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HOUSE BILL 2156

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Cairnes and Morris

Read first time 02/20/2001. Referred to Committee on Finance.

1 AN ACT Relating to the federal mobile telecommunications sourcing  
2 act; amending RCW 82.04.065, 82.08.0289, 82.14.020, 82.14B.030,  
3 35.21.714, and 35A.82.060; adding a new section to chapter 82.04 RCW;  
4 adding new sections to chapter 82.32 RCW; adding a new section to  
5 chapter 35.21 RCW; adding a new section to chapter 35A.82 RCW; creating  
6 new sections; providing an effective date; and declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The legislature finds that the United States  
9 Congress has enacted the mobile telecommunications sourcing act for the  
10 purpose of establishing uniform nationwide sourcing rules for state and  
11 local taxation of mobile telecommunications services. The legislature  
12 desires to adopt implementing legislation governing taxation by the  
13 state and by affected local taxing jurisdictions within the state. The  
14 legislature recognizes that the federal act is intended to provide a  
15 clarification of sourcing rules that is revenue-neutral among the  
16 states, and that the clarifications required by the federal act are  
17 likely in fact to be revenue-neutral at the state level. The  
18 legislature also desires to take advantage of a provision of the  
19 federal act that allows a state with a generally applicable business

1 and occupation tax, such as this state, to make the uniform sourcing  
2 rules elective for such tax. Any construction of this act should  
3 reflect the legislature's intention to give effect to the federal act.  
4 The new definitions of statutory terms provided in this act shall have  
5 no impact on the interpretation of the existing laws of this state or  
6 of any political subdivision of this state except as expressly set  
7 forth in this act.

8 **Sec. 2.** RCW 82.04.065 and 1997 c 304 s 5 are each amended to read  
9 as follows:

10 (1) "Competitive telephone service" means the providing by any  
11 person of telecommunications equipment or apparatus, or service related  
12 to that equipment or apparatus such as repair or maintenance service,  
13 if the equipment or apparatus is of a type which can be provided by  
14 persons that are not subject to regulation as telephone companies under  
15 Title 80 RCW and for which a separate charge is made.

16 (2) "Network telephone service" means the providing by any person  
17 of access to a local telephone network, local telephone network  
18 switching service, toll service, or coin telephone services, or the  
19 providing of telephonic, video, data, or similar communication or  
20 transmission for hire, via a local telephone network, toll line or  
21 channel, cable, microwave, or similar communication or transmission  
22 system. "Network telephone service" includes interstate service,  
23 including toll service, originating from or received on  
24 telecommunications equipment or apparatus in this state if the charge  
25 for the service is billed to a person in this state. With respect to  
26 a home service provider of mobile telecommunications services: (a)  
27 "Network telephone service" includes mobile telecommunications services  
28 provided to its customers in any taxing jurisdiction, the charges for  
29 which are billed by or for the home service provider, irrespective of  
30 whether the services are provided by the home service provider; and (b)  
31 "network telephone service" does not include mobile telecommunications  
32 services provided to persons other than the home service provider's  
33 customers. "Network telephone service" includes the provision of  
34 transmission to and from the site of an internet provider via a local  
35 telephone network, toll line or channel, cable, microwave, or similar  
36 communication or transmission system. "Network telephone service" does  
37 not include the providing of competitive telephone service, the  
38 providing of cable television service, the providing of broadcast

1 services by radio or television stations, nor the provision of internet  
2 service as defined in RCW 82.04.297, including the reception of dial-in  
3 connection, provided at the site of the internet service provider.

4 (3) "Telephone service" means competitive telephone service or  
5 network telephone service, or both, as defined in subsections (1) and  
6 (2) of this section.

7 (4) "Telephone business" means the business of providing network  
8 telephone service, as defined in subsection (2) of this section. It  
9 includes cooperative or farmer line telephone companies or associations  
10 operating an exchange.

11 (5) "Charges for mobile telecommunications services" means any  
12 charge for, or associated with, the provision of commercial mobile  
13 radio service, as defined in section 20.3, Title 47 C.F.R. as in effect  
14 on June 1, 1999, or any charge for, or associated with, a service  
15 provided as an adjunct to a commercial mobile radio service, that is  
16 billed to the customer by or for the customer's home service provider  
17 regardless of whether individual transmissions originate or terminate  
18 within the licensed service area of the home service provider.

19 (6) "Customer" means: (a) The person or entity that contracts with  
20 the home service provider for mobile telecommunications services; or  
21 (b) the end user of the mobile telecommunications service, if the end  
22 user of mobile telecommunications services is not the contracting  
23 party, but this clause applies only for the purpose of determining the  
24 place of primary use. Without implication for the general definition  
25 of "customer," the term does not include a reseller of mobile  
26 telecommunications service, or a serving carrier under an arrangement  
27 to serve the customer outside the home service provider's licensed  
28 service area.

29 (7) "Designated data base provider" means a corporation,  
30 association, or other entity representing all the political  
31 subdivisions of the state that is:

32 (a) Responsible for providing an electronic data base prescribed in  
33 4 U.S.C. Sec. 119(a) if the state has not provided an electronic data  
34 base; and

35 (b) Approved by municipal and county associations or leagues of the  
36 state whose responsibility it would otherwise be to provide a data base  
37 prescribed by 4 U.S.C. Secs. 116 through 126.

38 (8) "Enhanced zip code" means a United States postal zip code of  
39 nine or more digits.

1       (9) "Home service provider" means the facilities-based carrier or  
2 reseller when the customer contracts for the provision of mobile  
3 telecommunications services.

4       (10) "Licensed service area" means the geographic area in which the  
5 home service provider is authorized by law or contract to provide  
6 commercial mobile radio service to the customer.

7       (11) "Mobile telecommunications service" means commercial mobile  
8 radio service, as defined in section 20.3, Title 47 C.F.R. as in effect  
9 on June 1, 1999.

10       (12) "Place of primary use" means the street address representative  
11 of where the customer's use of the mobile telecommunications service  
12 primarily occurs, which must be:

13       (a) The residential street address or the primary business street  
14 address of the customer; and

15       (b) Within the licensed service area of the home service provider.

16       (13) "Prepaid telephone calling service" means the right to  
17 purchase exclusively telecommunications services that must be paid for  
18 in advance, that enables the origination of calls using an access  
19 number, authorization code, or both, whether manually or electronically  
20 dialed, if the remaining amount of units of service that have been  
21 prepaid is known by the provider of the prepaid service on a continuous  
22 basis.

23       (14) "Reseller" means a provider who purchases telecommunications  
24 services from another telecommunications service provider and then  
25 resells, uses as a component part of, or integrates the purchased  
26 services into a mobile telecommunications service. "Reseller" does not  
27 include a serving carrier when a home service provider arranges for the  
28 services to its customers outside the home service provider's licensed  
29 service area.

30       (15) "Serving carrier" means a facilities-based carrier providing  
31 mobile telecommunications service to a customer outside a home service  
32 provider's or reseller's licensed service area.

33       (16) "Taxing jurisdiction" means any of the several states, the  
34 District of Columbia, or any territory or possession of the United  
35 States, any municipality, city, county, township, parish,  
36 transportation district, or assessment jurisdiction, or other political  
37 subdivision within the territorial limits of the United States with the  
38 authority to impose a tax, charge, or fee.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 82.04 RCW  
2 to read as follows:

3        (1) Notwithstanding the provisions of RCW 82.04.065(2), a home  
4 service provider that is subject to tax under RCW 82.04.250 may elect,  
5 for purposes of the taxes payable under this chapter only, to calculate  
6 its gross proceeds of sales by including charges for mobile  
7 communications services provided within this state to all consumers,  
8 irrespective of whether they are the home service provider's customers,  
9 and excluding charges billed by or for the home service provider for  
10 mobile telecommunications services provided to its customers outside  
11 the home service provider's licensed service areas in this state. This  
12 election shall be made by written notice to the department dated prior  
13 to the effective date of this act, or with respect to any tax year  
14 thereafter, prior to the beginning of the tax year, and may be revoked  
15 by the taxpayer by the same method with respect to any tax year after  
16 a tax year to which this election applies. If no election is made by  
17 a taxpayer pursuant to this section, it is presumed that the taxpayer's  
18 calculation of gross proceeds of sales is consistent with RCW  
19 82.04.065(2).

20        (2) This chapter does not apply to amounts received by a home  
21 service provider of mobile telecommunications services, with respect to  
22 which an election provided for in subsection (1) of this section is not  
23 then in effect, with respect to the provision of services to consumers  
24 whose place of primary use is outside this state.

25        (3) As used in this section, "customer," "home service provider,"  
26 "licensed service area," "mobile telecommunications services," and  
27 "place of primary use" have the meaning given in RCW 82.04.065.

28        **Sec. 4.**    RCW 82.08.0289 and 1983 2nd ex.s. c 3 s 30 are each  
29 amended to read as follows:

30        (1) The tax levied by RCW 82.08.020 shall not apply to sales of:

31        (a) Network telephone service, other than toll service, to  
32 residential customers.

33        (b) Network telephone service which is paid for by inserting coins  
34 in coin-operated telephones.

35        (c) Network telephone service consisting of mobile  
36 telecommunications services, including any toll service, provided to  
37 any customer whose place of primary use is outside this state.

38        (2) As used in this section:

1 (a) "Network telephone service," ~~((has))~~ "customer," "mobile  
2 telecommunications services," and "place of primary use" have the  
3 meaning given in RCW 82.04.065.

4 (b) "Residential customer" means an individual subscribing to a  
5 residential class of telephone service.

6 (c) "Toll service" does not include customer access line charges  
7 for access to a toll calling network.

8 **Sec. 5.** RCW 82.14.020 and 1997 c 201 s 1 are each amended to read  
9 as follows:

10 For purposes of this chapter:

11 (1) A retail sale consisting solely of the sale of tangible  
12 personal property shall be deemed to have occurred at the retail outlet  
13 at or from which delivery is made to the consumer;

14 (2) A retail sale consisting essentially of the performance of  
15 personal business or professional services shall be deemed to have  
16 occurred at the place at which such services were primarily performed,  
17 except that for the performance of a tow truck service, as defined in  
18 RCW 46.55.010, the retail sale shall be deemed to have occurred at the  
19 place of business of the operator of the tow truck service;

20 (3) A retail sale consisting of the rental of tangible personal  
21 property shall be deemed to have occurred (a) in the case of a rental  
22 involving periodic rental payments, at the primary place of use by the  
23 lessee during the period covered by each payment, or (b) in all other  
24 cases, at the place of first use by the lessee;

25 (4) A retail sale within the scope of the second paragraph of RCW  
26 82.04.050, and a retail sale of taxable personal property to be  
27 installed by the seller shall be deemed to have occurred at the place  
28 where the labor and services involved were primarily performed;

29 (5) A retail sale consisting of the providing to a consumer of  
30 telephone service, as defined in RCW 82.04.065, other than a sale of  
31 tangible personal property under subsection (1) of this section or a  
32 rental of tangible personal property under subsection (3) of this  
33 section, shall be deemed to have occurred at the situs of the telephone  
34 or other instrument through which the telephone service is rendered.  
35 However, telephone service consisting of mobile telecommunications  
36 services deemed to have been provided by a home service provider, as  
37 specified in RCW 82.04.065(2), is deemed to have occurred at the

1 customer's place of primary use, regardless of where the mobile  
2 telecommunications services originate, terminate, or pass through;

3 (6) "City" means a city or town;

4 (7) The meaning ascribed to words and phrases in chapters 82.04,  
5 82.08 and 82.12 RCW, as now or hereafter amended, insofar as  
6 applicable, shall have full force and effect with respect to taxes  
7 imposed under authority of this chapter;

8 (8) "Taxable event" shall mean any retail sale, or any use of an  
9 article of tangible personal property, upon which a state tax is  
10 imposed pursuant to chapter 82.08 or 82.12 RCW, as they now exist or  
11 may hereafter be amended: PROVIDED, HOWEVER, That the term shall not  
12 include a retail sale taxable pursuant to RCW 82.08.150, as now or  
13 hereafter amended;

14 (9) "Treasurer or other legal depository" shall mean the treasurer  
15 or legal depository of a county or city.

16 **Sec. 6.** RCW 82.14B.030 and 1998 c 304 s 3 are each amended to read  
17 as follows:

18 (1) The legislative authority of a county may impose a county  
19 enhanced 911 excise tax on the use of switched access lines in an  
20 amount not exceeding fifty cents per month for each switched access  
21 line. The amount of tax shall be uniform for each switched access  
22 line. Each county shall provide notice of such tax to all local  
23 exchange companies serving in the county at least sixty days in advance  
24 of the date on which the first payment is due.

25 (2) The legislative authority of a county may also impose a county  
26 911 excise tax on the use of radio access lines located within the  
27 county in an amount not exceeding twenty-five cents per month for each  
28 radio access line. The location of a radio access line is the user's  
29 place of primary use, as defined in RCW 82.04.065. The amount of tax  
30 shall be uniform for each radio access line. The county shall provide  
31 notice of such tax to all radio communications service companies  
32 serving in the county at least sixty days in advance of the date on  
33 which the first payment is due. Any county imposing this tax shall  
34 include in its ordinance a refund mechanism whereby the amount of any  
35 tax ordered to be refunded by the judgment of a court of record, or as  
36 a result of the resolution of any appeal therefrom, shall be refunded  
37 to the radio communications service company or local exchange company  
38 that collected the tax, and those companies shall reimburse the

1 subscribers who paid the tax. The ordinance shall further provide that  
2 to the extent the subscribers who paid the tax cannot be identified or  
3 located, the tax paid by those subscribers shall be returned to the  
4 county.

5 (3) A state enhanced 911 excise tax is imposed on all switched  
6 access lines in the state. The amount of tax shall not exceed twenty  
7 cents per month for each switched access line. The tax shall be  
8 uniform for each switched access line. The tax imposed under this  
9 subsection shall be remitted to the department of revenue by local  
10 exchange companies on a tax return provided by the department. Tax  
11 proceeds shall be deposited by the treasurer in the enhanced 911  
12 account created in RCW 38.52.540.

13 (4) By August 31st of each year the state enhanced 911 coordinator  
14 shall recommend the level for the next year of the state enhanced 911  
15 excise tax, based on a systematic cost and revenue analysis, to the  
16 utilities and transportation commission. The commission shall by the  
17 following October 31st determine the level of the state enhanced 911  
18 excise tax for the following year.

19 **Sec. 7.** RCW 35.21.714 and 1989 c 103 s 1 are each amended to read  
20 as follows:

21 (1) Any city which imposes a license fee or tax upon the business  
22 activity of engaging in the telephone business, as defined in RCW  
23 82.04.065, which is measured by gross receipts or gross income may  
24 impose the fee or tax, if it desires, on one hundred percent of the  
25 total gross revenue derived from intrastate toll telephone services  
26 subject to the fee or tax(~~(:—PROVIDED, That))~~), and shall impose the  
27 fee or tax upon the gross income of home service providers derived from  
28 providing mobile telecommunications services, to the extent the  
29 services are included in network telephone service, as defined in RCW  
30 82.04.065, that are charged to customers whose place of primary use is  
31 within the city. However, the city shall not impose the fee or tax on  
32 that portion of network telephone service, as defined in RCW 82.04.065,  
33 which represents charges to another telecommunications company, as  
34 defined in RCW 80.04.010, for connecting fees, switching charges, or  
35 carrier access charges relating to intrastate toll telephone services,  
36 or for access to, or charges for, interstate services, or charges for  
37 network telephone service that is purchased for the purpose of resale,

1 or charges for mobile telecommunications services provided to customers  
2 whose place of primary use is not within the city.

3 (2) Any city to which subsection (1) of this section applies has  
4 the authority, rights, and obligations of a taxing jurisdiction as set  
5 forth in sections 9 through 13 of this act.

6 (3) As used in this section, "customer," "home service provider,"  
7 "mobile telecommunications services," and "place of primary use" have  
8 the meaning given in RCW 82.04.065.

9 **Sec. 8.** RCW 35A.82.060 and 1989 c 103 s 3 are each amended to read  
10 as follows:

11 (1) Any code city which imposes a license fee or tax upon the  
12 business activity of engaging in the telephone business, as defined in  
13 RCW 82.04.065, which is measured by gross receipts or gross income may  
14 impose the fee or tax, if it desires, on one hundred percent of the  
15 total gross revenue derived from intrastate toll telephone services  
16 subject to the fee or tax(~~(:—PROVIDED, That)~~), and shall impose the  
17 fee or tax upon the gross income of home service providers derived from  
18 providing mobile telecommunications services, to the extent the  
19 services are included in network telephone service, as defined in RCW  
20 82.04.065, that are charged to customers whose place of primary use is  
21 within the city. However, the city shall not impose the fee or tax on  
22 that portion of network telephone service, as defined in RCW 82.04.065,  
23 which represents charges to another telecommunications company, as  
24 defined in RCW 80.04.010, for connecting fees, switching charges, or  
25 carrier access charges relating to intrastate toll telephone services,  
26 or for access to, or charges for, interstate services, or charges for  
27 network telephone service that is purchased for the purpose of resale,  
28 or charges for mobile telecommunications services provided to customers  
29 whose place of primary use is not within the city.

30 (2) Any city to which subsection (1) of this section applies has  
31 the authority, rights, and obligations of a taxing jurisdiction as set  
32 forth in sections 9 through 13 of this act.

33 (3) As used in this section, "customer," "home service provider,"  
34 "mobile telecommunications services," and "place of primary use" have  
35 the meaning given in RCW 82.04.065.

36 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.32 RCW  
37 to read as follows:

1 (1)(a) The department may provide an electronic data base to a home  
2 service provider, or if the department does not provide an electronic  
3 data base to home service providers, then the designated data base  
4 provider may provide an electronic data base to a home service  
5 provider.

6 (b)(i) An electronic data base, whether provided by the department  
7 or the designated data base provider, shall be provided in a format  
8 approved by the American national standards institute's accredited  
9 standards committee X12, that after allowing for de minimis deviations,  
10 designates for each street address in the state, including to the  
11 extent practicable, any multiple postal street addresses applicable to  
12 one street location, the appropriate taxing jurisdictions, and the  
13 appropriate code for each taxing jurisdiction, for each level of taxing  
14 jurisdiction, identified by one nationwide standard numeric code.

15 (ii) An electronic data base shall also provide the appropriate  
16 code for each street address with respect to political subdivisions  
17 which are not taxing jurisdictions when reasonably needed to determine  
18 the proper taxing jurisdiction.

19 (iii) The nationwide standard numeric codes shall contain the same  
20 number of numeric digits with each digit or combination of digits  
21 referring to the same level of taxing jurisdiction throughout the  
22 United States using a format similar to FIPS 55-3 or other appropriate  
23 standard approved by the federation of tax administrators and the  
24 multistate tax commission, or their successors. Each address shall be  
25 provided in standard postal format.

26 (2) The department or designated data base provider, as the case  
27 may be, that provides or maintains an electronic data base described in  
28 subsection (1) of this section shall provide notice of the availability  
29 of the then current electronic data base, and any subsequent revisions,  
30 by publication in the manner normally employed for the publication of  
31 informational tax, charge, or fee notices to taxpayers in the state.

32 (3) A home service provider using the data contained in an  
33 electronic data base described in subsection (1) of this section shall  
34 be held harmless from any tax, charge, or fee liability that otherwise  
35 would be due solely as a result of any error or omission in the data  
36 base provided by the department or designated data base provider. The  
37 home service provider shall reflect changes made to the data base  
38 during a calendar quarter not later than thirty days after the end of  
39 the calendar quarter if the department or designated data base

1 provider, as the case may be, has issued notice of the availability of  
2 an electronic data base reflecting the changes under subsection (2) of  
3 this section.

4 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.32 RCW  
5 to read as follows:

6 (1) If neither the department nor the designated data base provider  
7 provides an electronic data base under section 9 of this act, a home  
8 service provider shall be held harmless from any tax, charge, or fee  
9 liability in any taxing jurisdiction in this state that otherwise would  
10 be due solely as a result of an assignment of a street address to an  
11 incorrect taxing jurisdiction if, subject to section 11 of this act,  
12 the home service provider employs an enhanced zip code to assign each  
13 street address to a specific taxing jurisdiction for each level of  
14 taxing jurisdiction and exercises due diligence at each level of taxing  
15 jurisdiction to ensure that each street address is assigned to the  
16 correct taxing jurisdiction. If an enhanced zip code overlaps  
17 boundaries of taxing jurisdictions of the same level, the home service  
18 provider must designate one specific jurisdiction within the enhanced  
19 zip code for use in taxing the activity for such enhanced zip code for  
20 each level of taxing jurisdiction. Any enhanced zip code assignment  
21 changed in accordance with section 11 of this act is deemed to be in  
22 compliance with this section. For purposes of this section, there is  
23 a rebuttable presumption that a home service provider has exercised due  
24 diligence if the home service provider demonstrates that it has:

25 (a) Expended reasonable resources to implement and maintain an  
26 appropriately detailed electronic data base of street address  
27 assignments to taxing jurisdictions;

28 (b) Implemented and maintained reasonable internal controls to  
29 promptly correct misassignments of street addresses to taxing  
30 jurisdictions; and

31 (c) Used all reasonably obtainable and usable data pertaining to  
32 municipal annexations, incorporations, reorganizations, and any other  
33 changes in jurisdictional boundaries that materially affect the  
34 accuracy of the data base.

35 (2) Subsection (1) of this section applies to a home service  
36 provider that is in compliance with the requirements of subsection (1)  
37 of this section, if in this state an electronic data base has not been  
38 provided under section 9 of this act, until the later of:

1 (a) Eighteen months after the nationwide standard numeric code  
2 described in section 9(1) of this act has been approved by the  
3 federation of tax administrators and the multistate tax commission; or

4 (b) Six months after the department or a designated data base  
5 provider in this state provides the data base as prescribed in section  
6 9(1) of this act.

7 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.32 RCW  
8 to read as follows:

9 A taxing jurisdiction, or the department on behalf of any taxing  
10 jurisdiction or taxing jurisdictions within this state, may:

11 (1) Determine that the address used for purposes of determining the  
12 taxing jurisdictions to which taxes, charges, or fees for mobile  
13 telecommunications services are remitted does not meet the definition  
14 of place of primary use in RCW 82.04.065 and give binding notice to the  
15 home service provider to change the place of primary use on a  
16 prospective basis from the date of notice of determination if:

17 (a) The authority making the determination is not the department,  
18 the taxing jurisdiction obtains the consent of all affected taxing  
19 jurisdictions within the state before giving the notice of  
20 determination; and

21 (b) Before the taxing jurisdiction gives the notice of  
22 determination, the customer is given an opportunity to demonstrate in  
23 accordance with applicable state or local tax, charge, or fee  
24 administrative procedures that the address is the customer's place of  
25 primary use; and

26 (2) Determine that the assignment of a taxing jurisdiction by a  
27 home service provider under section 10 of this act does not reflect the  
28 correct taxing jurisdiction and give binding notice to the home service  
29 provider to change the assignment on a prospective basis from the date  
30 of notice of determination if:

31 (a) The authority making the determination is not the department,  
32 the taxing jurisdiction obtains the consent of all affected taxing  
33 jurisdictions within the state before giving the notice of  
34 determination; and

35 (b) The home service provider is given an opportunity to  
36 demonstrate in accordance with applicable state or local tax, charge,  
37 or fee administrative procedures that the assignment reflects the  
38 correct taxing jurisdiction.

1        NEW SECTION.    **Sec. 12.**    A new section is added to chapter 82.32 RCW  
2 to read as follows:

3        (1) A home service provider is responsible for obtaining and  
4 maintaining the customer's place of primary use, as defined in RCW  
5 82.04.065. Subject to section 11 of this act, and if the home service  
6 provider's reliance on information provided by its customer is in good  
7 faith, a taxing jurisdiction shall:

8        (a) Allow a home service provider to rely on the applicable  
9 residential or business street address supplied by the home service  
10 provider's customer; and

11        (b) Not hold a home service provider liable for any additional  
12 taxes, charges, or fees based on a different determination of the place  
13 of primary use for taxes, charges, or fees that are customarily charged  
14 to or passed on to the customer as a separate itemized charge.

15        (2) Except as provided in section 11 of this act, a taxing  
16 jurisdiction shall allow a home service provider to treat the address  
17 used by the home service provider for tax purposes for any customer  
18 under a service contract or agreement in effect on August 1, 2002, as  
19 that customer's place of primary use for the remaining term of the  
20 service contract or agreement, excluding any extension or renewal of  
21 the service contract or agreement, for purposes of determining the  
22 taxing jurisdictions to which taxes, charges, or fees on charges for  
23 mobile telecommunications services are remitted.

24        NEW SECTION.    **Sec. 13.**    A new section is added to chapter 82.32 RCW  
25 to read as follows:

26        (1) Nothing in this act modifies, impairs, supersedes, or  
27 authorizes the modification, impairment, or supersession of, any law  
28 allowing a taxing jurisdiction to collect a tax, charge, or fee from a  
29 customer that has failed to provide its place of primary use.

30        (2) If a taxing jurisdiction does not otherwise subject charges for  
31 mobile telecommunications services to taxation and if these charges are  
32 aggregated with and not separately stated from charges that are subject  
33 to taxation, then the charges for nontaxable mobile telecommunications  
34 services may be subject to taxation unless the home service provider  
35 can reasonably identify charges not subject to the tax, charge, or fee  
36 from its books and records that are kept in the regular course of  
37 business.

1 (3) If a taxing jurisdiction does not subject charges for mobile  
2 telecommunications services to taxation, a customer may not rely upon  
3 the nontaxability of charges for mobile telecommunications services  
4 unless the customer's home service provider separately states the  
5 charges for nontaxable mobile telecommunications services from taxable  
6 charges or the home service provider elects, after receiving a written  
7 request from the customer in the form required by the provider, to  
8 provide verifiable data based upon the home service provider's books  
9 and records that are kept in the regular course of business that  
10 reasonably identifies the nontaxable charges.

11 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.32 RCW  
12 to read as follows:

13 The definitions provided in RCW 82.04.065 apply to sections 9  
14 through 13 of this act as applicable.

15 NEW SECTION. **Sec. 15.** A new section is added to chapter 35.21 RCW  
16 to read as follows:

17 (1) If a customer believes that an amount of city tax or an  
18 assignment of place of primary use or taxing jurisdiction included on  
19 a billing for mobile telecommunications services is erroneous, the  
20 customer shall notify the home service provider in writing. The  
21 customer shall include in this written notification the street address  
22 for the customer's place of primary use, the account name and number  
23 for which the customer seeks a correction, a description of the error  
24 asserted by the customer, and any other information that the home  
25 service provider reasonably requires to process the request. Within  
26 sixty days of receiving a notice under this section, the home service  
27 provider shall review its records and the electronic data base or  
28 enhanced zip code used pursuant to sections 9 and 10 of this act to  
29 determine the customer's taxing jurisdiction. If this review shows  
30 that the amount of tax, charge, or fee or assignment of place of  
31 primary use or taxing jurisdiction is in error, the home service  
32 provider shall correct the error and refund or credit the amount of  
33 tax, charge, or fee erroneously collected from the customer for a  
34 period of up to two years. If this review shows that the amount of  
35 tax, charge, or fee or assignment of place of primary use or taxing  
36 jurisdiction is correct, the home service provider shall provide a  
37 written explanation to the customer.

1 (2) If the customer is dissatisfied with the response of the home  
2 service provider under this section, the customer may seek a correction  
3 and/or refund from the affected city.

4 (3) The procedures in this section are the sole and exclusive  
5 remedy available to customers seeking correction of assignment of place  
6 of primary use or taxing jurisdiction, or a refund of or other  
7 compensation for taxes, charges, and/or fees erroneously collected by  
8 the home service provider.

9 (4) The definitions provided in RCW 82.04.065 apply to this section  
10 as applicable.

11 NEW SECTION. **Sec. 16.** A new section is added to chapter 35A.82  
12 RCW to read as follows:

13 (1) If a customer believes that an amount of city tax or an  
14 assignment of place of primary use or taxing jurisdiction included on  
15 a billing for mobile telecommunications services is erroneous, the  
16 customer shall notify the home service provider in writing. The  
17 customer shall include in this written notification the street address  
18 for the customer's place of primary use, the account name and mobile  
19 telephone number for which the customer seeks a correction of the tax,  
20 a description of the error asserted by the customer, including the  
21 jurisdiction which the customer believes is the correct assignment, if  
22 applicable, and the amount of tax the customer believes has been  
23 charged in error. Within sixty days of receiving a notice under this  
24 section, the home service provider shall review its records and the  
25 electronic data base or enhanced zip code used pursuant to sections 9  
26 and 10 of this act to determine the customer's taxing jurisdiction. If  
27 this review shows that the amount of tax, charge, or fee or assignment  
28 of place of primary use or taxing jurisdiction is in error, the home  
29 service provider shall correct the error and refund or credit the  
30 amount of tax, charge, or fee erroneously collected from the customer  
31 for a period of up to two years. If this review shows that the amount  
32 of tax, charge, or fee or assignment of place of primary use or taxing  
33 jurisdiction is correct, the home service provider shall provide a  
34 written explanation to the customer.

35 (2) If the customer is dissatisfied with the response of the home  
36 service provider under this section, the customer may seek a correction  
37 and/or refund from the affected city.

1 (3) The procedures in this section are the first course of remedy  
2 available to customers seeking correction of assignment of place of  
3 primary use or taxing jurisdiction, or a refund of or other  
4 compensation for taxes, charges, or fees erroneously collected by the  
5 home service provider, and no cause of action seeking such correction  
6 or refund or other compensation shall be maintained on behalf of a  
7 customer unless and until that customer has timely followed the  
8 procedures set forth in this section.

9 (4) The definitions provided in RCW 82.04.065 apply to this section  
10 as applicable.

11 NEW SECTION. **Sec. 17.** (1) If a court of competent jurisdiction  
12 enters a final judgment on the merits that (a) is based on federal law,  
13 (b) is no longer subject to appeal, and (c) substantially limits or  
14 impairs the essential elements of 4 U.S.C. Secs. 116 through 126, this  
15 act shall be deemed invalid and shall have no legal effect as of the  
16 date of entry of such judgment.

17 (2) Except as provided in subsection (1) of this section, if any  
18 provision of this act or its application to any person or circumstance  
19 is held invalid based on federal or state law, the remainder of the act  
20 or the application of the provision to other persons or circumstances  
21 is not affected.

22 NEW SECTION. **Sec. 18.** This act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of the  
24 state government and its existing public institutions, and takes effect  
25 July 1, 2001. However, the amendments made by this act with respect to  
26 tax liabilities apply only to charges on or revenues from customer  
27 bills issued on or after August 1, 2002.

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