



**Presentation to the
Maryland Communications Tax Reform Commission**

VIRGINIA COMMUNICATIONS TAX RESTRUCTURING 2006-12

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Agenda:

- Historical Telecommunications Tax Structure
- Communications Tax Reform
- New Communications Taxes
- Revenue Distribution
- Implementation of House Bill 568
- Questions

Virginia's Historical Telecommunications Tax Structure

VIRGINIA COMMUNICATIONS TAX RESTRUCTURING

Local Taxes:

- Consumer Utility Tax on landline and wireless telephone service.
 - High rate plus low cap = regressive.
- E-911 tax on landline telephone service.
 - \$0.75 per line per month.
- Business License Tax on public service companies.
 - \$0.50 per \$100.00 of gross receipts.
 - Some localities grandfather to impose tax at higher rates.
- Cable Franchise Fees.
 - Typically 5%.
- Video Programming Excise Tax on cable television services.
- Consumer Utility Tax on cable television services.
 - Typically imposed in the older cities.
- Public Right of Way Fee on Landline Telephone.

State Taxes:

- State E-911 tax on wireless telephone service.
 - \$0.75 per line per month.
- VA Relay Center Assessment on landline telephone service for the hearing impaired.
 - \$0.16 per month.

Communications Tax Reform
House Bill 568
(2006 Acts of Assembly, Chapter 780)

VIRGINIA COMMUNICATIONS TAX RESTRUCTURING

Effective January 1, 2007, House Bill 568 repealed:

- Consumer Utility Tax on landline and wireless telephone service.
- E-911 tax on landline telephone service.
- VA Relay Center Assessment on landline telephone service.
- The portion of the local BPOL tax on public service companies exceeding 0.5% in some grandfathered localities.
- Video Programming Excise Tax on cable television services.
- Consumer Utility Tax on cable television services

House Bill 568 Imposed New Taxes and Fees:

- State Communications Sales and Use Tax
- State E-911 Tax on landline telephone service
- Public Rights-of-Way Use Fee extended to cable television providers

Three Taxes Unaffected by House Bill 568:

- State E-911 Fee on wireless telephone service.
- Public Right-of-Way Fee on landline telephone service.
- Local 0.5% BPOL tax on public service companies.

VIRGINIA COMMUNICATIONS TAX RESTRUCTURING

Cable Franchise Fees:

- Cable franchise agreements entered into or renegotiated after January 1, 2007 cannot include a franchise fee. Cable franchise agreements in effect on January 1, 2007 will remain in effect until their expiration:
 - o Providers may no longer pass franchise fee on to customers.
 - o Instead of paying franchise fees to localities, cable providers report the franchise fees that accrue each month to TAX.
 - o TAX pays the accrued franchise fees to localities from the Communications Sales and Use Tax Trust Fund on a monthly basis. These payments reduce the amount due to each locality based on its APA determined percentage.

Transition: Flash Cut

- Bills issued by providers on or before December 31, 2006 reflected the taxes and fees in effect on that date.
- Bills issued by providers after December 31, 2006 reflected the new communications taxes.

Communications Sales and Use Tax

Communications Sales and Use Tax:

- State tax administered by TAX like retail sales and use tax.
- Imposed on communications services at the rate of 5%.
- Listed as line item on customers' bills.
- Remitted monthly to TAX by providers.
- Revenues deposited into the Communications Sales and Use Tax Trust Fund (more on that later).

Communications services subject to the tax include:

- Landline and wireless telephone services (including Voice Over Internet Protocol)
- Cable television
- Satellite television and satellite radio
- Teleconferencing services
- Private communications services

Other communications services subject to the tax:

- “Push to talk” services
- Pager and beeper services
- Automated or partially automated answering services
- 800 number services

Non-taxable Communications Services:

- Information services
- Installation or maintenance of wiring or equipment on customers' premises
- Sale or rental of tangible personal property
- Directory advertising
- Internet access service
- Digital products delivered electronically, downloaded music, ring tones and reading materials
- Over-the-air radio and television service broadcast without charge

Non-taxable Amounts:

- Excise, sales or similar taxes, if the tax is stated separately
- Governmental fees or assessments, if separately stated
- Sale or recharge of a prepaid calling service
- Providers' internal use of communications services in connection with the business of providing services
- Separately stated charges for property/services not part of the sale of communications services
- Sales for resale
- Charges for communications services to a government entity

E-911 Tax on Landline Telephone Service:

- State tax administered by TAX.
- Imposed on the end user of each access line at \$0.75 per line.
- Appears as a line item on customers' bills.
- Revenues deposited into the Communications Sales and Use Tax Trust Fund.

Cable Rights-of-Way Use Fee:

- Cable television providers now pay the same right of way fee as telephone companies.
- Amount of fee is calculated annually by the Virginia Department of Transportation (VDOT).
- The fee was initially \$0.64 per subscriber per month.
- Appears as a line item on customers' bills.
- Revenues deposited into the Communications Sales and Use Tax Trust Fund.

Virginia Relay Center:

- Telephone relay service for the hearing impaired.
- TAX disburses funding for the Relay Center from the Communications Retail Sales and Use Tax Fund as appropriated by the General Assembly.
- No separate tax or fee on customers' bills

Revenue Distribution

VIRGINIA COMMUNICATIONS TAX RESTRUCTURING

2006 Auditor of Public Accounts (“APA”) Report:

- The APA determined the amount of revenues received by every locality for FY 2006 from the repealed local taxes and fees.
- Based on each locality’s percentage of the total FY 2006 receipts from these sources, the APA calculated each locality’s percentage share of future distributions of the communications taxes by TAX.

Communications Sales and Use Tax Trust Fund:

Revenues from the Communications Sales Tax, the Landline E-911 Tax, and the Cable Rights-of-Way Use Fee are deposited into a new non-reverting fund and distributed as follows:

- Transfer to TAX to pay the direct costs of administering the Communications Taxes
- Transfer to the Virginia Department of Deaf and Hard-of-Hearing to provide the telephone relay service center
- Transfer to each locality with a cable television franchise agreement the amount of the franchise fee due the locality by its cable television provider
- Transfer to each locality its proportionate share of the monthly deposits of revenues remaining after payments to TAX and to DDHH less any cable television franchise fee distributed to the locality

Implementation of House Bill 568

TAX met with key players separately :

- Landline telephone.
- Wireless telephone.
- Cable television.
- Satellite Television.
- Local Governments.
- Department of Accounts.
- Department of Deaf and Hard of Hearing.

New processing system designed to process, distribute and account for the new taxes:

- System is generally similar to sales tax.
- Providers must register with TAX to collect and remit tax on monthly basis. TAX pre-registered all known entities.
- TAX surveyed localities to identify providers.
- Single paper return to report all 3 of the separate taxes with a cable franchise schedule.
- Communications Use Tax return for individuals and businesses who purchase taxable services from unregistered providers.

Timing of payments to localities:

- January return due February 20.
- Funds distributed by March 25.

TAX notifies localities of payments:

- TAX provides a monthly report:
 - o Total deposits into the Fund by tax type
 - o All distributions from the Fund
- TAX informs each locality of the amount of its distribution that is attributable to its cable franchise fee.

Nonprofit exemptions:

- Entities enjoying an exemption from the local consumer utility taxes on December 31, 2006 enjoy a grandfathered exemption from the communications sales tax.
- Providers required to document all grandfathered exemptions.

Communications Taxes Guidelines:

- TAX worked with the Virginia Municipal League, the Virginia Association of Counties and industry groups to develop comprehensive guidance for localities, communications services providers and consumers.
- Issued November 1, 2006.
- Available at TAX's web site: tax.virginia.gov.

Role of Local Governments after January 1, 2007:

- Localities may audit and collect bills for the repealed local taxes for periods prior to January 1, 2007.
- Localities may continue to audit cable providers to enforce cable franchise agreements.
- Localities may obtain a listing of providers registered with TAX and report unregistered providers to TAX.

Subsequent Restructuring Legislation:

- 2008-11 - Several bills to adjust the distribution to specific localities, leading to legislation authorizing TAX to make changes administratively in very limited circumstances.
- 2010 – New Prepaid Wireless E-911 Tax Imposed at the Retail Level to Ensure Collection of the E-911 Tax from All Customers.
 - Reported on Retail Sales and Use tax return.
- 2011 - Administration of the Wireless E-911 fee shifted from the Wireless E-911 Services Board to TAX.

Questions?

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