
TELECOMMUNICATION SERVICES

The *Arvada Municipal Code* imposes a tax on the purchase price paid for telecommunications services except carrier access services and interstate private communication services. Charges for all international, interstate, watts/800 services and intrastate telecommunications services originating from or received on telecommunications equipment in the City are taxable when the charge for the service is billed to an apparatus, telephone or account in the City, to a customer location in the City, or to a person residing in the City without regard to where the bill for such services is actually received.

The *Arvada Municipal Code* defines telecommunication services as the transmission of any two-way interactive electromagnetic communications including but not limited to voice, image, data and any other information, by the use of any means but not limited to wire, cable, fiber optical cable, microwave, radio wave, Voice over Internet Protocol (VoIP), or any combination of such media, including any form of mobile two-way communication.

“Telecommunications service” includes but is not limited to residential and business service, directory assistance, cellular mobile telephone or telecommunications service, specialized mobile radio and two-way pagers and paging service, including any form of mobile two-way communications. “Telecommunications services” DOES NOT INCLUDE separately stated non-transmission services, which constitute *computer processing applications* used to act on the information to be transmitted or Internet Access Charges.

Specific telecommunications services which are subject to Arvada Sales / Use Tax, include but are not limited to charges for the following:

- Intrastate, Interstate and international telecommunications services;
- Voice of Internet Protocol (VoIP) based telecommunication;
- Call forwarding, call waiting, call completion, caller ID and call conference calling;
- Voice messaging or voice mail;
- Phone Cards;
- Two-way radio communications airtime and two-way paging service;
- Pay-Per-Use Services such as directory assistance, continuous redial and last call return;
- Bundled Services;
- Cable Television Service; and
- Mobile telecommunications provided the customer’s place of primary use is in Arvada.

The determination of whether the City sales tax is applicable is based on the apparatus or equipment location, not on the billing address.

TAXES AND FEES

Fees and indirect taxes, such as business and occupation taxes, which are passed on to the customer by the telecommunication service provider are part of the taxable purchase price. City sales tax is also imposed on the sales, lease or rental of telecommunication equipment such as pagers, mobile phones, fax machines, telephones, modems and routers.

MOBILE TELECOMMUNICATIONS

Pursuant to the Mobile Telecommunications Sourcing Act (4 U.S.C. Secs. 116 to 126, as amended) charges for mobile telecommunications services, as defined in the act, are taxed according to the customer's place of primary use (PPU). This will usually be the customer's residence or business location. For taxpayers with multiple locations, it is important to notify home service providers which location each unit will be used at to avoid being assessed tax improperly based upon the billing address.

BUNDLED TRANSACTIONS

If taxable and non-taxable services are bundled together and sold as one price, the taxable portion of the bundled charge must be determined to compute the sales tax that is due on the sale. The service provider must provide an estimated value of each of the bundled service elements (subject to audit) and receive an approval to charge sales tax based on these estimate. If this is not done, the entire price will be subject to sales tax.

INTERNET ACCESS CHARGES

Internet access charges are **not** taxable when they are separately stated from other charges or when the telecommunications services providers can reasonably identify the internet access charges from books and records kept in the regular course of business to deduct that amount from the sales price before applying sales tax to the bundled charge.

Arvada Sales / Use Tax Code – Chapter - 98

Sec.98-61. Definitions

Telecommunications service means the service of which the object is the transmission of any two-way interactive electronic or electromagnetic communications including but not limited to voice, image, data and any other information, by the use of any means but not limited to wire, cable, fiber optical cable, microwave, radio wave, Voice over Internet Protocol (VoIP), or any combinations of such media, including any form of mobile two-way communication.

Carrier access services means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

Private communications services means telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate inter-communications system for the subscriber's stations.

Watts/800 service means any outbound or inbound interstate wide area telecommunications service or other similar service which entitles the subscriber, upon payment of the periodic charge, based upon a flat amount and/or usage, to make or receive a large volume of telephonic communications to or from persons having telephone or radio telephone stations in specified areas which are outside the telephone system area in which the subscriber's station is located.

Sec. 98-66 *There is hereby levied and there shall be collected and paid a tax in the amount stated in section 98-76 as follows:*

(1) *On all sales and services taxable, including, but not limited to the following*

b. With the exception of carrier access services and interstate private communication services and except as otherwise provided by this section for mobile telecommunication services, telecommunication services for all international, interstate, watts/800 services and intrastate telecommunications service originating from or received on telecommunications equipment in the city if the charge for the service is billed to an apparatus, telephone, or account in this city, to a customer location in this city, or to a person residing in the city without regard to where the bill for such services is actually received. If a taxpayer presents to the city written proof of double taxation of the said telecommunication services, the city shall credit against the tax accruing under this article the amount of tax actually paid by the taxpayer to the other taxing entity. If the tax accruing under this article exceeds the amount of the tax actually paid by the taxpayer to the other taxing entity, the taxpayer shall pay the difference to the city. The credit provided for in this section shall not be allowed if the tax actually paid by the taxpayer to the other taxing entity was not by law, required to be paid.

1. Mobile telecommunications services shall be subject to the tax imposed by this article only if the service is provided by a home service provider to a customer whose place of primary use is within the city, the tax shall be collected in accordance with the provisions of the act.

2. As used in this subsection, unless the context otherwise requires:

i. "Act" means the federal "Mobile Telecommunications Sourcing Act," 4 USC 116 to 126, as amended.

ii. "Customer" means customer as defined in USC 124(2) of the act.

iii. "Home service provider" means home service provider as defined in USC 124(5) of the act.

iv. "Mobile telecommunications services" means mobile telecommunications service as defined in USC 124(7) of the act.

v. "Place of primary use" means the place of primary use as defined in USC 124(8) of the act.

THE ABOVE INFORMATION IS A SUMMARY IN LAYMAN'S TERMS OF THE RELEVANT ARVADA TAX LAW FOR THIS SUBJECT, INDUSTRY OR BUSINESS SEGMENT. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE ARVADA MUNICIPAL CODE. HOWEVER, THE TAX GUIDE SHALL BE USED IN CONJUNCTION WITH THE ARVADA MUNICIPAL CODE (CHAPTER 98) IN DETERMINING TAX LIABILITY.