

## Mobile Telecommunications Services

### **Mobile Telecommunications Services are Subject to Business Tax and Sourced to the Customer's Place of Primary Use**

Mobile telecommunications services sold to customers in Tennessee are subject to business tax. The federal Mobile Telecommunications Sourcing Act ("MTSA") requires mobile telecommunications services providers ("providers") to source gross receipts from the sale of mobile telecommunications services to the customer's place of primary use. The customer's place of primary use is the street address where the customer primarily uses the service (*i.e.*, the customer's residential or business address).

Providers should obtain a business license, register for business tax, and report sales of mobile telecommunications services made in each city and county (*i.e.* jurisdiction) where they make more than \$100,000 in taxable sales during the tax year.

### **Mobile Telecommunications Services and Tangible Personal Property Sold by a Provider within a Jurisdiction are Reported Separately**

In accordance with the MTSA, providers must register under Classification 3 and report sales of mobile telecommunications services under Location IDs established for the sole purpose of reporting such sales to customers with a place of primary use within a city or county jurisdiction. Tennessee Taxpayer Access Point ("TNTAP") registration allows providers to select the city or county where they meet the \$100,000 threshold instead of registering using a business location address.

Providers should first obtain a Location ID to report the sales of mobile telecommunications services at

the Classification 3 rate for each city where they meet the \$100,000 threshold. When a provider registers in a city, the Department's registration system will automatically create a separate county Location ID to report tax at the Classification 3 rate for the county.

For example, a provider making sales of mobile telecommunications services in multiple cities within a county as well as the unincorporated area of the county will have a separate Location ID under Classification 3 for each city where it meets the \$100,000 threshold. The provider will also have a single separate county Location ID under Classification 3 to report all sales of mobile telecommunication services into the county (*i.e.*, all cities and unincorporated areas in the county) if the total sales into the county are more than \$100,000.

If a provider also has a store location in that jurisdiction, it should continue to report sales of tangible personal property made from the store under the Classification 2 rate using the store Location ID to report sales made from the store for both the city and county.

### **Example**

Company X sells mobile telecommunications services, cellphones and accessories. During the 2019 tax year, Company X sold \$155,000 of cellphones and accessories from its Chattanooga store location. Company X also made \$240,000 in mobile telecommunications services sales to customers with a place of primary use in the following cities in Hamilton County: \$185,000 in Chattanooga, \$150,000 in East Ridge, \$125,000 in Red

Bank, \$5,000 in Soddy-Daisy, and \$175,000 in the unincorporated area of Hamilton County.

The \$155,000 in sales of cellphone and accessories made from the Chattanooga store are reported for both the city and county under the Classification 2 store Location ID.

The mobile telecommunications services are reported using the Classification 3 rate as follows:

- \$185,000 under the Chattanooga Location ID;
- \$150,000 under the East Ridge Location ID;
- \$125,000 under the Red Bank Location ID; and
- \$240,000 under the Hamilton County Location ID

Because the mobile telecommunications services sold to customers with a place of primary use in the city of Soddy-Daisy is less than \$100,000, no business tax is reported to Soddy-Daisy. However, the \$5,000 is included in sales reported to Hamilton County.

The provider is still required to have a minimal business activity license for the city of Soddy-Daisy.

### **Sales of Phones and Accessories from Outside the State are Subject to Only State Business Tax**

Providers making sales of tangible personal property to customers in Tennessee from locations outside of Tennessee are only subject to the state-level business tax on those sales. Providers should report such sales under a separate out-of-state Location ID on their consolidated business tax return.

### **Remaining Personal Property Tax Credit May Be Taken Against Business Tax Due for Mobile Telecommunications Services**

A provider may take a credit on its business tax return for the personal property taxes paid to the same jurisdiction during the tax period covered by the return or prior to the due date of the return. The credit shall be taken first against the business tax due for a store location and then may be taken against the business tax due for the wireless telecommunications services for the same jurisdiction up to 50% of the provider's business tax liability in that jurisdiction.

### **Sales of Internet Access Are Not Subject to Business Tax**

Taxable mobile telecommunications services do not include charges for internet access. Sales of internet access are not taxable because of the federal Internet Tax Freedom Act.

### **Providers Should Contact the Department for Registration Assistance**

Providers should contact the Department at (615) 532-9452 to obtain assistance prior to filing to ensure they are registered correctly. TNTAP [registration instructions](#) are available for wireless telecommunications providers.

### **For More Information**

Visit [www.tn.gov/revenue](http://www.tn.gov/revenue). Click on Revenue Help to search for answers or to submit an information request to one of our agents.

### **References**

Tenn. Code Ann. § 67-4-701, *et seq.*; 4 U.S.C. §§ 116, 151, *et seq.*