



*Working together since 1967 to preserve federalism and tax fairness*

To: Uniformity Sales and Use Tax Subcommittee  
From: Roxanne Bland, Counsel  
Date: February 29, 2008  
Subject: Project: Model Statute for Administering Telecommunications  
Transaction Taxes

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At its November 2007 meeting, the subcommittee voted to take up, as the first phase of this project, development of model language with respect to collection of telecommunications taxes, and appointed a drafting group to work with MTC staff to develop two or three models, to accommodate states' varying degrees of centralization, for the subcommittee to consider during its March meetings. The drafting group met twice by teleconference, and presents three draft centralized collection proposals for the subcommittee's consideration.

#### **PROPOSAL I: State Imposition of Tax; State Administration**

Section [1]. Administration of Tax. This section provides that all telecommunications taxes will be administered by the state using the same procedures utilized in the collection of sales and use tax.

Section [2]. Establishment of [Local Tax Trust] Fund; Disbursements. Section 2(a) creates a trust fund, administered by the state, into which tax collected on behalf of local jurisdictions will be deposited. Section 2(b) specifies the means of disbursement to local jurisdictions and according to a formula developed by, presumably, the state and local jurisdictions involved. Section 2(c) authorizes the state revenue agency to retain a portion of the funds collected to cover its administrative costs.

#### **PROPOSAL II: Local Imposition of Tax, State Administration**

Section [1]. Administration of Tax. Section 1(a) provides for state administration of telecommunications tax(s) pursuant to the same procedures utilized in the collection of sales and use tax. Authority to impose such taxes however, remains with the local jurisdictions. This section further provides an exception to state-level administration if a local jurisdiction meets certain criteria, e.g., population. Section 1(b) simply requires

telecommunications providers to identify the local jurisdictions in which tax was collected, and the amount.

Section [2]. Establishment of [Local Tax Trust] Fund; Disbursements. Section 2(a) creates a trust fund, administered by the state, into which taxes collected on behalf of local jurisdictions will be deposited. Section 2(b) specifies the means of transmitting tax to local jurisdictions. Section 2(c) authorizes the state revenue agency to retain a portion of the funds collected to cover its administrative costs.

### **PROPOSAL III: LOCAL IMPOSITION; LOCAL ADMINISTRATION**

Section [1]. Administration of Tax. This section requires local jurisdictions that impose tax on telecommunications services to enter into agreement(s) with each other for administering the taxes imposed. It also requires that such agreement(s) conform to the federal Streamlined legislation, and to establish uniform procedures for collecting and forwarding tax collected to the appropriate local jurisdictions.

**TELECOMMUNICATIONS TRANSACTION TAX PROJECT**  
**Centralized Collection Proposals**

**PROPOSAL I. State Imposition; State Administration**

Section [1]. Administration of Tax.

The [state revenue agency] shall collect, enforce, and administer the taxes imposed by [cite to applicable code provision(s)] pursuant to the same procedures used in the administration, collection and enforcement of the state sales and use tax under [cite to applicable code provisions].

Section [2]. Establishment of [Local Trust] Fund; Disbursements.

a. There is established in the [state revenue agency] a special nonreverting fund which shall be known as the [Local Trust] Fund (the Fund). The Fund shall be established on the books of the [state revenue agency] and any funds remaining in the Fund at the end of [insert appropriate time interval] shall not revert to the general fund but shall remain in the Fund. Interest earned on the funds shall be credited to the Fund.

b. On the [specify time interval] the [state revenue agency] shall transmit monies collected under [insert applicable code provision(s)] by electronic funds transfer to each [local jurisdiction]. Amounts paid to each [local jurisdiction] shall be calculated by [insert formula].

c. The [state revenue agency] is authorized to retain an amount sufficient to reimburse the agency for the costs incurred by the [state revenue agency's] services in administering the tax imposed under [insert applicable code provision(s)].

## **PROPOSAL II. Local Imposition; State Administration**

### Section [1]. Administration of Tax.

a. The [state revenue agency] shall collect, enforce, and administer the taxes imposed by [local jurisdictions] under [insert applicable code provision(s)] pursuant to the same procedures used in the administration, collection and enforcement of the state sales and use tax under [cite to applicable code provisions], (\*\*optional\*\*) but a [local jurisdiction] with [insert criteria] may collect, enforce and administer the tax imposed such [local jurisdiction].

b. Every telecommunications service provider required to make a return to this state pursuant to [cite applicable code section] shall name each [local jurisdiction] for which tax was collected and the amount of tax collected for each.

### Section [2]. Establishment of [Local Tax Trust] Fund; Disbursements.

a. There is established in the [state revenue agency] a special nonreverting fund which shall be known as the [Local Tax Trust Fund] (the Fund). The Fund shall be established on the books of the [state revenue agency] and any funds remaining in the Fund at the end of [insert appropriate time interval] shall not revert to the general fund but shall remain in the Fund. Interest earned on the funds shall be credited to the Fund.

b. On the [specify time interval] the [state revenue agency] shall transmit monies collected under [insert applicable code provisions] by electronic funds transfer to each [local jurisdiction] identified on the returns made by telecommunications service providers for which telecommunications tax(es) [was][were] collected.

c. The [state revenue agency] is authorized to retain an amount sufficient to reimburse the agency for the costs incurred by the [state revenue agency's] services in administering the tax(s) imposed under [insert applicable code provision(s)].

### **PROPOSAL III. Local Imposition; Local Administration**

#### Section [1]. Administration of Tax

a. All [local jurisdictions] that impose a tax on telecommunications services pursuant to Section [1] shall enter into an agreement providing for the administration, collection and enforcement of the tax imposed. Such agreement shall conform to the simplification requirements for telecommunications taxes as set forth in the [Sales Tax Fairness and Simplification Act], and shall further provide:

i. [Uniform procedures] for collecting the tax on behalf of [local jurisdictions] that are parties to the agreement;

ii. [Uniform procedures] for the forwarding of tax, penalties and interest collected on behalf of a [local jurisdiction] to such [local jurisdiction].

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