

## **CITY OF SACRAMENTO UTILITY USER TAX**

### **ADMINISTRATIVE RULING (3.1)**

#### **Communications User Tax Sacramento City Code § 3.32.030**

**Authority.** Pursuant to section 3.32.030(E) of the Sacramento City Code, the Tax Administrator adopts the following administrative ruling to ensure that the Communications User Tax is applied in a manner consistent with the Internet Tax Freedom Act to charges for taxable communications services that are bundled with internet access service.

#### **Administrative Ruling (Implementation of the Internet Tax Freedom Act).**

1. As used in this ruling:
  - a. “bundled” mean to provide a taxable communications service and internet access service for a single charge or for set of charges that does not include a separately stated charge for the internet access service;
  - b. “Internet Tax Freedom Act” means the federal law commonly cited as the Internet Tax Freedom Act, 47 U.S.C. § 151 (note);
  - c. “internet access service” means the provision of “internet access,” as that phrase is defined by section 1105(5) of the Internet Tax Freedom Act; and
  - d. “taxable communications service” means any communications service identified in section 3.32.030(B) of the Sacramento City Code that is not exempt from the Communications Users Tax, other than internet access service.

2. If a service supplier provides internet access service that is not bundled with a taxable communications service, the charge for the internet access service shall be exempt from the Communications User Tax, unless section 1101(a) of Internet Tax Freedom Act does not apply to the sale or purchase of the internet access service.

3. Except as set forth in subsection (4) of this administrative ruling, if a service supplier provides a taxable communications service that is bundled with internet access service, the full amount of each charge collected by the service supplier for the bundled taxable communications service and internet access service shall be subject to the Communications User Tax.

4. If a service supplier provides a taxable communications service that is bundled with internet access service, the service supplier may apply the Communications Users Tax to a portion of the charge or charges it collects for the bundled taxable communications service and internet access service, if that portion of the charge or charges is not less than

the reasonable value of the taxable communication service. The service supplier has the burden of proving, by a preponderance of the evidence, that the value it assigns to the taxable communications service is reasonable, subject to the following rules:

- a. *Per se Reasonableness.* If the service supplier assigns a value to the taxable communications service that is not less than the price of the same service offered by the service supplier on a stand-alone basis, the assigned value shall be deemed *per se* reasonable.
- b. *Other Factors.* If the service supplier assigns a value to the taxable communications service that is less than the price of the same service offered by the service supplier on a stand-alone basis, the Tax Administrator, in determining whether the value is reasonable, may consider: (i) the price of the same service offered by the service supplier on a stand-alone basis; (ii) the current market price of comparable services offered by competitors on a stand-alone basis; and (iii) information in the books and records of the service supplier that identifies the service supplier's comparative costs of providing the taxable communications service and the internet access service. Relative usage of network bandwidth is not a reasonable basis for determining the reasonable value of the taxable communications service.

A service supplier, to ensure compliance with this subsection, may submit a proposed value for a taxable communications service to the Tax Administrator for review and approval.

5. Notwithstanding subsection (4) of this administrative ruling, if a service supplier provides a taxable communications service that is bundled with internet access service, and section 1101(a) of Internet Tax Freedom Act does not apply to the sale or purchase of the internet access service, the full amount of each charge collected by the service supplier for the bundled taxable communications and internet access services shall be subject to the Communications User Tax.

**Limitation.** This Administrative Ruling is intended to give general guidance and should not be viewed as providing a definitive answer to all factual situations. The exact application of the Communications User Tax will depend on the nature of the service, the way the service is billed, and other factors.

**Issued by the Finance Director and  
Tax Administrator of the City of Sacramento**

  
Leyne Milstein (Apr 18, 2023 12:59 PDT)

**Leyne Milstein**

**Date:** Apr 18, 2023