

**Draft Document Not For Publication But For Discussion Purposes Only** – Nothing contained herein represents a final position or opinion of the State and Local Advisory Council. Readers should neither rely on any information herein nor make any inferences about final interpretations of member states or the Governing Board from the statements contained herein as this is a draft only and may change in response to comments and input from the public or private sector.

August 2011 – Summary Paper  
**Telecommunications**  
**Construction of Prepaid Definitions – Prepaid Wireless Units**

**Tax Base/Exemptions Terms**

**Construction of Prepaid Definitions - Prepaid Wireless Units**

The Streamlined Sales Tax Project approved an Issue paper on telecommunications definitions in April 2005<sup>1</sup> that introduced a definition for “Prepaid Wireless Calling Service”. A new amendment to the rules: “A Motion by Oklahoma, Washington and Wisconsin to amend the rules Construing Prepaid Calling Service and Prepaid Wireless Calling Service Definitions”, is being proposed. This issue paper will describe the background and reason for the new proposed amendment to the rules.

The April 2005 definition, shown below was developed by industry and government participants and was adopted as an amendment to, the Appendix C Library of Definitions, the Telecommunications Sourcing Definitions in section 315 of the Agreement, and Rule 327.2 on April 16, 2005.

“Prepaid wireless calling service means a telecommunications service that provides the right to utilize mobile wireless service as well as other non-telecommunications 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.”

An integral reason for the 2005 amendment was to retain the point-of-sale taxation of prepaid wireless products to encompass evolving prepaid products that allowed consumers to purchase more than just voice time. At the time prepaid wireless service was typically sold in terms of minutes (e.g., 100 minutes for \$50, etc.) or dollars. However, in defining prepaid services the definition retained the broader concept of “*predetermined units or dollars*” as part of the amendment. The broader concept of “units” provided a desired level of flexibility that has continued to cover new and evolving ways in which prepaid service, primarily wireless, is being marketed and packaged to consumers.

---

<sup>1</sup> Streamlined Sales Tax Project Issue Paper April 18, 2005 “Telecommunications and Related Definitions”

Since 2005 the continued rapid growth of prepaid wireless products has provided consumers with a wider range of options, including new offers that are expressed in units of time other than minutes. For example, offers have been advertised as “unlimited minutes” that expire over a prescribed unit of time such as weeks or months.

Questions have arisen in member states as to whether “unlimited” plans meet the streamlined definition. Because the term “unit” is broader than “minutes” such term must be given a meaning broader than just “minutes”. The so called “unlimited” plans are in fact limited in terms of other predetermined units of measure such as a month (and the customer is not entitled to further use of the service after that predetermined limitation has been met). To the extent the plans include a “predetermined unit” limit even though it is longer than a minute the plans meet the definition of prepaid wireless calling service.

### **Recommendation**

A clarification to explain the intent of the term “predetermined units of dollars” is recommended. Examples of the measures and combinations of measures of units, including event driven that meet the criteria of prepaid wireless service for purposes of the telecommunications sourcing definitions in Section 315 and for the telecommunications definitions in the Library of Definitions, would be helpful in explaining the intent of the term.