

117-329 Communications Services

117-329.1. Ways or Means for Transmission of Voice or Messages

117-329.2. Prepaid Wireless Calling Arrangements

117-329.3. 900/976 Telephone Services

117-329.4. Examples of Taxable Communications Services

117-329.5. Examples of Non-Taxable Communications Services

117-329 Communications Services.

The purpose of this regulation is to provide guidance as to the application of the sales and use tax to the wide variety of communications services available to individual consumers and to businesses. It also lists examples of communication services that are or are not subject to the tax. Charges for other communications services not listed in this regulation are still subject to the tax if they constitute charges for the ways or means for the transmission of the voice or messages and are not otherwise exempted under the law.

117-329.1. Ways or Means for Transmission of Voice or Messages.

Communications are subject to sales and use taxes pursuant to Code Sections 12-36-910(B)(3) and 12-36-1310(B)(3), which impose the tax on the “gross proceeds accruing or proceeding from the charges for the ways or means for the transmission of the voice or messages, including the charges for use of equipment furnished by the seller or supplier of the ways or means for the transmission of the voice or messages.”

“Charges for the ways or means for the transmission of the voice or messages” is defined to include, but is not limited to, charges for access to, or use of, a communication system (the manner, method or instruments for sending or receiving a signal of the voice or of messages), whether this charge is based on a fee per a specific time period or per transmission or any other method.

117-329.2. Prepaid Wireless Calling Arrangements.

Code Section 12-36-910(B)(5) and Code Section 12-36-1310(B)(5) impose the sales and use tax on the “gross proceeds accruing or proceeding from the sale or recharge at retail for prepaid wireless calling arrangements.”

“Prepaid wireless calling arrangements” means communication services that (i) are used exclusively to purchase wireless telecommunications; (ii) are purchased in advance; (iii) allow the purchaser to originate telephone calls by using an access number, authorization code, or other means entered manually or electronically; and (iv) are sold in units or dollars which decline with use in a known amount.

117-329.3. 900/976 Telephone Services.

Communications are subject to sales and use taxes pursuant to Code Section 12-36-2645, which imposes the sales and use tax on the “gross proceeds accruing or proceeding from the business of providing 900/976 telephone service.” However, this code section imposes the sales and use tax on such communications services at a higher state rate than the general state sales and use tax rate.

117-329.4. Examples of Taxable Communications Services.

The following are examples of communication services that are subject to the sales and use tax (unless otherwise listed as non-taxable in 117-329.5 or otherwise exempt or excluded under the law):

(a) Telephone services, including telephone services provided via the traditional circuit-committed protocols of the public switched telephone network (“PSTN”), a wireless transmission system, a voice over Internet protocol (“VoIP”), or any of other method

(b) Teleconferencing Services

(c) Paging Services

(d) Answering Services

(e) Cable Television Services

(f) Satellite Programming Services and Other Programming Transmission Services, including, but is not limited to, emergency communication services and television, radio, music or other programming services

(g) Fax Transmission Services

(h) Voice Mail Messaging Services

(i) E-Mail Services

(j) Electronic Filing of Tax Returns when the return is electronically filed by a person who did not prepare the tax return

(k) Database Access Transmission Services or On-Line Information Services, including, but not limited to, legal research services, credit reporting/research services, and charges to access an individual website (including Application Service Providers)

(l) Prepaid Wireless Calling Arrangements (sale or recharge at retail) as defined in Code Section 12-36-910(B)(5)

(m) 900/976 Telephone Service

117-329.5. Examples of Non-Taxable Communications Services.

The following are examples of communication services are not subject to the sales and use tax:

(a) Telephone services specifically exempted under Code Section 12-36-2120(11), such as toll charges between telephone exchanges and carrier access charges and customers access line charges established by the Federal Communications Commission or the South Carolina Public Service Commission

(b) Telegraph Messages exempt under Code Section 12-36-2120(11)

(c) Communication Services involving Automatic Teller Machines exempt under Code Section 12-36-2120(11)

(d) Data Processing Services as defined under Code Section 12-36-910(C)

(e) Computer Database Information Services provided by a cooperative service when the database information has been assembled by and for the exclusive use of the members of the cooperative services excluded from the tax under Code Section 12-36-60

(f) Electronic Filing of Tax Returns when the return is electronically filed by a person who prepared the tax return

(g) Other charges specifically exempt from the tax under State law or federal law

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by State Register Volume 32, Issue No. 6, eff June 27, 2008.