

PROPOSED RULEMAKING

DEPARTMENT OF REVENUE

[61 PA. CODE CHS. 31, 32, 48 AND 55]

Sales and Use Tax; Telecommunications Services

The Department of Revenue (Department), under authority contained in section 270 of the Tax Reform Code of 1971 (TRC) (72 P.S. § 7270), proposes amending §§ 31.1 and 31.24 (relating to persons and sales subject to tax; and florists); §§ 32.21 and 32.25 (relating to charitable, volunteer firemen's and religious organizations and nonprofit educational institutions); deleting § 48.1 (relating to utility services used by exempt organizations); and adding § 55.8 (relating to telecommunications services) to read as set forth in Annex A.

Section 270(a) of the TRC specifically provides that the Department is authorized and empowered to prescribe, adopt, promulgate and enforce, rules and regulations consistent with the provisions of Article II of the TRC (72 P.S. §§ 7201—7281.2). Tax For Education, relating to any matter or thing pertaining to the administration and enforcement of the provisions of Article II., and the collection of taxes, penalties and interest imposed by Article II.

Purpose

Statutory changes were made in 1991 to sections 201(m), 202(c) and 204(5) of the TRC (72 P.S. §§ 7201(m), 7202(c) and 7204(5)) regarding telephone, telegraph and telecommunications services. The Department is proposing to amend existing regulatory sections to conform with existing statutory language and is proposing to add a new section detailing telecommunications services.

Explanation of Regulatory Requirements

Section 31.1 is amended by replacing the language in paragraph (3)(iv) with detailed provisions regarding international, interstate and intrastate telephone, telegraph and telecommunications services. Language is added to § 31.24(a) and (b) to clarify that florists shall collect tax upon the sale or rental of taxable services or tangible personal property. In addition, subsection (b) is reworded to clearly state when a florist may collect tax on orders using telephone, telegraph or telecommunications services.

Section 32.21(a)(2)(i) is amended by deleting clauses (A)—(C) and adding new clauses (A) and (B). The new clause (A) is similar to the language that was deleted. Clause (B) incorporates language that had been set forth in § 48.1 which is proposed to be deleted in its entirety.

Section 32.25 is amended by amending the definition of "commercial use" to mean "use or consumption other than a residential use."

The Department's interpretation of recent statutory language relating to telephone, telegraph and telecommunications services is set forth in § 55.8. Subsection (a) defines numerous terms used in § 55.8. Subsection (b) provides the scope of taxation effective October 1, 1991. Subsection (c) details the effect the service address has on the taxation of various telecommunication services.

Subsection (d) provides examples of telecommunication services exempt from tax. Subsection (e) explains that the

purchase of a telecommunications service for resale occurs if the purchaser does not use the telecommunications service itself but rather resells it in the ordinary course of business. The subsection also provides examples of exempt sales for resale.

Subsection (f) provides that, to the extent tax is due on the purchase of an international or interstate telecommunications service, a credit will be granted for taxes legally due and paid to another jurisdiction, if the other jurisdiction grants similar credit for taxes paid to the Commonwealth. Provisions relating to local sales and use tax are addressed in subsection (g). Subsection (h) provides that the purchase, use, lease, repair or maintenance of telecommunications equipment and supplies, such as telephones and wires, is subject to sales and use tax, unless the purchaser is entitled to claim an exclusion under § 32.21, 32.22 or 32.34.

Affected Parties

Providers of telecommunications services will be affected by the proposed amendments.

Fiscal Impact

The Department has determined that the proposed amendments will have no significant fiscal impact on the Commonwealth.

Paperwork

The proposed amendments will not generate additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The proposed amendments will become effective upon final publication in the *Pennsylvania Bulletin*. These proposed amendments are scheduled for review within 5 years of final publication. No sunset date has been assigned.

Contact Person

Interested persons are invited to submit in writing any comments, suggestions or objections regarding the proposed amendments to Anita M. Doucette, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061, within 30 days of the date of the publication of this notice in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Department submitted a copy of these proposed amendments on December 1 1997, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Finance. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the committees' comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of

objections raised, prior to final publication of the regulation, by the Department, the General Assembly and the Governor.

ROBERT A. JUDGE, Sr.,
Secretary

Fiscal Note: 15-395. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE II. SALES AND USE TAX

CHAPTER 31. IMPOSITION

GENERAL PROVISIONS

§ 31.1. Persons and sales subject to tax.

An excise tax shall be imposed upon the sale at retail or the use within this Commonwealth of tangible personal property and certain services, unless otherwise exempted.

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(3) The term tangible personal property includes [, but is not limited to,] the following:

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(iv) [**Intrastate telephone and telegraph service for nonresidential use.**] International, interstate and intrastate telephone, telegraph and telecommunications services originating or terminating in this Commonwealth and charged to a service address in this Commonwealth.

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§ 31.24. Florists.

(a) *Sale or rental of floral products.* Florists shall collect the tax upon sale or rental of **taxable services or tangible personal property, including** flowers, wreaths, bouquets, potted plants and property of a like nature.

(b) [**Telephone or telegraphic orders**] *Orders using telephone, telegraph or telecommunications services.* [**On all telephone or telegraph orders to be transmitted by one**] When a florist located within this Commonwealth uses a telephone, telegraph or telecommunications services to transmit an order for the delivery of tangible personal property or rendition of a taxable service inside or outside this Commonwealth to another florist who shall make delivery, [**either within or without this Commonwealth**], the florist [**taking**] transmitting the order shall collect and report the tax on the gross amount of the order. [**Effective March 4, 1971, the**] The tax applies to telephone, telegraph [**or telephone**] and telecommunications service charges whether or not they are separately stated. A florist receiving [**telephone or telegraph**] orders for **tangible personal property or taxable services** from another florist **through the medium of telephone, telegraph or telecommunications services** may not collect tax on the orders.

CHAPTER 32. EXEMPTIONS
NONBUSINESS EXEMPTIONS

§ 32.21. Charitable, volunteer firemen's and religious organizations, and nonprofit educational institutions.

(a) *Purchases for use by exempt organizations.* The exemption to which an exempt organization [**shall be**] is entitled is limited and does not extend to all purchases by the exempt organization. The Department may issue an assessment against an exempt organization for sales and use tax owed on nonexempt purchases, whether or not an exemption certificate or declaration of sales tax exemption was tendered to the vendor. [**Moreover, the**] The exemption is personal and is not transferable to another. Individuals making purchases of tangible personal property on behalf of the exempt organization are not entitled to claim the organization's exempt status.

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(2) *Taxable and exempt purchases.* The exemption applies to the purchase and use of tangible personal property or services billed directly to the exempt organization, including office supplies, motor vehicles, food and beverages, fund raising supplies, utilities and furniture with the exception of the following:

(i) *Unrelated trade or business.* Tangible personal property used in the performance of an unrelated trade or business. [**Examples of taxable purchases are the following:**

(A) **The purchase of kitchen equipment by a hospital in operating a cafeteria for use by the general public.**

(B) **The purchases of tables, chairs and a refrigerator by a volunteer fire company in operating a bar or restaurant.**

(C) **The purchase of liquor or malt beer by an exempt organization which is licensed by the Liquor Control Board.]**

(A) **The following are examples of taxable purchases:**

(I) **The purchase of kitchen equipment by a hospital to operate a cafeteria for use by the general public.**

(II) **The purchase of tables, chairs and a refrigerator by a volunteer fire company to operate a bar or restaurant.**

(III) **The purchase of liquor or malt beer by an exempt organization that is licensed by the Liquor Control Board.**

(B) **The following are examples of exempt purchases: the purchase of fuel oil; petroleum products; steam, natural, manufactured or bottled gas; electricity; or telephone, telegraph or telecommunications services, by a charitable, volunteer firemen's or religious organization, or nonprofit educational institution for use in conjunction with its exempt activities.**

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§ 32.25. Steam, gas, electricity, fuel oil and kerosene.

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

Commercial use—[**The use**] Use or consumption [**within that portion of a structure or other area which is for use**] other than a residential use.

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CHAPTER 48. EXEMPT ORGANIZATIONS.

§ 48.1. [Utility services used by exempt organizations] (Reserved).

[The sale at retail or use of fuel oil, petroleum products, steam, natural, manufactured or bottled gas, or electricity or telephone services by a charitable, volunteer firemen's, or religious organization, or nonprofit educational institution for use in conjunction with its exempt activities is not subject to tax. The organizations are required to tender to their suppliers an exemption certificate in lieu of the payment of tax.]

CHAPTER 55. SERVICES.

§ 55.8. Telecommunications services.

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

Airtime—A component of a telecommunications service that is charged on a basis that reflects the time span of the communication.

Basic local telephone service—The provision of an access line and dial tone, to a fixed location, for purposes of sending or receiving a telecommunication service within a local calling area, regardless of whether the purchaser has limited or unlimited access to a private or a party line. The term also includes installation service, providing and restoring access lines, touch tone service, 911 service and telecommunications relay service.

Cell site—The geographic area covered by receiving and transmitting equipment that provides cellular mobile telecommunications service directly to or from a subscriber.

Channel—A pathway for the transmission of information between a sending point and a receiving point.

Commercial use—Use or consumption other than a residential use.

Enhanced telecommunication services—

(i) Services, offered over a telecommunications network, which employ computer processing applications that include any of the following:

(A) Acts on the format, content, code, protocol or similar aspects of the purchaser's transmitted information.

(B) Provides the purchaser additional, different or restructured information.

(C) Involves the purchaser's interaction with stored information.

(ii) The term includes electronic publishing, Internet access, voice mail and electronic mail services. Services utilizing any of the computer processing applications set forth in subparagraph (i) solely for the management, control or operation of a telecommunications system or the management of a telecommunications service is not an enhanced telecommunication service.

International telecommunications service—A telecommunications service that either originates in this Commonwealth and terminates outside the United States, or originates outside the United States and terminates in this Commonwealth.

Interstate telecommunications service—A telecommunications service that either originates in this Commonwealth and terminates in another state, or originates in another state and terminates in this Commonwealth.

Intrastate telecommunications service—A telecommunications service that originates and terminates within this Commonwealth, regardless of routing.

Private line—A dedicated, nontraffic sensitive telecommunications service for a single purchaser that entitles the purchaser to the exclusive or priority use of a communications channel, or group of channels, between specified locations.

Residential use—The use or consumption within that portion of a structure used as a home, dwelling, private residence, condominium, housing cooperative, prefabricated building, camper, summer home, motor home or similar place of abode. The term includes the use or consumption by a condominium association or housing cooperative association that acts on behalf of residents who use the condominium or housing cooperative units as their personal residences. The term does not include the use or consumption of a telecommunications service for commercial purposes at a purchaser's private residence.

Subscriber line charge—An access charge paid directly by the purchaser of a telephone service to a local exchange carrier to defray the cost of providing local exchange access.

Telecommunications service—

(i) Any one-way transmission or any two-way, interactive transmission of sounds, signals or other intelligence converted to like form, which effect or are intended to effect meaningful communications by electronic or electromagnetic means via wire, cable, satellite, light waves, microwaves, radio waves or other transmission media.

(ii) Except as provided in subparagraph (iii), the term includes all types of telecommunication transmissions such as:

(A) Local, toll or wide-area telephone service.

(B) Private line service.

(C) Telegraph service.

(D) Radio repeater service.

(E) Wireless communication service.

(F) Personal communications system (PCS) service.

(G) Cellular mobile telecommunication service.

(H) Specialized mobile radio service.

(I) Stationary two-way radio service.

(J) Paging service.

(iii) The term does not include:

(A) Subscriber charges for access to a video dial tone system.

(B) Charges to video programmers for the transport of video programming.

(C) Enhanced telecommunication services.

Video dial tone service—A common carrier service for the transport of a video programming service to a subscriber.

Video programming service—Video or information programming, whether in digital or analog format, that is provided by a cable television operator, or is of the type that would generally be considered comparable to programming provided by a cable television operator, and upon which the cable television operator pays a franchise fee. Video programming does not include on-line, interactive information services to the extent that access to these services is accomplished through use of a dial-up or telephone line, or a wireless or direct-to-home satellite transmission.

(b) **Scope.**

(1) **General.** Effective October 1, 1991, the sale at retail or use of an international or interstate telecommunications service charged to a service address in this Commonwealth or an intrastate telecommunications service is subject to tax.

(2) **Purchase price.** The total amount charged for an international, interstate or intrastate telecommunications service is taxable, regardless of whether the charge is based upon a flat rate or a message unit rate.

(3) **Private line service.** If the telecommunications service is a private line service, the following charges are taxable:

(i) Charges imposed for each channel termination point in this Commonwealth.

(ii) Charges for that portion of the channel within this Commonwealth determined by mileage or other reasonable method.

(4) **Ancillary services.** Services that are ancillary to the provision of telecommunication services are taxable, such as directory assistance service, the connection or disconnection of telecommunications services or equipment, call forwarding, caller identification and call waiting.

(5) **Prepaid telephone calling cards.** The sale of prepaid telephone calling cards, which allow the holders of the cards to use a predetermined number of minutes or set dollar amount of a telecommunications service, are not subject to Pennsylvania Sales Tax. The sale of the cards are considered to be the sale of a right to future telecommunication services and not a sale of tangible personal property. Once a telecommunications service that originates within this Commonwealth is made with the use of a prepaid telephone calling card, the call is subject to tax as a telecommunications service.

(i) The purchase price subject to tax is the consideration for the telecommunication service that is charged by the telecommunication service provider. This consideration is the value, expressed in terms of money, of the units or minutes that are reduced from the card upon each use. The tax shall be remitted to the Department by the telecommunications service provider.

(ii) The telecommunications provider or other entity that sells the debit cards is the consumer of the plastic or paper cards. Because the cards are not tangible personal property purchased for resale, the telecommunications provider or other entity must pay tax upon its purchase of the cards.

(iii) The rules pertaining to debit cards under this subsection apply whether the card is trans-

ferred to a retail customer for consideration or as part of a promotional program.

(6) **Internet access.** Service charges associated with the provision of Internet access by an Internet or on-line service provider, including flat rate monthly, installation and hourly charges, are considered enhanced telecommunication charges and are not subject to sales and use tax. However, telecommunication charges incurred by an Internet service provider to deliver Internet access to its subscribers are subject to tax. Local, toll or long distance telephone charges incurred by a subscriber to transmit signals from a computer to the Internet service provider are subject to tax, subject to the exceptions listed under subsection (d).

(c) **Service address.**

(1) If telecommunications equipment is designed to originate or receive a telecommunications service at a fixed location, the service address is the location of the equipment from which the purchaser originates or receives the telecommunications service. The following are examples involving a service address at a fixed location:

(i) Bruce calls New York from his home telephone located in this Commonwealth. Because Bruce's telephone is designed to originate a telecommunications service at a fixed location in this Commonwealth, the service address is in this Commonwealth. Because the telephone call also originates in this Commonwealth, the telecommunications service is subject to Pennsylvania Sales and Use Tax.

(ii) Jonathan places a collect call from New Jersey to Mary's home phone in this Commonwealth. Because it is a collect call, Mary is the purchaser of the telecommunications service. Because Mary's telephone is designed to receive a telecommunications service at a fixed location in this Commonwealth, the service address is in this Commonwealth. The collect call is subject to Pennsylvania Sales and Use Tax because it is received in this Commonwealth and its service address is in this Commonwealth.

(2) If telecommunications service equipment is designed to originate or receive a telecommunications service at a mobile location, the service address is the subscriber's primary use of the telecommunications equipment as defined by telephone number, authorization code or location in this Commonwealth where bills are sent. If the mobile telephone switching office or similar facility first receiving the telecommunication is outside the subscriber's assigned service area (that is, the subscriber is "roaming"), the service address is deemed to be the location of that mobile telephone switching office or similar facility. In the case of airtime service, a mobile telecommunications service provider may elect to define service address as being the location of the initial cell site used by the service provider's customer to originate the call or, if the customer receives a call, the cell site that connects the call to the receiver. The following are examples involving a service address at a mobile location:

(i) Cara, a resident of this Commonwealth, purchases a paging service that covers New York and New Jersey and this Commonwealth. To activate the paging service, the paging service provider has

antennas located throughout the tri-state area that emit a signal corresponding to Cara's pager. Cara's pager is activated while she is attending a conference in New York City. Cara's service address is defined as her billing address in this Commonwealth because her pager is designed to receive a telecommunications service from a mobile location. The paging service originates in this Commonwealth because the paging service provider's signals originate from antennas located in this Commonwealth. Because the service originates in this Commonwealth and is charged to a service address in this Commonwealth, the call is subject to Pennsylvania Sales and Use Tax.

(ii) Janis, a resident of this Commonwealth, calls Newark, New Jersey from her cellular telephone while driving through Scranton, Pennsylvania, which is within her assigned cellular telephone service area. The cellular telephone service provider sends Janis's phone bills to her residence in this Commonwealth. The service address is deemed to be Janis's billing address in this Commonwealth. Because the call originates in this Commonwealth and the service address is in this Commonwealth, the call is subject to Pennsylvania Sales and Use Tax.

(iii) Katie, a resident of this Commonwealth, calls New York from her cellular telephone while driving through Maine, which is outside her assigned cellular telephone service area. The service address is defined as the mobile telephone switching office in Maine that transmits the signal. Because the service address is in Maine and the telecommunication originates and terminates outside this Commonwealth, the call is not subject to Pennsylvania Sales and Use Tax.

(iv) Mike, a New York resident, calls Ohio from his cellular telephone while driving through this Commonwealth, which is outside his assigned cellular telephone service area. Accordingly, the service address is defined as the mobile telephone switching office in this Commonwealth that transmits the signal. Because the service originates in this Commonwealth, and the service address is deemed to be in this Commonwealth, the call is subject to Pennsylvania Sales and Use Tax.

(v) Joe, a resident of Valley Forge, Pennsylvania, calls his office in Philadelphia, Pennsylvania, from his cellular telephone while driving in Cherry Hill, New Jersey. The call originates and terminates within his assigned cellular mobile telephone service area, which encompasses both this Commonwealth and New Jersey. Joe's service provider elects to use the cell site method for determining service address and determines that the initial cell site used to originate the call was located in Cherry Hill, New Jersey. Although Joe's cellular telephone call terminated in this Commonwealth and his billing address is in this Commonwealth, the call is not subject to Pennsylvania Sales Tax, because the location of the call's service address, under the cell site method, is in New Jersey.

(3) The service address of an intrastate telecommunications service is deemed to be in this Commonwealth regardless of how or where billed or paid.

Example: Gregg places a call from Philadelphia, Pennsylvania to Scranton, Pennsylvania. He

charges the call to a third party located outside this Commonwealth. Because the call originates and is received in this Commonwealth, the entire charge is taxable. The fact that Gregg charges the call to a third party located outside this Commonwealth is irrelevant.

(4) If the charge for an international or interstate telecommunications service is paid by a credit or payment mechanism that does not relate to a service address, such as a debit or credit card, or when the service is charged to equipment at a location that does not constitute a service address, the service address is deemed to be the location at which the telecommunications service originated. Examples are as follows:

(i) Jack calls Massachusetts from a pay telephone located in this Commonwealth and uses his prepaid telephone debit card to pay for the call. Because a prepaid telephone debit card is not related to a service address, the service address is deemed to be this Commonwealth, the origination of the call. Because the call also originates in this Commonwealth, the charge is subject to Pennsylvania Sales and Use Tax.

(ii) John calls New York from a telephone in this Commonwealth and charges the call to his calling card, a credit payment mechanism related to his home telephone in Florida. Because the telecommunications service was charged to equipment at a location that did not constitute a service address from which the call either originated or terminated, the service address is deemed to be this Commonwealth, the origination of the call. Therefore, because the call originates in this Commonwealth, it is subject to Pennsylvania Sales and Use Tax.

(5) The service address of a private line telecommunications service is deemed to be in this Commonwealth to the extent that charges for the service are attributed to this Commonwealth under subsection (b)(4).

(d) *Exemptions from tax.* The following telecommunication services are exempt from tax:

(1) Basic local telephone service purchased directly by the purchaser solely for the purchaser's own residential use.

(2) Subscriber line charges purchased directly by the purchaser solely for the purchaser's own residential use.

(3) Telegrams paid for in cash at a telegraph office.

(4) Sales for resale of a telecommunications service as described in subsection (e).

(5) A telecommunications service purchased by a charitable organization as defined under § 32.1 (relating to definitions) that holds an exemption number issued by the Department under § 32.21 (relating to charitable, volunteer firemen's and religious organizations, and nonprofit educational institutions) and satisfies the requirements for a tax-exempt purchase under § 32.21.

(6) A telecommunications service purchased by a governmental entity as defined in § 32.22 or § 32.23 (relating to sales to the United States Government or within areas subject to the jurisdiction of the

Federal Government; and sales to the Commonwealth or its political subdivisions and sales by the Commonwealth and its political subdivisions).

(7) A telecommunications service that is predominately used directly in manufacturing, processing, public utility, farming, dairying, agriculture, horticulture or floriculture, as defined in § 32.1.

(8) Effective July 1, 1995, a telephone call paid for by inserting money into a telephone that accepts a direct deposit of money to operate.

(9) A telecommunications service purchased by an entity otherwise exempt from Pennsylvania Sales and Use Tax under any Federal or State law not enumerated in this subsection.

(e) *Resale exemption.*

(1) The purchase of a telecommunications service for resale occurs if the purchaser does not use the telecommunications service itself but rather resells the telecommunications service in the ordinary course of business. A purchase for resale does not occur when an enhanced telecommunication services provider acquires telecommunications services, regardless of whether the cost of the telecommunications services is separately stated on the invoice to the enhanced telecommunication service provider's customer.

(2) *Examples are as follows:*

(i) A guest at a hotel places a long distance telephone call. The call is handled through the hotel's switchboard. The guest is charged \$5 per minute and the guest's bill separately states this charge. The hotel may claim the resale exemption on the charge for the guest's call that it receives from the long distance telephone company providing service to the hotel.

(ii) A university purchases telecommunications services in bulk and then resells these services to individual students, faculty members or other retail purchasers. The university may claim the resale exemption on its purchase of the telecommunication service that is resold to retail purchasers.

(iii) Interexchange telephone company IXC pays access charges to local exchange telephone company LEC for switched access service so that it may place a customer's long distance telephone call. IXC may claim resale on the access charge.

(iv) ISP, an Internet service provider, purchases telecommunication services to provide Internet access to its customers. Because ISP renders an enhanced telecommunication service, it cannot claim resale upon its purchase of telecommunication services that it uses to provide its enhanced service.

(v) XYZ Co. is an information services provider located in this Commonwealth that sells sports gambling information for \$5 per minute to customers who access the information through a "900" telephone number. XYZ Co. purchased the "900" telephone number from a long distance telephone company for a flat monthly fee of \$2,000. Although the \$5 per minute fee is listed on the customer's telephone bill, this charge does not represent the customer's charge for the "900" telephone call. Instead, the \$5 per minute charge represents the purchase price of XYZ Co.'s sports gambling information retrieved via the "900" telephone number. XYZ Co. cannot claim resale upon its purchase of its \$2,000 per month "900" telephone number because it is using this telecommunication service to render its sports information service. XYZ Co. shall pay Pennsylvania Sales Tax upon its purchase of the "900" telephone number because the calls terminate in this Commonwealth and are charged to XYZ Co.'s service address in this Commonwealth.

(f) *Credits against tax.*

(1) To the extent that tax is due on the purchase of an international or interstate telecommunications service, a credit will be granted for taxes that were legally due and paid to another jurisdiction, if the other jurisdiction grants a similar credit for taxes paid to the Department. A credit may not exceed the amount of tax owed to the Department on the same transaction.

(2) Credits against local tax will be applied in accordance with the provisions of § 60.16 (relating to local sales, use and hotel occupancy tax).

(g) *Local sales and use tax.*

(1) A telecommunications service provider shall collect and remit local tax if the telecommunications service is provided to a service address in a county or other local jurisdiction that has enacted a local tax.

(2) In the case of airtime service, a cellular mobile telecommunications service provider may elect to use the cell site method for determining the service address as being in a county or other local jurisdiction that has enacted a local tax in a manner similar to that described in subsection (c)(2).

(h) *Telecommunications equipment and supplies.* The purchase, use, lease, repair or maintenance of telecommunications equipment and supplies, such as telephones and wires, is subject to sales and use tax, unless the purchaser is entitled to claim an exclusion under § 32.21, § 32.22 or § 32.34 (relating to public utilities).

[Pa.B. Doc. No. 97-1983. Filed for public inspection December 12, 1997, 9:00 a.m.]