Communications Tax Reform: State Experiences

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Overview

- Key issues driving state reforms
- Reform considerations
- Comparison of reforms enacted in Virginia, Florida, North Carolina, and Delaware

Key Issues Driving Reforms

- **Convergence of technologies**
  - **Telecom & video**
  - **“Over the top” providers /applications**
- **Economic development**
  - **Role of communications infrastructure in job growth**
  - **Competition for investment**
- **Excessive rates on certain providers**
  - **Legacy rates from monopoly phone company era are difficult to sustain given convergence**

Reform Considerations

- **States starting at different places due to history, politics**
- **No single “formula” or “model” for states**

Reform Considerations

- **State revenues**
  - **Short and long term impact**
  - **General fund vs. earmarked programs**
- **Local revenues**
  - **High local reliance on communications taxes**
  - **Right-of -way fee / tax debate**
  - **Distrust of state collection on local behalf**
  - **Locals not getting revenues on newer services**

Reform Key Questions

- **State-only tax or state and local components?**
- **How to address the federal law prohibition on local taxes on DBS?**
- **Should there be a cost based right-of-way fee for providers using public property?**
- **Can states assert nexus for “over-the-top” providers?**

State Reforms: Virginia

- **Process**
  - **Multi-year negotiation process (2003 to 2006)**
  - **Reform bill passed in 2006**
  - **All stakeholders involved**
  - **Data gathered by state auditor**

Virginia

- **Pre-reform structure**
  - **Local utility taxes on local landline and wireless, interstate telecom not taxable**
  - **Local franchise fee on local landline**
  - **No state taxes on telecommunications**
  - **Cable TV subject to local franchise fees**
  - **No state taxes on cable TV**
  - **No state or local taxes on DBS**

Virginia

- **Reformed tax structure**
  - **Single statewide tax at same rate as state/local sales tax**
  - **Separate, uniform statewide 911 fee**
  - **Separate, uniform statewide cost-based "right of way" component for providers using public ROW – assessed per line instead of as % of revenues**

Virginia

- **Tax rates**
  - **5% rate imposed on all communications services**
  - **75-cent 911 fee on telecommunications customers**
  - **Additional “rights-of-way use” fee adjusted annually (currently at $.76; applies to cable and wireline telecom)**
- **Administration**
  - **State collected, funds distributed to locals by formula**
  - **“Hold harmless” revenue guarantee for locals**

Virginia

- **Politics**
  - **Reform hailed as national model**
  - **State did not raid local funds even during huge state shortfalls**
  - **Lack of state sales tax on communications services under prior law made revenue replacement easier**
- **Economics**
  - **Study showed local revenues under reform exceeded what they would have received under status quo**

Florida

- **2000 reform rolled seven state and local taxes into one "Communications Services Tax"**
  - **State sales tax and gross receipts tax**
  - **Local sales tax, ROW fees, permit fees, franchise fees, local utility tax**
- **New tax structure included a state and local tax component with central remittance to state**

Florida

Pros:

- Administrative simplification
- Customer transparency
- Revenue growth in early years

Cons:

- Rates are very high
- Revenues now declining due to technology and market changes

Florida – 2012 Working Group

- **Revenue sufficiency issues prompted legislature to appoint new working group**
  - **Growth of prepaid wireless**
  - **Emergence of "over the top" providers**

- **Working group to report to legislature in February 2013.**

North Carolina

- **Pre-reform structure**
  - **3% sales tax on local service**
  - **3.22% gross receipts tax on local service**
  - **6.5% sales tax on interstate/intrastate toll**
  - **Local telecom franchise fees**
  - **Local cable franchise fees (up to 5%)**
  - **No state tax on cable or DBS**

State Reforms: North Carolina

- **Process**
  - **Separate reform bills enacted over time 2001 - 2006**
  - **Video and telecommunications taxes evolved into uniform rate**
  - **Bills brought NC into conformity with SSTP**
- **Enacted Tax Structure**
  - **Franchise and local utility taxes eliminated**
  - **Statewide tax at average combined state-local sales tax rate**
  - **Uniform statewide 911 fee**
  - **No additional tax/fee for providers using public right of way**
  - **No tax imposed on communications providers' network equipment**

North Carolina

- **Tax rates**
  - All communications services taxed at statewide rate that approximates state-local sales tax average (currently 7%)
  - Separate uniform statewide 911 fee (currently at $.60)
- **Administration**
  - State allocates revenues from sales tax to locals by formula to replace repealed local taxes – locals held harmless
  - No sales tax imposed on communications network investments

Delaware

- Process
  - Tax reform commission established in 2011
  - Interim recommendations issued in 2012
  - Final recommendations due in 2013

- Stakeholders
  - Legislators & executive branch
  - Local elected officials (municipal, school, county)
  - Cable, DBS, wireless, wireline

Delaware

- **Current Structure**
  - **No sales tax**
  - **Special property tax on landline telecoms**
  - **Excise tax: DBS and cable 2.125%, telecom 5%**
  - **Local cable franchise fees (up to 5%)**

Delaware

- Goals
  - Modernized to reflect technology changes
  - Competitively neutral for providers
  - Encourages network investment
- Interim report / data
  - Department of Finance is modeling different single statewide gross receipts tax scenarios

Conclusion

- **Successful models exist, but no two states are alike**
- **Process is very important**
- **Reform is necessary due to changes in technology and the marketplace – revenue losses (especially local) will occur under status quo**

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