Main Street Fairness Act Q & A for State Tax Administrators

Why are the communications provisions of the Main Street Fairness Act important?

The current structure of taxes imposed on communications services is among the most complex that any industry bears. Numerous studies by organizations such as the Council On State Taxation, the National Governors Association (NGA), and the Heartland Institute document the additional taxes, additional taxing jurisdictions and additional burdens on communications services, property and providers. This complexity renders compliance a significant burden borne by the communications service providers. Because of the lack of uniformity and centralized information, the industry must account for the thousands of different taxes, multiple rates, and varying tax bases that are imposed by the thousands of taxing jurisdictions in the states and localities where they operate. In addition, consumers are faced with dauntingly complex billing statements from the providers. The Streamlined Sales Tax effort significantly reduces these burdens and is structured in a way that protects state and local revenue streams. The Streamlined approach also provides great flexibility for states to incorporate emerging technologies and business models into their tax structure, while many states currently are restricted by outdated definitions of communications services.

Why are the Communications Provisions included in the Main Street Fairness Act?

In 1999, the National Conference of State Legislatures (NCSL), along with the NGA, received a commitment from the communications industry not to seek or support federal legislation that would address state communications tax reform and, in return, NCSL and NGA committed to work with the communications industry to include simplification of the administration and collection of taxes on communications services within the streamlined sales tax system.

The communications industry has been active participants at every meeting of the Streamlined Sales Tax Project (SSTP), The Streamlined Sales Tax Implementing States, the Conforming States and now the Streamlined Sales Tax Governing Board. The industry's assistance has been vital to our success not only in developing the Streamlined Sales and Use Tax Agreement (Agreement), but in helping state legislators in many states to approve legislation to participate in the multistate discussions on streamlining.

In 2002, after the Agreement was approved by the Implementing States, the co-chairs of the SSTP surveyed state tax administrators as to what taxes in each state would be included in the streamlined system—a large number of responses came back from tax administrators saying they would not apply the simplifications of the Agreement to the collection and administration of taxes and fees on communications services. As a result of this development, the communications industry's representatives who worked with the states in developing the Streamlined system believed that, to ensure states would extend the Streamlined system to taxes on communications services, it would be necessary to have a guarantee in federal legislation – thus the inclusion in the federal Simplified Sales and Use Tax Act of 2003.

In May 2003, the NCSL Task Force on State and Local Taxation of Communications and Electronic Commerce unanimously approved the inclusion of the telecommunications provision in the federal “Simplified Sales and Use Tax Act” (subsequently, the “Sales Tax Fairness and Simplification Act,” and now the “Main Street Fairness Act”). NCSL continues to reconfirm its support for this provision in the federal legislation.

How does the Main Street Fairness Act level the playing field between in-state and out-of-state business, including communications services providers?

As a result of a 1992 U.S. Supreme Court case (*Quill Corp. v. North Dakota*, 504 U.S. 298 (1992)), only sellers with a location, employees, inventory, or other physical presence in the state may be required to collect sales and use taxes. Consequently, sellers without such in-state presence do not have to collect tax. While the purchaser still owes tax on purchases from out-of-state sellers, in many cases the purchaser is not aware of his or her obligation to pay tax directly to the state. Further, it is difficult for state tax authorities to enforce collection of use tax from purchasers. The inability to require remote sellers to collect tax creates a price advantage for those sellers, as purchasers seek out products sold via the Internet or other means where the seller is not required to charge tax on the invoice.

The Main Street Fairness Act (Act) would overturn the 1992 U.S. Supreme Court case for participating states and require all sellers making sales in that state to collect sales, use, or communications taxes (as applicable) regardless of physical presence. More specifically, so long as a state sufficiently simplifies its sales, use, and communications services tax laws as set forth in the Act, the state may require all sellers (other than certain “small” sellers) to collect and remit those taxes with respect to remote sales made in the state. Accordingly, the Act eliminates the perceived competitive advantages of out-of-state sellers over in-state sellers.

How do the communications service tax simplification provisions of the Main Street Fairness Act benefit local governments?

The Act contains numerous provisions that would benefit local governments. In addition to leveling the playing field between local communications service providers and those that offer their services remotely, the Act maintains local governments’ tax revenues by modernizing the communications service tax base and streamlining the administration of communications service taxes. Local governments will continue to be able to set their own rates for taxes on communications services. Also important to remember is that states wishing to continue to collect sales and use tax from remote sellers and on communications services have three full years to achieve compliance with provisions regarding other taxes on communications services. While the sales and use tax provisions are effective immediately upon enactment of the Act, the Act recognizes the complexity of simplification of other taxes on communications. The industry agreed to this additional time as a good faith effort to accommodate the states’ need for time to formulate a strategy to achieve full compliance and meet the state’s public policy goals.

Will the Main Street Fairness Act change the amount local governments receive as a result of the Act’s tax simplification measures?

No, the Act does not affect the level of communication services tax revenues. In fact, the benefits mentioned above (modernizing the tax base and streamlining administration) could increase communications service tax revenues by authorizing the collection of taxes from remote sellers, maintaining the tax base in light of new technologies, and making enforcement of the tax more efficient. Further, the Act eases the tax compliance burden placed on communications service providers. As a result, communications service providers would collect, report, and remit taxes in a more accurate and complete manner. While the industry would support any effort to reduce the tax burdens imposed on communications services, this legislation does not reduce the amount of taxes communications services providers must collect. Notably, the industry dropped prior federal legislative efforts that would have prohibited discriminatory taxes on communications services in an effort to work with the states on solutions. However, nothing prevents a state from eliminating such taxes without federal legislation.

What communication services taxes would be affected under the Main Street Fairness Act?

The Act provides that any participating state (and localities thereof) must simplify each type of tax on communications services. "Tax on communication services" means any tax, charge or fee: (1) levied by a taxing jurisdiction as a fixed charge for each customer (e.g., E-911 fees, universal service fund fees, relay fees) or (2) measured by gross amounts charged to customers for communications services, regardless of whether such tax, charge, or fee is imposed on the vendor or customer of the service and regardless of the terminology used to describe the tax, charge or fee (e.g., telecommunications excise taxes and certain franchise fees). This definition follows the definition used in the federal Mobile Telecommunications Sourcing Act that was a joint state and industry effort.

What communications services taxes would *not* be affected under the Main Street Fairness Act?

The Act specifically excludes certain taxes, charges or fees imposed by state or local governments on communications services or communications service providers. As such, the Act's simplification provisions do not apply to these taxes. Specifically, the Act excludes from the definition of "tax on communication services": (1) net income taxes, capital stock or net worth taxes, ad valorem property taxes; (2) any tax, charge or fee that is equitably apportioned rather than imposed on a transaction basis; (3) any tax, charge or fee that is compensation for a communication services provider's use of public rights of way, except those taxes, charges, or fees levied as a fixed charge for each customer or based on gross amounts charged to customers or gross revenue from communication services; or (4) any generally applicable business and occupation tax that is imposed by a State, is applied to gross receipts or gross proceeds, and is the legal liability of the seller of communication services.

The Act emphasizes that the label of a particular tax is not relevant to its inclusion or treatment under the Act. Rather, the structure and function of a particular tax are the determining factors in whether it is covered by the Act. For instance, a right-of-way fee based upon cost is not covered, but a right-of-way fee imposed on a per-subscriber or percentage of gross revenue basis would be covered by the provisions of the Act. Corporate income taxes are not covered because they are based on net income and equitably apportioned on a state-by-state basis. Likewise, franchise fees/taxes are generally not covered. However, if the franchise fee/tax is structured as a gross receipts tax, such a tax would be covered by the Act. The Washington State Business and Occupation tax is another example of a tax not covered by the Act.

What does it mean if a communications services tax is covered by the Main Street Fairness Act?

If a state elects to simplify its tax laws in order to tax remote sellers, communications services taxes imposed by the state (and localities thereof) would be subject to the Act's simplification requirements. This means, for each type of tax on communications service, the state may need to amend its laws to make its communications tax regime more uniform and easier to administer, while reducing compliance burdens. Most notably, the state would need to make sure each type of communications services tax has a uniform tax base. This requirement does not mean different types of taxes on communications services must have the same base. For example, a state's E-911 fee need not have the same tax base as its telecommunications service excise tax, or that of the general sales and use tax base. In addition, the Act allows for local taxing jurisdictions to have one tax rate for each type of tax, but there is no requirement that those tax rates be uniform throughout the state. Indeed, the rates among the various taxing jurisdictions can vary, and those jurisdictions may choose to effectively set the rate on a particular tax to zero (by not imposing that tax, despite other jurisdictions doing so). Additional simplification requirements under the Act include providing centralized statewide registration (with an option for sellers to elect local registration), developing state-specific uniform returns for each type of tax on communications services, and conducting audits for each tax-type at the state-level.

In general, the Main Street Fairness Act would require states to simplify "each type of tax on communications services." What does "each type" of tax mean in this context?

The determination of a "type of tax on communications services" is an important facet of the Act, particularly with regard to base uniformity. In general, a "type" of "tax on communications services" would: have a similar measure or be imposed on a similar base; have the same incidence of tax (e.g., fall on the vendor or consumer); would be in exchange for a specific benefit received or, alternatively, be characterized as a levy of general imposition (i.e., be characterized as a "tax" or a "fee" under well-established judicially-developed tests, see, e.g., *San Juan Cellular*, 967 F.2d 683 (1st Cir. 1992). Of course, industry is amenable to working with tax administrators to develop appropriate metrics for determining "each type of tax on communications services."

Would the Main Street Fairness Act change existing franchise agreements between video programming service providers (e.g., cable service providers) and state or local franchising authorities?

No, the Act does not require states to modify existing franchise agreements between video programming service providers and state or local franchising authorities, except where such agreements address the administration of a "tax on communications services." The Act would allow states that choose to participate to voluntarily enact laws that simplified administration of franchise fees on video programming service providers. The administration of such franchise fees would need to be simplified pursuant to the rules of the Agreement, including the requirement of a uniform tax base for any type of tax on communications services included in the franchise agreements.

Does the Main Street Fairness Act change the revenue sources that are subject to franchise fees imposed by states or localities on video programming service providers?

The Act would require a uniform base for each type of tax on communications services. The Act requires that, with regard to sales and use taxes, "all local jurisdictions in that Member State with respect to which a tax is imposed or collected, shall have a common tax base identical to the State tax base of the Member State." This provision also requires uniform definitions of products and product-based exemptions. The Act also requires that any "caps or thresholds" on tax rates or exemptions based on value be eliminated, again ensuring a uniform tax base.

The Act then incorporates all these simplification requirements as requirements placed on "other taxes on communications services." However, the modifications that apply to other taxes on communications services includes a provision that the uniform tax base requirement applies separately to each type of tax. No uniformity of tax base is required among the different types of taxes.

To the extent that franchise agreements include a "tax on communications services," those franchise agreements are subject to the minimum simplification requirements of the Act. Accordingly, local franchise fees that meet the definition of a "tax on communications services" would each have to comport with a single, state-wide definition of the tax base for that particular type of tax.

Does the Main Street Fairness Act change the rate of franchise fees imposed by states or localities on video programming service providers?

The Act does not require a uniform tax rate among local jurisdictions. Instead, each jurisdiction is allowed to set its own rate for franchise fees.

What are acceptable ways states could modify communications services tax laws to conform with the Main Street Fairness Act?

Should a state elect to simplify its sales, use, and communications services tax laws to benefit from the Act's remote seller nexus provisions, the state is afforded a number of ways to do so. The Act does not mandate any one particular regime. For example, the Act requires centralized, state-level administration of taxes on communications services. The localities could meet this requirement without relying on the state departments of revenue or other existing state agency. This would alleviate local concerns over state appropriations. Local governments could hire a third-party to administer the taxes on their behalf. Alternatively, the reform legislation could establish a trust fund, or association created and controlled by the local jurisdictions.

Does the Main Street Fairness Act provide flexibility for member states to adapt their communications services tax regimes to changing technologies, particularly with regard to video programming services?

Yes, if the Agreement does not define a specific term, the state has the ability to provide its own definition. Therefore, the Act would allow each state to impose taxes using its own definition of video programming. The definition can encompass technologies such as cable television service, direct broadcast satellite service, "over-the-top" video service, Internet protocol televisions, any other multichannel video programming service, video-on-demand, pay-per-view, and so forth. The Agreement's definition of telecommunications is very modern in its ability to reach new and emerging technologies and business models. It allows the states great flexibility in achieving their own policy goals that, in the long run, will benefit the individual states.

Has any state enacted communications services tax laws that could serve as a model for other states to adopt in order to comply with the Act's simplification requirements?

Yes, Virginia and North Carolina have enacted laws that significantly simplified their respective communications services tax regimes. These states, generally, have communications services tax regimes that would conform to the provisions of the Act without significant modification. Although some aspects of the Virginia and North Carolina regimes may not substantially comply with all terms of the Act, the regimes serve as a more than adequate starting point for reform under the Act's communications services tax provisions. Further, while these states' communications services tax regimes may not be a "one size fits all" solution for all states, these regimes (or portions thereof) exemplify the benefits of communications services tax simplification to both government and industry.

The Virginia Approach

Virginia enacted its communications sales and use tax, also referred to as the communications sales tax ("CST"), in 2006. The CST replaced most of the various state and local taxes and fees on communications services in effect prior to January 1, 2007. The CST is imposed on the charge for or sale of communications services at the rate of 5%, is generally collected from consumers by their service providers and is remitted to the Department of Taxation each month. Where a consumer purchases taxable communications services and no CST is collected from the consumer on the purchase by the service provider, the consumer will be responsible for paying a communications use tax.

As part of its communications services tax reform, Virginia enacted a uniform statewide E-911 tax of $0.75 per line. The uniform statewide E-911 fee replaced the local E-911 taxes imposed for landline telephone service. Virginia also made uniform its rights-of-way use fees for telecommunications service and cable service. Finally, Virginia changed the way that cable service providers pay franchise fees under their local cable franchise agreements, as discussed below.

Virginia's Tax Regime Prior to CST Reform

The CST replaced the following state and local taxes and fees on communications services:

- Local consumer utility tax on landline and wireless telephone service
- Local E-911 tax on landline telephone service
- Virginia Relay Center assessment on landline telephone service
- A portion of the local Business, Professional and Occupational License tax assessed on public service companies by certain localities that impose the tax at a rate higher than 0.5%
- Local video programming excise tax on cable television services
- Local consumer utility tax on cable television services

Along with the CST, the landline E-911 tax and the rights-of-way use fee, Virginia continued to impose State E-911 fee on wireless telecommunications service (see comments below) and the local Business, Professional and Occupational License ("BPOL") tax of 0.5% on the gross receipts (applicable to general business).

Administration of the Virginia CST

The CST is generally administered in the same manner as the Virginia sales and use tax. The CST is imposed on communications services at the rate of 5% and appears as a single line item on customers' bills.

Services Taxable Under the Virginia CST

The services subject to the CST include but are not limited to telecommunications services and video programming services. However, certain related services are not subject to the CST, such as information services, installation services, rental of tangible personal property, Internet access service (per federal law), digital goods, and bad debts.

Cable Franchise Fees

As part of the 2006 communications services tax reform legislation, Virginia law provides that cable franchise agreements are entered into or renegotiated after January 1, 2007 must not include a franchise fee. Agreements in place as of January 1, 2007 remain in effect until their stated dates of expiration. *However*, providers no longer make franchise fee payments directly to localities. Instead, these amounts are reported to the Department of Taxation on a schedule submitted with the CST return. To maintain local revenue levels, the Department of Taxation then pays franchise fees to localities from revenues generated by the CST. Although localities no longer collect their franchise fees directly, local governments retain the right to audit cable franchisees and to enforce franchise agreements. (Note, under the Act's communications services tax simplifications provisions, this aspect of the Virginia regime would need to be centralized. Under the Act, a single audit conducted at the state-level for each type of tax on communications services is required for a state to benefit from the Act's remote seller nexus provisions.)

Public Rights-of-Way Use Fee

In addition to landline telephone service providers, cable television providers in Virginia are now required to collect the public rights-of-way use fee from subscribers and include it in their monthly communications tax returns and remittances. The amount of the fee is determined annually by the Virginia Department of Transportation. Initially, the fee was set at $0.64 per subscriber per month (currently, $0.89 through June 30, 2010).

Role of Local Governments Under the Virginia Regime

Virginia's localities continue to audit and collect bills for local communications taxes for periods prior to January 1, 2007. In addition, as noted above, localities may continue to audit cable providers to enforce cable franchise agreements.

The North Carolina Approach

North Carolina enacted a series of reforms in 2001, 2005, 2006, and 2007 that greatly simplified the taxation of communications services.

The 2001 reform accomplished the following:

- Repealed a 3.22% gross receipts tax and repealed a 3% sales tax on telecommunications services.
- Replaced those taxes with a combined statewide 6.5% sales tax on all telecommunications services (including long distance service).
- At the time of enactment, a 6.5% total statewide sales and use tax rate was imposed on telecommunications services (comprised of a 4% state plus 2.5%, which was the sum of the local rates imposed on general businesses).
- Authorized no local sales tax but provided for local funding from the state funds.

The 2005 reform accomplished the following:

- Expanded the sales tax base to include cable and satellite television services.
- Provided a credit against state combined sales tax in the amount of any local franchise fee paid.
- Net result was general businesses, telecommunications service providers, cable television providers and satellite television providers are all taxed at the same effective rate.
- Equalized cable television and telecommunications machinery sales tax exemption so that equipment is exempt but transmission lines are taxed.

The 2006 reform addressed local franchise fees in its most recent effort at simplification:

- Imposed tax on all "video programming," including – but not limited to – cable and satellite television service.
- Franchise fees were prohibited and the franchise fee sales tax credit was repealed.
- Local franchise fee revenue was replaced with funding to local governments from a statewide sales tax collected on video programming service.

In 2007, the state enacted a bill that imposed a state-wide E-911 fee:

- The authorization for *local* imposition of fees to support E-911 systems was repealed.
- A statewide fee was imposed, not to exceed $0.70 on "each active voice communications connection."
- The funds are distributed among the local 911 service providers.

The end result of the North Carolina simplification effort is a strong model for other states to look to for solutions vis-à-vis communications services tax reform as set forth in the Act. Post-reform, telecommunications, satellite television, and cable television service providers in North Carolina are all taxed for transactional tax purposes as all other businesses, with no discriminatory taxes or rates imposed thereon. An efficient, statewide sales and use tax rate that provides local funding eliminates most (if not all) difficulties associated with compliance with the rate uniformity provisions of the Act. Further, North Carolina converted the E-911 fees from locally-administered with no uniformity to a uniform state-wide imposition. In sum, the state administers all taxes, thus providing much-needed efficiency for communications tax administration, compliance and enforcement.

Multistate Tax Commission Model

In 2009, the Multistate Tax Commission ("MTC") issued a memorandum outlining a model for the centralized administration of telecommunications transactions taxes. In an effort to identify specific provisions that a state might enact to achieve centralized administration, it added as an appendix specific provisions in Utah and Kentucky which achieve central administration of locally imposed taxes on communications services. That memo and the Utah and Kentucky statutes are attached here as an appendix.

Appendix

Utah and Kentucky Approaches to Achieving Centralized Administration of Locally Imposed Communications Taxes

MULTISTATE TAX COMMISSION

Working together since 1967 to preserve federalism and tax fairness

To: Uniformity Sales and Use Tax Subcommittee

From: Roxanne Bland, Counsel

Date: February 19, 2009

Subject: <u>Telecommunications Transaction Tax Centralized Administration Project</u>

At its December 2009 meeting, the subcommittee reviewed a policy checklist prepared by the drafting group for developing a model for the centralized administration of telecommunications transactions taxes (Proposal II, Local Imposition/State Administration). The list was divided into three parts, two of which are relevant here: a) provisions that are required by the SST proposed federal legislation and b) provisions that drafting group recommended the subcommittee consider in developing a centralized administrative model. The subcommittee made several substantive changes to the list and directed staff to prepare a revised list for this meeting.

The subcommittee eliminated all but four items on the checklist as relevant to the development of a model for the centralized administration of telecommunications transaction taxes. One is a provision for the required state-level administration of tax. The second is the provision for state-level registration to collect tax, with a required option for the provider to register with the local government. The third provision is for uniform audit procedures, and the fourth is uniform rules and procedures for refunds and credits. However, the subcommittee decided to treat the audit procedures and uniform rules for refunds and credits provisions as placeholders. Audit procedures were put on hold pending the outcome of SST's efforts in this area. With respect to uniform rules for claiming refunds and credits, the subcommittee delayed further development of language as such rules may differ depending on the types of tax involved.

The subcommittee nevertheless expressed interest in reviewing the International Fuel Tax Agreement (IFTA) to determine whether its audit procedures would give any guidance on this issue.

The purpose of IFTA is to "promote and encourage the fullest and most efficient possible use of the highway system by making uniform the administration of motor fuels use taxation laws with respect to motor vehicles operated in multiple member jurisdictions." One of the Agreement's governing documents is the Audit Manual, which establishes the standards by which multijurisdictional audits are conducted.[1] These standards cover the proficiency of personnel, the requirement for a pre-audit analyses and the evaluation of the taxpayer's internal accounting controls. It also prescribes the number of audits to be completed per year, and the methods of audit selection. Audits are conducted on a sampling basis, unless circumstances require otherwise, and states are specifically permitted to contact one another according to each state's disclosure policy.

Regarding the practical considerations of centralized collection, the subcommittee decided that these may be too state-specific to be of any use. It agreed that rather than jettisoning these considerations from the checklist, examples of what states have already done concerning centralized administration should be attached to the checklist as an appendix.

[1] The IFTA audit manual is divided into seven sections and one appendix:

A100	Introduction
A200	General Auditing Standards
A300	IFTA Auditing Standards
A400	Personnel Qualifications and Responsibilities
A500	General Guidelines
A600	The Audit Process
A700	Compliance

Appendix (Examples of an audit letter and IFTA audit billing statement)

http://www.iftach.org/manuals/2007/AM/Audit%20Manual%20-%20Repagination%20-%20Final%20-%20January%202007.pd

TELECOMMUNICATIONS TRANSACTION TAX ADMINISTRATION PROJECT—PROPOSAL II, LOCAL IMPOSITION, STATE ADMINISTRATION

DRAFT 3/2/10—FOR DISCUSSION PURPOSES ONLY

MTC Sales and Use Tax Subcommittee

1. State Level Registration §7(a)(1) (include)

    a. One-stop registration with state revenue agency for sales and other communications taxes administered solely within the state

    b. Required election to register with local jurisdictions §7(b)(2)(D)(i)

2. State Level Administration §7(a)(8)

    a. All state and local taxes

    b. State-level filing of returns

3. Audit Procedures §7(a)(13), §7(b)(2)(D)(v)

    One audit at state level for **each type** of tax

4. Uniform rules and procedures for refunds and credits §7(a)(19)

Utah

Collection of taxes by Commission —Uniform interlocal agreement — Rulemaking authority —Charge for services. **10-1-405(1)** Subject to the other provisions of this section, the commission shall collect, enforce, and administer any municipal telecommunications license tax imposed under this part pursuant to:

10-1-405(1)(a) the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

10-1-405(1)(a)(i) Title 59, Chapter 1, General Taxation Policies; and

10-1-405(1)(a)(ii) Title 59, Chapter 12, Part 1, Tax Collection:

10-1-405(1)(a)(ii)(A) except for:

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10-1-405(1)(a)(ii)(B) except that for purposes of Section 59-12-110, the term "taxpayer" may include a customer from whom a municipal telecommunications license tax is recovered in accordance with Subsection 10-1-403 (2); and

10-1-405(1)(b) a uniform interlocal agreement:

10-1-405(1)(b)(i) between:

10-1-405(1)(b)(i)(A) the municipality that imposes the municipal telecommunications license tax; and

10-1-405(1)(b)(i)(B) the commission;

10-1-405(1)(b)(ii) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;

10-1-405(1)(b)(iii) that complies with Subsection (2)(a); and

10-1-405(1)(b)(iv) that is developed by rule in accordance with Subsection (2)(b).

10-1-405(2)(a) The uniform interlocal agreement described in Subsection (1) shall provide that the commission shall:

10-1-405(2)(a)(i) transmit monies collected under this part:

10-1-405(2)(a)(i)(A) monthly; and

10-1-405(2)(a)(i)(B) by electronic funds transfer by the commission to the municipality;

10-1-405(2)(a)(ii) conduct audits of the municipal telecommunications license tax;

10-1-405(2)(a)(iii) charge the municipality for the commission's services under this section in an amount:

10-1-405(2)(a)(iii)(A) sufficient to reimburse the commission for the cost to the commission in rendering the services; and

10-1-405(2)(a)(iii)(B) that may not exceed an amount equal to 1.5% of the municipal telecommunications license tax imposed by the ordinance of the municipality; and

10-1-405(2)(a)(iv) collect, enforce, and administer the municipal telecommunications license tax authorized under this part pursuant to the same procedures used in the administration, collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

10-1-405(2)(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall develop a uniform interlocal agreement that meets the requirements of this section.

10-1-405(3) The administrative fee charged under Subsection (2)(a) shall be:

10-1-405(3)(a) deposited in the Sales and Use Tax Administrative Fees Account; and

10-1-405(3)(b) used for administration of municipal telecommunications license taxes under this part.

Kentucky

KRS 136.634 Administration by the department.

The department shall administer the provisions of [this Act] and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes levied by this chapter, conferred generally upon the department by the Kentucky Revised Statutes ***.

KRS 136.648 Gross revenues and excise tax fund and state baseline and local growth fund -- Creation and administration of funds.

(1) There is established in the State Treasury a gross revenues and excise tax fund. The fund shall be held and administered by the Finance and Administration Cabinet. The cabinet shall invest money in the fund in the same manner as money in the state general fund.

(2) There is established in the State Treasury a state baseline and local growth fund. The fund shall be held and administered by the Finance and Administration Cabinet. The cabinet shall invest money in the fund in the same manner as money in the state general fund.

(3) All revenue from the tax imposed under [this Act] including all penalties and interest attributable to the nonpayment of the tax or for noncompliance with [citations] shall be deposited into gross revenues and excise tax fund. Amounts deposited in the gross revenues and excise tax fund shall be allocated among the state, political subdivisions, school districts and special districts as provided in [citations].

(4) All money in the gross revenues and excise tax fund designated for distribution to political subdivisions under [citations]:

(a) Shall not be withheld or reduced by the General Assembly or any state agency for any reason, except for adjustments provided for within [citations]; and

(b) Shall be used solely and exclusively for the provision of services to the general public, including public protection, health services, education, libraries, transportation services, and economic development. No amount shall be used for purely local purposes affecting only the inhabitants of the particular political subdivision, such as the administration of local government. Neither the General Assembly nor any state agency shall mandate how the funds are to be used.

KRS 136.652 Distribution -- Administrative costs -- Monthly hold harmless amounts. Money in the gross revenues and excise tax fund shall be distributed monthly as follows:

(1) One percent (1%) shall be deposited in a trust and agency account created in the State Treasury to be used by the department for administration cost associated with the implementation, collection, and distribution of the tax imposed by [this Act].

(2) After the distribution required under subsection (1) of this section, the department shall distribute to each political subdivision, school district and special district the applicable monthly hold-harmless amount as calculated under [citation]. In addition, the department shall distribute one-twelfth (1/12) of the sheriff department's fixed hold-harmless amount as defined in [citation]. For tax collections received in January and February of 2006, the department shall make the distribution by April 25, 2006. For all other periods, the department shall mak distribution by the twenty-fifth day of the next calendar month following the tax receipts.

(3) (satellite and broadcast services)

(4) Money remaining in the gross revenues and excise tax fund after the distribution required by subsection (3) of this section shall be transferred to the state baseline and local growth fund established in [citation].

KRS 136.650 Required participation in funds -- Computation of amounts – Designated monthly hold harmless amount.

(1) (Local jurisdiction participation mandatory; preemption of tax collection authority)

(2) The monthly portion of the gross revenues and excise tax fund that shall be distributed to political subdivisions, school districts and special districts under [this provision] shall be computed as follows:

(a) Each political subdivision, school district and special district shall be assigned a percentage based on the amount of its collections certified under subsection (1) of this section as a ratio of the total certified amount of collections of all parties participating in the fund. This percentage shall be known as the "local historical percentage." The portion of the sheriff departments' certified collections identified in subsection (1) of this section from the tax imposed under [citation] attributable to the franchise portion of the operating property [citation], that was imposed by county governments shall be added to each county's reported collections to determine its local historical percentage;

(b) The sheriff departments' collections certified under subsection (1) of this section that are retained by the sheriff departments as their fee for collecting the taxes shall be the sheriff departments' fixed hold-harmless amount;

(c) Three million thirty-four thousand dollars ($3,034,000), which represents one-twelfth (1/12) of the total potential collections, shall be designated as the "monthly hold-harmless amount"; and

(d) Each political subdivision's, school district's, and special district's local historical percentage shall be multiplied by the monthly hold-harmless amount to determine its monthly distribution from the fund.