

§ 105-164.4C. Telecommunications service and ancillary service.

(a) General. – The gross receipts derived from providing telecommunications service or ancillary service in this State are taxed at the rate set in G.S. 105-164.4(a)(4c). Telecommunications service is provided in this State if the service is sourced to this State under the sourcing principles set out in subsections (a1) and (a2) of this section. Ancillary service is provided in this State if the telecommunications service to which it is ancillary is provided in this State. The definitions and provisions of the federal Mobile Telecommunications Sourcing Act apply to the sourcing and taxation of mobile telecommunications services.

(a1) General Sourcing Principles. – The following general sourcing principles apply to telecommunications services. If a service falls within one of the exceptions set out in subsection (a2) of this section, the service is sourced in accordance with the exception instead of the general principle.

- (1) Flat rate. – A telecommunications service that is not sold on a call-by-call basis is sourced to this State if the place of primary use is in this State.
- (2) General call-by-call. – A telecommunications service that is sold on a call-by-call basis and is not a postpaid calling service is sourced to this State in the following circumstances:
 - a. The call both originates and terminates in this State.
 - b. The call either originates or terminates in this State and the telecommunications equipment from which the call originates or terminates and to which the call is charged is located in this State.
This applies regardless of where the call is billed or paid.
- (3) Postpaid. – A postpaid calling service is sourced to the origination point of the telecommunications signal as first identified by either the seller's telecommunications system or, if the system used to transport the signal is not the seller's system, by information the seller receives from its service provider.

(a2) Sourcing Exceptions. – The following telecommunications services and products are sourced in accordance with the principles set out in this subsection:

- (1) Mobile. – Mobile telecommunications service is sourced to the place of primary use, unless the service is prepaid wireless calling service or is air-to-ground radiotelephone service. Air-to-ground radiotelephone service is a postpaid calling service that is offered by an aircraft common carrier to passengers on its aircraft and enables a telephone call to be made from the aircraft. The sourcing principle in this subdivision applies to a service or product provided as an adjunct to mobile telecommunications service if the charge for the service or product is included within the term "charges for mobile telecommunications services" under the federal Mobile Telecommunications Sourcing Act.
 - (2) Prepaid. – Prepaid telephone calling service is sourced in accordance with G.S. 105-164.4B.
 - (3) Private. – Private telecommunications service is sourced in accordance with subsection (e) of this section.
- (b) Repealed by Session Laws 2006-33, s. 4, effective January 1, 2007.
- (c) (1) through (10) Repealed by Session Laws 2006-33, s. 4, effective January 1, 2007.
(11) Repealed by Session Laws 2005-276, s. 33.7, effective October 1, 2005.
(12) through (16) Repealed by Session Laws 2006-33, s. 4, effective January 1, 2007.

(d) Recodified as G.S. 105-164.4D by Session Laws 2006-151, s. 4, effective January 1, 2007.

(e) Private Line. – The gross receipts derived from private telecommunications service are sourced as follows:

- (1) If all the customer's channel termination points are located in this State, the service is sourced to this State.
- (2) If all the customer's channel termination points are not located in this State and the service is billed on the basis of channel termination points, the charge for each channel termination point located in this State is sourced to this State.
- (3) If all the customer's channel termination points are not located in this State and the service is billed on the basis of channel mileage, the following applies:
 - a. A charge for a channel segment between two channel termination points located in this State is sourced to this State.
 - b. Fifty percent (50%) of a charge for a channel segment between a channel termination point located in this State and a channel termination point located in another state is sourced to this State.
- (4) If all the customer's channel termination points are not located in this State and the service is not billed on the basis of channel termination points or channel mileage, a percentage of the charge for the service is sourced to this State. The percentage is determined by dividing the number of channel termination points in this State by the total number of channel termination points.

(f) Call Center Cap. – The gross receipts tax on telecommunications service that originates outside this State, terminates in this State, and is provided to a call center that has a direct pay permit issued by the Department under G.S. 105-164.27A may not exceed fifty thousand dollars (\$50,000) a calendar year. This cap applies separately to each legal entity.

(g) Credit. – A taxpayer who pays a tax legally imposed by another state on a telecommunications service taxable under this section is allowed a credit against the tax imposed in this section.

(h) Definitions. – The following definitions apply in this section:

- (1) Ancillary service. – Defined in G.S. 105-164.3.
- (1a) Call-by-call basis. – A method of charging for a telecommunications service whereby the price of the service is measured by individual calls.
- (2) Call center. – Defined in G.S. 105-164.27A.
- (3) Mobile telecommunications service. – Defined in G.S. 105-164.3.
- (4) Place of primary use. – Defined in G.S. 105-164.3.
- (5) Postpaid calling service. – A telecommunications service that is charged on a call-by-call basis and is obtained by making payment at the time of the call either through the use of a credit or payment mechanism, such as a bank card, travel card, credit card, or debit card, or by charging the call to a telephone number that is not associated with the origination or termination of the telecommunications service. A postpaid calling service includes a service that meets all the requirements of a prepaid telephone calling service, except the exclusive use requirement.
- (6) Prepaid telephone calling service. – Defined in G.S. 105-164.3.

- (7) Private telecommunications service. – Telecommunications service that entitles a subscriber of the service to exclusive or priority use of a communications channel or group of channels.
- (8) Telecommunications service. – Defined in G.S. 105-164.3. (2001-430, s. 6; 2001-487, ss. 67(a), (c), 69(b); 2002-16, s 10; 2002-16, ss. 6, 7, 8, 9, 11, 14; 2003-416, s. 16(a); 2005-276, ss. 33.6, 33.7; 2006-33, s. 4; 2006-151, s. 4; 2011-330, s. 17; 2013-414, s. 41.)