly owned subsidiaries represent expense allocation  
16 between the corporations and not the generation of profit  
17 for the corporation rendering such service.

18 (7) Bad debts ("bad debt" means any portion of a debt  
19 that is related to a sale at retail for which gross charges  
20 are not otherwise deductible or excludable that has become  
21 worthless or uncollectible, as determined under applicable  
22 federal income tax standards; if the portion of the debt  
23 deemed to be bad is subsequently paid, the retailer shall  
24 report and pay the tax on that portion during the reporting  
25 period in which the payment is made).

26 (8) Charges paid by inserting coins in coin-operated  
27 telecommunication devices.

28 (9) Amounts paid by telecommunications retailers under  
29 the Telecommunications Infrastructure Maintenance Fee Act.

30 (10) Charges for nontaxable services or  
31 telecommunications if (i) those charges are aggregated  
32 with other charges for telecommunications that are  
33 taxable, (ii) those charges are not separately stated on  
34 the customer bill or invoice, and (iii) the retailer can  
35 reasonably identify the nontaxable charges on the  
36 retailer's books and records kept in the regular course of

1 business. If the nontaxable charges cannot reasonably be  
2 identified, the gross charge from the sale of both taxable  
3 and nontaxable services or telecommunications billed on a  
4 combined basis shall be attributed to the taxable services  
5 or telecommunications. The burden of proving nontaxable  
6 charges shall be on the retailer of the telecommunications.

7 "Interstate telecommunications" means all  
8 telecommunications that either originate or terminate outside  
9 this State.

10 "Intrastate telecommunications" means all  
11 telecommunications that originate and terminate within this  
12 State.

13 "Person" means any natural individual, firm, trust,  
14 estate, partnership, association, joint stock company, joint  
15 venture, corporation, limited liability company, or a  
16 receiver, trustee, guardian, or other representative appointed  
17 by order of any court, the Federal and State governments,  
18 including State universities created by statute, or any city,  
19 town, county, or other political subdivision of this State.

20 "Purchase at retail" means the acquisition, consumption or  
21 use of telecommunications through a sale at retail.

22 "Retailer" means and includes every person engaged in the  
23 business of making sales at retail as defined in this Section.  
24 The Department may, in its discretion, upon application,  
25 authorize the collection of the tax hereby imposed by any  
26 retailer not maintaining a place of business within this State,  
27 who, to the satisfaction of the Department, furnishes adequate  
28 security to insure collection and payment of the tax. Such  
29 retailer shall be issued, without charge, a permit to collect  
30 such tax. When so authorized, it shall be the duty of such  
31 retailer to collect the tax upon all of the gross charges for  
32 telecommunications in this State in the same manner and subject  
33 to the same requirements as a retailer maintaining a place of  
34 business within this State. The permit may be revoked by the  
35 Department at its discretion.

36 "Retailer maintaining a place of business in this State",

1 or any like term, means and includes any retailer having or  
2 maintaining within this State, directly or by a subsidiary, an  
3 office, distribution facilities, transmission facilities,  
4 sales office, warehouse or other place of business, or any  
5 agent or other representative operating within this State under  
6 the authority of the retailer or its subsidiary, irrespective  
7 of whether such place of business or agent or other  
8 representative is located here permanently or temporarily, or  
9 whether such retailer or subsidiary is licensed to do business  
10 in this State.

11 "Sale at retail" means the transmitting, supplying or  
12 furnishing of telecommunications and all services and  
13 equipment provided in connection therewith for a  
14 consideration, to persons other than the Federal and State  
15 governments, and State universities created by statute and  
16 other than between a parent corporation and its wholly owned  
17 subsidiaries or between wholly owned subsidiaries for their use  
18 or consumption and not for resale.

19 "Service address" means the location of telecommunications  
20 equipment from which telecommunications services are  
21 originated or at which telecommunications services are  
22 received by a taxpayer. In the event this may not be a defined  
23 location, as in the case of mobile phones, paging systems, and  
24 maritime systems, service address means the customer's place of  
25 primary use as defined in the Mobile Telecommunications  
26 Sourcing Conformity Act. For air-to-ground systems and the  
27 like, "service address" shall mean the location of a taxpayer's  
28 primary use of the telecommunications equipment as defined by  
29 telephone number, authorization code, or location in Illinois  
30 where bills are sent. "Service address" includes the 9-digit  
31 enhanced United States postal zip code.

32 "Taxpayer" means a person who individually or through his  
33 or her agents, employees, or permittees engages in the act or  
34 privilege of originating or receiving telecommunications in a  
35 municipality and who incurs a tax liability as authorized by  
36 this Act.

1 "Telecommunications", in addition to the meaning  
2 ordinarily and popularly ascribed to it, includes, without  
3 limitation, messages or information transmitted through use of  
4 local, toll, and wide area telephone service, private line  
5 services, channel services, telegraph services,  
6 teletypewriter, computer exchange services, cellular mobile  
7 telecommunications service, specialized mobile radio,  
8 stationary two-way radio, paging service, or any other form of  
9 mobile and portable one-way or two-way communications, or any  
10 other transmission of messages or information by electronic or  
11 similar means, between or among points by wire, cable, fiber  
12 optics, laser, microwave, radio, satellite, or similar  
13 facilities. As used in this Act, "private line" means a  
14 dedicated non-traffic sensitive service for a single customer,  
15 that entitles the customer to exclusive or priority use of a  
16 communications channel or group of channels, from one or more  
17 specified locations to one or more other specified locations.  
18 The definition of "telecommunications" shall not include value  
19 added services in which computer processing applications are  
20 used to act on the form, content, code, and protocol of the  
21 information for purposes other than transmission.  
22 "Telecommunications" shall not include purchases of  
23 telecommunications by a telecommunications service provider  
24 for use as a component part of the service provided by such  
25 provider to the ultimate retail consumer who originates or  
26 terminates the taxable end-to-end communications. Carrier  
27 access charges, right of access charges, charges for use of  
28 inter-company facilities, and all telecommunications resold in  
29 the subsequent provision of, used as a component of, or  
30 integrated into, end-to-end telecommunications service shall  
31 be non-taxable as sales for resale. Prepaid telephone calling  
32 arrangements shall not be considered "telecommunications"  
33 subject to the tax imposed under this Act. For purposes of this  
34 Section, "prepaid telephone calling arrangements" means that  
35 term as defined in Section 2-27 of the Retailers' Occupation  
36 Tax Act.

1 (Source: P.A. 92-526, eff. 7-1-02; 92-878, eff. 1-1-04; 93-286,  
2 eff. 1-1-04; revised 12-6-03.)

3 Section 10. The Mobile Telecommunications Sourcing  
4 Conformity Act is amended by changing Section 10 as follows:

5 (35 ILCS 638/10)

6 Sec. 10. Definitions. As used in this Act:

7 "Charges for mobile telecommunications services" means any  
8 charge for, or associated with, the provision of commercial  
9 mobile radio service, as defined in Section 20.3 of Title 47 of  
10 the Code of Federal Regulations as in effect on June 1, 1999,  
11 or any charge for, or associated with, a service provided as an  
12 adjunct to a commercial mobile radio service, that is billed to  
13 the customer by or for the customer's home service provider  
14 regardless of whether individual transmissions originate or  
15 terminate within the licensed service area of the home service  
16 provider.

17 "Customer" means (i) the person or entity that contracts  
18 with the home service provider for mobile telecommunications  
19 services or (ii) if the end user of mobile telecommunications  
20 services is not the contracting party, the end user of the  
21 mobile telecommunications services, but this clause (ii)  
22 applies only for the purpose of determining the place of  
23 primary use. "Customer" does not include (i) a reseller of  
24 mobile telecommunications service or (ii) a serving carrier  
25 under an arrangement to serve the customer outside the home  
26 service provider's licensed service area.

27 "Designated database provider" means a corporation,  
28 association, or other entity representing all the political  
29 subdivisions of a State that is:

30 (i) responsible for providing an electronic database  
31 prescribed in Section 25 if the State has not provided such  
32 electronic database; and

33 (ii) approved by municipal and county associations or  
34 leagues of the State whose responsibility it would

1 otherwise be to provide such database prescribed by  
2 Sections 116 through 126 of Title 4 of the United States  
3 Code.

4 "Enhanced zip code" means a United States postal zip code  
5 of 9 or more digits.

6 "Home service provider" means the facilities-based carrier  
7 or reseller with which the customer contracts for the provision  
8 of mobile telecommunications services.

9 "Licensed service area" means the geographic area in which  
10 the home service provider is authorized by law or contract to  
11 provide commercial mobile radio service to the customer.

12 "Mobile telecommunications service" means commercial  
13 mobile radio service, as defined in Section 20.3 of Title 47 of  
14 the Code of Federal Regulations as in effect on June 1, 1999.

15 "Place of primary use" means the street address, including  
16 the 9-digit enhanced United States postal zip code,  
17 representative of where the customer's use of the mobile  
18 telecommunications service primarily occurs, which must be:

19 (i) the residential street address or the primary  
20 business street address of the customer; and

21 (ii) within the licensed service area of the home  
22 service provider.

23 "Prepaid telephone calling services" means the right to  
24 purchase exclusively telecommunications services that must be  
25 paid for in advance that enables the origination of calls using  
26 an access number, authorization code, or both, whether manually  
27 or electronically dialed, if the remaining amount of units of  
28 service that have been prepaid is known by the provider of the  
29 prepaid service on a continuous basis.

30 "Reseller" means a provider who purchases  
31 telecommunications services from another telecommunications  
32 service provider and then resells, uses as a component part of,  
33 or integrates the purchased services into a mobile  
34 telecommunications service. "Reseller" does not include a  
35 serving carrier with which a home service provider arranges for  
36 the services to its customers outside the home service



1 provider's licensed service area.

2 "Serving carrier" means a facilities-based carrier  
3 providing mobile telecommunications service to a customer  
4 outside a home service provider's or reseller's licensed  
5 service area.

6 "Taxing jurisdiction" means any of the several states, the  
7 District of Columbia, or any territory or possession of the  
8 United States, any municipality, city, county, township,  
9 parish, transportation district, or assessment jurisdiction,  
10 or any other political subdivision within the territorial  
11 limits of the United States with the authority to impose a tax,  
12 charge, or fee.

13 (Source: P.A. 92-474, eff. 8-1-02.)

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law.