

**Part 4**  
**Municipal Telecommunications License Tax Act**

**10-1-401 Title.**

This part is known as the "Municipal Telecommunications License Tax Act."

Enacted by Chapter 253, 2003 General Session

**10-1-402 Definitions.**

As used in this part:

- (1) "Commission" means the State Tax Commission.
- (2)
  - (a) Subject to Subsections (2)(b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.
  - (b) For purposes of this section and Section 10-1-407, "customer" means:
    - (i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
    - (ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of telecommunications service.
  - (c) "Customer" does not include a reseller:
    - (i) of telecommunications service; or
    - (ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.
- (3)
  - (a) "End user" means the person who uses a telecommunications service.
  - (b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.
- (4)
  - (a) "Gross receipts from telecommunications service" means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:
    - (i) a tax, fee, or charge:
      - (A) imposed by a governmental entity;
      - (B) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and
      - (C) imposed only on a telecommunications provider;
    - (ii) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act; or
    - (iii) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.
  - (b) "Gross receipts from telecommunications service" includes a charge necessary to complete a sale of a telecommunications service.
- (5) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (6) "Municipality" means a city or town.

- (7) "Place of primary use":
- (a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:
    - (i) the residential street address of the customer; or
    - (ii) the primary business street address of the customer; or
  - (b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (8) Notwithstanding where a call is billed or paid, "service address" means:
- (a) if the location described in this Subsection (8)(a) is known, the location of the telecommunications equipment:
    - (i) to which a call is charged; and
    - (ii) from which the call originates or terminates;
  - (b) if the location described in Subsection (8)(a) is not known but the location described in this Subsection (8)(b) is known, the location of the origination point of the signal of the telecommunications service first identified by:
    - (i) the telecommunications system of the telecommunications provider; or
    - (ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or
  - (c) if the locations described in Subsection (8)(a) or (b) are not known, the location of a customer's place of primary use.
- (9)
- (a) Subject to Subsections (9)(b) and (9)(c), "telecommunications provider" means a person that:
    - (i) owns, controls, operates, or manages a telecommunications service; or
    - (ii) engages in an activity described in Subsection (9)(a)(i) for the shared use with or resale to any person of the telecommunications service.
  - (b) A person described in Subsection (9)(a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:
    - (i) that person; or
    - (ii) the telecommunications service that the person owns, controls, operates, or manages.
  - (c) "Telecommunications provider" does not include an aggregator as defined in Section 54-8b-2.
- (10) "Telecommunications service" means:
- (a) telecommunications service, as defined in Section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;
  - (b) mobile telecommunications service, as defined in Section 59-12-102:
    - (i) that originates and terminates within the boundaries of one state; and
    - (ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
  - (c) an ancillary service as defined in Section 59-12-102.
- (11)
- (a) Except as provided in Subsection (11)(b), "telecommunications tax or fee" means any of the following imposed by a municipality on a telecommunications provider:
    - (i) a tax;
    - (ii) a license;
    - (iii) a fee;
    - (iv) a license fee;
    - (v) a license tax;

- (vi) a franchise fee; or
- (vii) a charge similar to a tax, license, or fee described in Subsections (11)(a)(i) through (vi).
- (b) "Telecommunications tax or fee" does not include:
  - (i) the municipal telecommunications license tax authorized by this part; or
  - (ii) a tax, fee, or charge, including a tax imposed under Title 59, Revenue and Taxation, that is imposed:
    - (A) on telecommunications providers; and
    - (B) on persons who are not telecommunications providers.

Amended by Chapter 384, 2008 General Session

**10-1-403 Municipality and military installation development authority may levy municipal telecommunications license tax -- Recovery from customers -- Enactment, repeal, or change in rate of tax -- Annexation.**

- (1)
  - (a)
    - (i) Subject to the provisions of this section, beginning July 1, 2004, a municipality may levy on and provide that there is collected from a telecommunications provider a municipal telecommunications license tax on the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.
    - (ii) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may levy and collect a municipal telecommunications license tax under this part for telecommunications service provided within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.
  - (b) To levy and provide for the collection of a municipal telecommunications license tax under this part, the municipality shall adopt an ordinance that complies with the requirements of Section 10-1-404.
  - (c) Beginning on July 1, 2007, a municipal telecommunications license tax imposed under this part shall be at a rate of up to 3.5% of the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.
- (2) A telecommunications provider may recover the amounts paid in municipal telecommunications license taxes from the customers of the telecommunications provider within the municipality imposing the municipal telecommunications license tax through a charge that is separately identified in the statement of the transaction with the customer as the recovery of a tax.
- (3)
  - (a) For purposes of this Subsection (3):
    - (i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part 4, Annexation.
    - (ii) "Annexing area" means an area that is annexed into a municipality.
  - (b)
    - (i) If, on or after July 1, 2004, a municipality enacts or repeals a tax or changes the rate of the tax under this part, the enactment, repeal, or change shall take effect:
      - (A) on the first day of a calendar quarter; and
      - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the municipality.

- (ii) The notice described in Subsection (3)(b)(i)(B) shall state:
  - (A) that the municipality will enact or repeal a tax under this part or change the rate of the tax;
  - (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);
  - (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and
  - (D) if the municipality enacts the municipal telecommunications license tax or changes the rate of the tax, the new rate of the tax.
- (c)
  - (i) If, for an annexation that occurs on or after July 1, 2004, the annexation will result in a change in the rate of the tax under this part for an annexing area, the change shall take effect:
    - (A) on the first day of a calendar quarter; and
    - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.
  - (ii) The notice described in Subsection (3)(c)(i)(B) shall state:
    - (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;
    - (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);
    - (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and
    - (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).
- (4) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal telecommunications license tax rate that takes effect on July 1, 2007, a municipality is not subject to the notice requirements of Subsection (3)(b) if:
  - (a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that exceeds 3.5%; and
  - (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate of 3.5%.
- (5) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal telecommunications license tax rate that takes effect on July 1, 2007, the 90-day period described in Subsection (3)(b)(i)(B) is considered to be a 30-day period if:
  - (a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that exceeds 3.5%; and
  - (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that is less than 3.5%.
- (6)
  - (a) A municipality may not levy or collect a municipal telecommunications license tax for telecommunications service provided within any portion of the municipality that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act.
  - (b) Subsection (6)(a) does not apply to the military installation development authority's levy of a municipal telecommunications license tax.

Amended by Chapter 92, 2009 General Session

**10-1-404 Municipal telecommunications license tax ordinance provisions.**

An ordinance required by Subsection 10-1-403(1) shall include a provision that:

- (1) levies a municipal telecommunications license tax:
  - (a) on the gross receipts from telecommunications service attributed to the municipality in accordance with Section 10-1-407;

- (b) at a rate:
  - (i) not to exceed the rate specified in Subsection 10-1-403(1)(c); and
  - (ii) subject to the requirements of Section 10-1-407; and
- (c) beginning on a date:
  - (i) on or after July 1, 2004; and
  - (ii) subject to the requirements of Section 10-1-403;
- (2) on or before the effective date of the ordinance, the municipality shall enter into the uniform interlocal agreement with the commission described in Section 10-1-405 under which the commission collects, enforces, and administers the municipal telecommunications license tax;
- (3) exempts a municipality from the limitation on the rate that may be imposed under Subsection (1)(b)(i) if the exemption from the limitation on the rate that may be imposed under Subsection (1)(b)(i) is approved by a majority vote of the voters in the municipality that vote in:
  - (a) a municipal general election; or
  - (b) a regular general election; and
- (4) incorporates the provisions of Section 10-1-408.

Amended by Chapter 415, 2013 General Session

**10-1-405 Collection of taxes by commission -- Uniform interlocal agreement --  
Administrative charge -- Rulemaking authority.**

- (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:
  - (a) the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:
    - (i) Title 59, Chapter 1, General Taxation Policies; and
    - (ii) Title 59, Chapter 12, Part 1, Tax Collection:
      - (A) except for:
        - (I) Subsection 59-12-103(2)(i);
        - (II) Section 59-12-104;
        - (III) Section 59-12-104.1;
        - (IV) Section 59-12-104.2;
        - (V) Section 59-12-104.3;
        - (VI) Section 59-12-107.1; and
        - (VII) Section 59-12-123; and
      - (B) except that for purposes of Section 59-1-1410, the term "person" may include a customer from whom a municipal telecommunications license tax is recovered in accordance with Subsection 10-1-403(2); and
  - (b) a uniform interlocal agreement between the municipality that imposes the municipal telecommunications license tax and the commission:
    - (i) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;
    - (ii) that complies with Subsection (2)(a); and
    - (iii) that is developed by rule in accordance with Subsection (2)(b).
- (2)
  - (a) The uniform interlocal agreement described in Subsection (1) shall provide that the commission shall:
    - (i) transmit money collected under this part monthly by electronic funds transfer by the commission to the municipality;
    - (ii) conduct audits of the municipal telecommunications license tax;

- (iii) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a tax under this part; and
- (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).
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall develop a uniform interlocal agreement that meets the requirements of this section.
- (3) If a telecommunications provider pays a municipal telecommunications license tax to the commission, the telecommunications provider shall pay the municipal telecommunications license tax to the commission:
  - (a) monthly on or before the last day of the month immediately following the last day of the previous month if:
    - (i) the telecommunications provider is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or
    - (ii) the telecommunications provider is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or
  - (b) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the telecommunications provider is required to file a sales and use tax return with the commission quarterly under Section 59-12-108.
- (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal telecommunications license tax under this part at a rate that exceeds 3.5%:
  - (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission shall collect the municipal telecommunications license tax:
    - (i) within the municipality;
    - (ii) at a rate of 3.5%; and
    - (iii) from a telecommunications provider required to pay the municipal telecommunications license tax on or after July 1, 2007; and
  - (b) the commission shall collect a municipal telecommunications license tax within the municipality at the rate imposed by the municipality if:
    - (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax under this part at a rate of up to 3.5%;
    - (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing the rate of the municipal telecommunications license tax; and
    - (iii) a telecommunications provider is required to pay the municipal telecommunications license tax on or after the day on which the ordinance described in Subsection (4)(b)(ii) takes effect.

Amended by Chapter 424, 2012 General Session

**10-1-406 Limitation of other telecommunications taxes or fees.**

- (1) Subject to the other provisions of this section, a municipality may not levy or collect a telecommunications tax or fee on a person except for a telecommunications tax or fee imposed by the municipality:
  - (a) on a telecommunications provider to recover the management costs of the municipality caused by the activities of the telecommunications provider in the right-of-way of a municipality if the telecommunications tax or fee:
    - (i) is imposed in accordance with Section 72-7-102; and
    - (ii) is not related to:

- (A) a municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right-of-way; or
- (B) increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of-way; or
- (b) on a person that:
  - (i) is not subject to a municipal telecommunications license tax under this part; and
  - (ii) locates telecommunications facilities, as defined in Section 72-7-108, in the municipality.
- (2) Subsection (1)(a) may not be interpreted as exempting a telecommunications provider from complying with any ordinance:
  - (a) related to excavation, construction, or installation of a telecommunications facility; and
  - (b) that addresses the safety and quality standards of the municipality for excavation, construction, or installation.
- (3) A telecommunications tax or fee imposed under Subsection (1)(b) shall be imposed:
  - (a) by ordinance; and
  - (b) on a competitively neutral basis.

Enacted by Chapter 253, 2003 General Session

**10-1-407 Attributing the gross receipts from telecommunications service to a municipality -- Rate impact.**

- (1) The gross receipts from a telecommunications service are attributed to a municipality if the gross receipts are from a transaction for telecommunications service that is located within the municipality:
  - (a) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and
  - (b) determined in accordance with Section 59-12-215.
- (2)
  - (a) The rate imposed on the gross receipts for telecommunications service shall be determined in accordance with Subsection (2)(b) if the location of a transaction for telecommunications service is determined under Subsection (1) to be a municipality other than the municipality in which is located:
    - (i) for telecommunications service other than mobile telecommunications service, the customer's service address; or
    - (ii) for mobile telecommunications service, the customer's primary place of use.
  - (b) The rate imposed on the gross receipts for telecommunications service described in Subsection (2)(a) shall be the lower of:
    - (i) the rate imposed by the taxing jurisdiction in which the transaction is located under Subsection (1); or
    - (ii) the rate imposed by the municipality in which it is located:
      - (A) for telecommunications service other than mobile telecommunications service, the customer's service address; or
      - (B) for mobile telecommunications service, the customer's primary place of use.

Amended by Chapter 384, 2008 General Session

**10-1-408 Procedure for taxes erroneously recovered from customers.**

A customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer municipal telecommunications license taxes authorized by this part unless the customer meets the same

requirements that a purchaser is required to meet to bring a cause of action against a seller for a refund or credit as provided in Subsection 59-12-110.1(3).

Amended by Chapter 255, 2004 General Session

**10-1-410 Transactions consisting of telecommunications service and nontelecommunications services.**

- (1) For purposes of this section, "nontelecommunications services" means services or tangible personal property that are:
  - (a) not telecommunications service; and
  - (b) provided by a telecommunications provider to a customer.
- (2) Except to the extent prohibited by federal law, if a telecommunications provider provides nontelecommunications services to a customer as part of the same transaction in which the telecommunications provider provides telecommunications service, the gross receipts from the nontelecommunications services provided by the telecommunications provider are subject to a tax under this part unless:
  - (a) the charge for the nontelecommunications services is separately identified in the statement of the transaction with the customer of the telecommunications service; or
  - (b) from the books and records of the telecommunications provider that are kept in the regular course of business, the telecommunications provider can reasonably identify the portion of the total charge for the transaction that is attributable to:
    - (i) the nontelecommunications services; and
    - (ii) the telecommunications service.

Enacted by Chapter 253, 2003 General Session