

Chapter 26

Multi-Channel Video or Audio Service Tax Act

59-26-101 Title.

This chapter is known as the "Multi-Channel Video or Audio Service Tax Act."

Enacted by Chapter 300, 2004 General Session

59-26-102 Definitions.

As used in this chapter:

- (1) "County or municipality franchise fee" means a franchise fee that a county or municipality receives from a multi-channel video or audio service provider.
- (2) "Franchise fee" is as defined in 47 U.S.C. Sec. 542, except that the term "cable operator" or "cable subscriber" shall be interpreted to include a multi-channel video or audio service provider.
- (3)
 - (a) "Multi-channel video or audio service provider" means any person or group of persons that:
 - (i) provides multi-channel video or audio service and directly or indirectly owns a significant interest in the multi-channel video or audio service; or
 - (ii) otherwise controls or is responsible through any arrangement, the management and operation of the multi-channel video or audio service.
 - (b) "Multi-channel video or audio service provider" includes the following except as specifically exempted by state or federal law:
 - (i) a cable operator;
 - (ii) a CATV provider;
 - (iii) a multi-point distribution provider;
 - (iv) a MMDS provider;
 - (v) a SMATV operator;
 - (vi) a direct-to-home satellite service provider; or
 - (vii) a DBS provider.
- (4) "Municipality" means a city or town.

Amended by Chapter 288, 2007 General Session

59-26-103 Imposition of tax -- Rate.

Subject to Section 59-26-104.5, there is imposed as provided in this part a tax on the purchaser equal to 6.25% of amounts paid or charged for multi-channel video or audio service provided by a multi-channel video or audio service provider:

- (1) within the state; and
- (2) to the extent permitted by federal law.

Amended by Chapter 288, 2007 General Session

59-26-104 Collection of tax.

A multi-channel video or audio service provider shall:

- (1) collect the tax imposed by Section 59-26-103 from the purchaser;
- (2) pay the tax collected under Subsection (1) 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 multi-channel video or audio service provider is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or
 - (ii) the multi-channel video or audio service provider is not required to file a sales and use tax return under 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 multi-channel video or audio service provider is required to file a sales and use tax return with the commission quarterly under Section 59-12-108; and
- (3) pay the tax collected under Subsection (1) using a form prescribed by the commission.

Amended by Chapter 309, 2011 General Session

59-26-104.5 Nonrefundable credit against tax -- Amounts passed through to customers within the state -- Tax may not be reduced by amounts passed through to customers within the state.

- (1) Beginning on January 1, 2008, a multi-channel video or audio service provider may claim a nonrefundable tax credit as provided in this section.
- (2) The nonrefundable tax credit described in Subsection (1):
 - (a) may be claimed against the tax the multi-channel video or audio service provider would otherwise be required to collect under this chapter from its purchasers within the state; and
 - (b) is in an amount equal to 50% of the total amount of county or municipality franchise fees that the multi-channel video or audio service provider pays:
 - (i) to all of the counties and municipalities within the state that impose a county or municipality franchise fee; and
 - (ii) for the calendar quarter for which the multi-channel video or audio service provider files a return under this chapter.
- (3) The nonrefundable tax credit described in Subsection (1) may not be carried forward or carried back.
- (4)
 - (a) Subject to Subsections (4)(b) and (c), a multi-channel video or audio service provider shall pass through to its purchasers within the state an amount equal to the amount of the nonrefundable tax credit the multi-channel video or audio service provider claims for a calendar quarter.
 - (b) The amount that a multi-channel video or audio service provider passes through to its purchasers within the state under Subsection (4)(a) shall be passed through during the same calendar quarter as the calendar quarter for which the multi-channel video or audio service provider claims the nonrefundable tax credit.
 - (c) A tax under this chapter on amounts paid or charged for multi-channel video or audio service may not be reduced as a result of the amount a multi-channel video or audio service provider passes through to its customers within this state under this Subsection (4).

Enacted by Chapter 288, 2007 General Session

59-26-105 Deposit of tax revenue.

The commission shall deposit revenues generated by the tax imposed by this chapter into the General Fund.

Enacted by Chapter 300, 2004 General Session

59-26-106 Records.

- (1) A multi-channel video or audio service provider shall maintain records, statements, books, or accounts necessary to determine the amount of tax that the multi-channel video or audio service provider is required to remit to the commission under this chapter.
- (2) The commission may require a multi-channel video or audio service provider to make or keep the records, statements, books, or accounts the commission considers sufficient to show the amount of tax for which the multi-channel video or audio service provider is required to remit to the commission under this chapter:
 - (a) by notice served upon that multi-channel video or audio service provider; or
 - (b) by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) After notice by the commission, a multi-channel video or audio service provider shall open the records, statements, books, or accounts specified in Subsection (2) for examination by the commission or a duly authorized agent of the commission.

Amended by Chapter 382, 2008 General Session

59-26-108 Rulemaking authority.

The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement and enforce this chapter.

Amended by Chapter 382, 2008 General Session

59-26-109 Penalties and interest.

A multi-channel video or audio service provider that fails to comply with any provision of this chapter is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

Enacted by Chapter 300, 2004 General Session