

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.3371 Sales Factor for Telecommunications Services

TITLE 86: REVENUE

**PART 100
INCOME TAX**

Section 100.3371 Sales Factor for Telecommunications Services

- a) For taxable years ending on or after December 31, 2008, IITA Section 304(a)(3)(B-5) provides express guidance for determining when gross receipts from the sale of telecommunications service or mobile telecommunications service are in this State for purposes of computing the sales factor in IITA Section 304(a)(3).
- b) Definitions. For purposes of this Section, the follow terms have the following meanings:
 - 1) *"Ancillary services" means services that are associated with or incidental to the provision of "telecommunications services", including but not limited to "detailed telecommunications billing", "directory assistance", "vertical service", and "voice mail services". (IITA Section 304(a)(3)(B-5)(i))*
 - 2) *"Air-to-ground radiotelephone service" means a radio service, as that term is defined in 47 CFR 22.99 (2007), in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft. (IITA Section 304(a)(3)(B-5)(i)) 47 CFR 22.99 defines "air-to-ground radiotelephone service" to mean a "radio service in which licensees are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft".*
 - 3) *"Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls. (IITA Section 304(a)(3)(B-5)(i))*
 - 4) *"Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points. (IITA Section 304(a)(3)(B-5)(i))*
 - 5) *"Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. "Conference bridging service" does not include the telecommunications services used to reach the conference bridge. (IITA Section 304(a)(3)(B-5)(i))*
 - 6) *"Customer channel termination point" means the location where the customer either inputs or receives the communications. (IITA Section 304(a)(3)(B-5)(i))*

- 7) *"Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement. (IITA Section 304(a)(3)(B-5)(i))*
- 8) *"Directory assistance" means an ancillary service of providing telephone number information, and/or address information. (IITA Section 304(a)(3)(B-5)(i))*
- 9) *"Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of "mobile telecommunications services". (IITA Section 304(a)(3)(B-5)(i))*
- 10) *"Mobile telecommunications service" means commercial mobile radio service, as defined in 47 CFR 20.3 (June 1, 1999). (IITA Section 304(a)(3)(B-5)(i))*
 - A) "Commercial mobile radio service" is defined in 47 CFR 20.3 (June 1, 1999) as "mobile service that is provided for profit, i.e., with the intent of receiving compensation or monetary gain; an interconnected service; and available to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public; or that is the functional equivalent of such a mobile service."
 - B) "Interconnected service" is defined in 47 CFR 20.3 (June 1, 1999) as a "service that is interconnected with the public switched network, or interconnected with the public switched network through an interconnected service provider, that gives subscribers the capability to communicate to or receive communication from all other users on the public switched network; or for which a request for such interconnection is pending pursuant to 47 USC 332(c)(1)(B). A mobile service offers interconnected service even if the service allows subscribers to access the public switched network only during specified hours of the day, or if the service provides general access to points on the public switched network but also restricts access in certain limited ways. Interconnected service does not include any interface between a licensee's facilities and the public switched network exclusively for a licensee's internal control purposes."
- 11) *"Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" must be within the licensed service area of the home service provider. (IITA Section 304(a)(3)(B-5)(i))*
- 12) *"Post-paid telecommunication service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunication service. (IITA Section 304(a)(3)(B-5)(i))*

- 13) *"Prepaid telecommunication service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount. (IITA Section 304(a)(3)(B-5)(i))*
- 14) *"Prepaid mobile telecommunication service" means a telecommunications service that provides the right to utilize mobile wireless service as well as other non-telecommunication services, including but not limited to ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount. (IITA Section 304(a)(3)(B-5)(i))*
- 15) *"Private communication service" means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels. (IITA Section 304(a)(3)(B-5)(i))*
- 16) "Service address" means:
- A) *The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid. (IITA Section 304(a)(3)(B-5)(i))*
 - B) *If the location in subsection (b)(16)(A) is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider where the system used to transport such signals is not that of the seller. (IITA Section 304(a)(3)(B-5)(i))*
 - C) *If the locations in subsections (b)(16)(A) and (B) are not known, the service address means the location of the customer's place of primary use. (IITA Section 304(a)(3)(B-5)(i))*
- 17) *"Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term "telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added. "Telecommunications service" does not include:*
- A) *Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic*

transmission to a purchaser when such purchaser's primary purpose for the underlying transaction is the processed data or information;

- B) *Installation or maintenance of wiring or equipment on a customer's premises;*
 - C) *Tangible personal property;*
 - D) *Advertising, including but not limited to directory advertising;*
 - E) *Billing and collection services provided to third parties;*
 - F) *Internet access service;*
 - G) *Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include but not be limited to cable service as defined in 47 USC 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 CFR 20.3.*
 - i) Under 47 USC 522(6), "cable service" is defined to mean "the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service".
 - ii) For the provisions of 47 CFR 20.3, see subsection (b)(1).
 - H) *"Ancillary services"; or*
 - I) *Digital products "delivered electronically", including but not limited to software, music, video, reading materials or ring tones. (IITA Section 304(a)(3)(B-5)(i))*
- 18) *"Vertical service" means an "ancillary service" that is offered in connection with one or more "telecommunications services", which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including "conference bridging services". (IITA Section 304(a)(3)(B-5)(i))*
- 19) *"Voice mail service" means an "ancillary service" that enables the customer to store, send or receive recorded messages. "Voice mail service" does not include any "vertical services" that the customer may be required to have in order to utilize the "voice mail service". (IITA Section 304(a)(3)(B-5)(i))*
- c) *Receipts from the sale of telecommunications service sold on an individual call-by-call basis are in this State if either of the following applies:*
- 1) *The call both originates and terminates in this State. (IITA Section 304(a)(3)(B-5)(ii)(a))*

- 2) *The call either originates or terminates in this State and the service address is located in this State. (IITA Section 304(a)(3)(B-5)(ii)(b))*
- d) *Receipts from the sale of postpaid telecommunications service at retail are in this State if the origination point of the telecommunication signal, as first identified by the service provider's telecommunication system or as identified by information received by the seller from its service provider if the system used to transport telecommunication signals is not the seller's, is located in this State. (IITA Section 304(a)(3)(B-5)(iii))*
- e) *Receipts from the sale of prepaid telecommunications service or prepaid mobile telecommunications service at retail are in this State if the purchaser obtains the prepaid card or similar means of conveyance at a location in this State. Receipts from recharging a prepaid telecommunications service or mobile telecommunications service is in this State if the purchaser's billing information indicates a location in this State. (IITA Section 304(a)(3)(B-5)(iv))*
- f) *Receipts from the sale of private communication services are in this State as follows:*
 - 1) *One hundred percent of receipts from charges imposed at each channel termination point in this State. (IITA Section 304(a)(3)(B-5)(v)(a))*
 - 2) *One hundred percent of receipts from charges for the total channel mileage between each channel termination point in this State. (IITA Section 304(a)(3)(B-5)(v)(b))*
 - 3) *Fifty percent of the total receipts from charges for service segments when those segments are between two customer channel termination points, one of which is located in this State and the other is located outside of this State, which segments are separately charged. (IITA Section 304(a)(3)(B-5)(v)(c))*
 - 4) *The receipts from charges for service segments with a channel termination point located in this State and in two or more other states, and which segments are not separately billed, are in this State based on a percentage determined by dividing the number of customer channel termination points in this State by the total number of customer channel termination points. (IITA Section 304(a)(3)(B-5)(v)(d))*
- g) *Receipts from charges for ancillary services for telecommunications service sold to customers at retail are in this State if the customer's primary place of use of telecommunications services associated with those ancillary services is in this State. If the seller of those ancillary services cannot determine where the associated telecommunications are located, then the ancillary services shall be based on the location of the purchaser. (IITA Section 304(a)(3)(B-5)(vi))*
- h) *Receipts to access a carrier's network or from the sale of telecommunication services or ancillary services for resale are in this State as follows:*
 - 1) *one hundred percent of the receipts from access fees attributable to intrastate telecommunications service that both originates and terminates in this State. (IITA Section 304(a)(3)(B-5)(vii)(a))*

- 2) *fifty percent of the receipts from access fees attributable to interstate telecommunications service if the interstate call either originates or terminates in this State. (IITA Section 304(a)(3)(B-5)(vii)(b))*
- 3) *one hundred percent of the receipts from interstate end user access line charges, if the customer's service address is in this State. As used in this subsection (h)(3), "interstate end user access line charges" includes, but is not limited to, the surcharge approved by the Federal Communications Commission and levied pursuant to 47 CFR 69. (IITA Section 304(a)(3)(B-5)(vii)(c))*
- 4) *Gross receipts from sales of telecommunication services or from ancillary services for telecommunications services sold to other telecommunication service providers for resale shall be sourced to this State using the apportionment concepts used for non-resale receipts of telecommunications services if the information is readily available to make that determination. If the information is not readily available, then the taxpayer may use any other reasonable and consistent method. (IITA Section 304(a)(3)(B-5)(vii)(d))*

(Source: Added at 33 Ill. Reg. 1195, effective December 31, 2008)