

This document provides definitions for telecommunications services, components of telecommunications services and other related terms. The intent is to seek uniform definitions of terms for state and local transaction taxes. It is not intended to change any state or localities tax base. Nor is it intended for the definitions impact any regulatory interpretation. While most state statutes subject the sales and uses of all tangible personal property to sales tax unless an exemption is provided, the same is not true for services. Most states apply sales taxes only to those services specifically enumerated in the statute. The list of terms in this document is extensive to allow states to choose those components and terms necessary to build up to their tax base.

NOTE: Items with an asterisk were identified at the January 2004 meeting as needing further discussion in a conference call to be scheduled before the May meeting.

Telecommunications Tax Reform Initiative

Draft - Definition of Telecommunications Terms for State and Local Transaction Taxes

Table 1: Tax Base/Exemption Terms

Term	Definition	References
<u>Ancillary Services</u>	Services as hereinafter provided that are associated with or incidental to the provision of telecommunications services, including but not limited to detailed telecommunications billing, directory assistance, service initiation charge, vertical service, and voice mail services.	
Detailed Telecommunications Billing Service	The ancillary service of separately stating information pertaining to individual calls on a customers billing statement.	
Directory Assistance	The ancillary service of providing telephone number information, and/or address information.	
*Vertical Service	An non-transmission based ancillary service that is offered in connection with one or more telecommunications services, that offers advanced calling features, including but not limited to caller ID services, call forwarding services, and three-way calling services. Such services are provided in the communications switch or router that allow customers to identify callers and to manage multiple calls and call connections.	Explanation of non-transmission based added. Does ring tones for wireless belong here? Ring tones are digital property. <u>John Cmelak to do white paper.</u>
Voice Mail Services	An ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service is not provided in the communications switch or router and does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.	Explanation added on why voice mail is not vertical service.
<u>Internet Access Service</u>	To be developed. The current ITFA definition is not deemed adequate.	

Term	Definition	References
<p><u>Telecommunications Services</u></p>	<p>The <u>electronic</u> transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, by or through any electronic, radio, satellite, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission, conveyance, or routing.</p> <p><u>Tennessee alternative language: The electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term "telecommunications services" includes such transmission services in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such services are referred to as enhanced or value added services.</u></p> <p>The term does not include:</p> <ul style="list-style-type: none"> *a. Generating, acquiring, storing, transforming, processing, retrieving, utilizing or making available information where the true object of the transaction is the content and not the transmission of the content; <u>Tennessee alternative language: Information services. "Information services" as used in this section means the offering of a capability that allows data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the primary purpose of the underlying transaction is the data. "Information services" does not include the processing or manipulation of data where the primary purpose of the underlying transaction is to allow the transmission, conveyance or routing of the data. "Information services" does not include the management, control or operation of a telecommunications system;</u> b. Installation or maintenance of wiring or equipment on a customer's premises; c. Tangible personal property; d. Advertising, including but not limited to directory advertising. e. Billing and collection services provided to third parties; *f. Internet access service; *g. Radio and television audio and video programming services regardless of the medium; or h. Ancillary services; <u>or</u> <u>i. Digital products delivered electronically, including but not limited to software, downloaded music or reading materials.</u> 	<p>The exclusion of bad check charges, interest charges and late payment charges was deleted because the states felt they were already excluded in the definition of sales price.</p> <p><u>Added to the information service exclusion to differentiate from the FCC definition.</u></p> <p><u>After discussion with Vicki Gibbons, it was decided to leave tangible personal property as is.</u></p> <p><u>Added language to exclude digital products.</u></p> <p><u>Language used is from Tennessee legislation.</u></p>

Term	Definition	References
800 Service	A telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The call is charged to the recipient rather than the originator. The service is typically marketed under the name “800”, “855”, “866”, “877”, and “888” toll-free calling, and any subsequent numbers designated by the Federal Communications Commission.	FCC definition: 800 service is an inter-exchange service in which a subscriber agrees in advance to pay for all calls made to its 800 number from a specified area.
900 Service	An inbound toll telecommunications service purchased by a subscriber that allows the subscriber’s customers to call in to the subscriber’s prerecorded announcement or live service. “900 service” does not include the charge for: a) one-time service establishment; b) collection services provided by the telecommunications provider to the subscriber, or c) service or product sold by the subscriber to the subscriber’s customer. The service is typically marketed under the name “900” service, and any subsequent numbers designated by the Federal Communications Commission.	Do we need to add a phrase similar to 800 service for alternative numbers? Added
Network Access Service	Offering of access to another telecommunications provider’s telecommunications systems, network elements or facilities.	Telecommunications Act of 1996
Paging Service	A telecommunications service that provides transmission of coded radio signals for the purpose of activating specific pagers; such transmissions may include messages and/or sounds.	47CFR22.99 as 10/01/2000.
Private Communication Service	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.	Does this apply to wireless? The definition is technologically neutral and would apply to wireless. Examples needed in white paper of VPN and Frame Relay.
WATS	No definition provided as this is an outdated term.	

Table 2 – Terms modifying scope of Table 1 terms

Term	Definition	References	Notes
*Local Service	The agreement needs to be changed to allow states to use the term under the state's own definition to tax or not tax local service. The term local service is outdated, as a result the industry could not agree on a definition that 1) recognizes that newer technologies and methods of providing service do not respect local calling areas and 2) also would create a level playing field between competitive services.		How do we work out in the agreement because of the defined term restrictions?
International	Originates or terminates in the United States (including the District of Columbia or US territory or possession) and terminates or originates outside the United States (including the District Columbia or US territory or possession)		
Interstate	Originates in one US state (including the District of Columbia or US territory or possession) and terminates in a different US state (including the District of Columbia or US territory or possession.)		
Intrastate	Originates in one US state (including the District of Columbia or US territory or possession) and terminates in the same US state (including the District of Columbia, or US territory or possession.)		
*Mobile Wireless	Telecommunications services that are transmitted, conveyed or routed regardless of the technology used, whereby the origination and/or termination points of the transmission, conveyance or routing are not fixed, including, by way of example only, telecommunications services that are provided by a CMRS provider		There is a concern about having one definition for sourcing and one for modifying taxable base. Changed term being defined for taxing purposes.
Fixed Wireless	A telecommunications service that provides radio communication between fixed points		47CFT27.4 as of 10/01/2000. Moved from Table 1.
Residential Service	Service provided to an individual for personal use at a residential address, including an individual dwelling unit such as an apartment. In the case of institutions where individuals reside, such as schools or nursing homes, telecommunications services is considered residential if it is provided to and paid by an individual resident rather than the institution.	MA 830 CMR64H.1. 6	Moved from Table 3.

Table 3 – Terms needed to define sourcing terms

Term	Definition	References	Notes
Air-to-Ground Radiotelephone service	“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.	47CFR22.99	Amended to reflect November 12, 2002 final agreement
Call-by-Call Basis	Any method of charging for telecommunications services where the price is measured by individual calls.		Amended to reflect November 12, 2002 final agreement
Communications Channel	A physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.		Amended to reflect November 12, 2002 final agreement
Customer	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, but this sentence only applies for the purpose of sourcing sales of telecommunications services under Section 314. “Customer” does not include a reseller of telecommunications service or for mobile telecommunications services a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.		Amended to reflect November 12, 2002 final agreement
Customer Channel Termination Point	The location where the customer either inputs or receives the communications.		Amended to reflect November 12, 2002 final agreement
End User	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.		Amended to reflect November 12, 2002 final agreement
Home Service Provider	Means the same as that term is defined in section 124(5) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).		Amended to reflect November 12, 2002 final agreement
Place of Primary Use	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		Reflects November 12, 2002 agreement

Term	Definition	References	Notes
	telecommunications services, “place of primary use” must be within the licensed service area of the home service provider.		
Post-paid calling service	A telecommunications service obtained by making payment on a call-by-call basis either through the use of a credit or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid service includes a telecommunications service that would be a prepaid calling service except it is not exclusively a telecommunications service.		Amended to reflect November 12, 2002 final agreement
Prepaid Calling Service	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.		Amended to reflect November 12, 2002 final agreement
Service Address for purposes of the sourcing rules submitted by the telecommunications industry	<p>(1) 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.</p> <p>(2) If the location in subsection (1) is not known, service address means the origination point of the signal of the telecommunications service 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.</p> <p>(3) If the location in subsection (1) and subsection (2) are not known, the service address means the location of the customer's place of primary use.</p>	From telecommunications sourcing rules	Amended to reflect November 12, 2002 final agreement