

**New Hampshire Department of Revenue Administration
109 Pleasant Street, Concord, NH 03301**

**TECHNICAL INFORMATION RELEASE
TIR 2019-007 Date: November 25, 2019**

A Technical Information Release is designed to provide immediate information regarding tax laws administered by the Department or the policy positions of the Department as a service to taxpayers and practitioners. A Technical Information Release represents the position of the Department on the limited issues discussed herein based on current law and Department interpretation. For the current status of any tax law, practitioners and taxpayers should consult the source documents (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.). Questions should be directed to Taxpayer Services at (603) 230-5920.

**RSA 82-A Communications Services Tax Applicable to Prepaid Wireless
Telecommunications Services and Voice Over Internet Protocol**

The New Hampshire Legislature has passed and Governor Sununu has signed into law House Bill 4 (Chapter 346, Sections 252 through 258, Laws of 2019), which clarifies the taxation of prepaid wireless telecommunications services (“prepaid wireless”) and voice over Internet protocol (VoIP) under the RSA 82-A Communications Services Tax (CST), effective January 1, 2020 for taxable periods ending after December 31, 2019.

The CST is a 7% tax on all 2-way communication services. The tax is paid by the consumer but collected and remitted by the retailer. Every retailer of communications services is responsible for collecting and remitting the tax on a monthly basis to the New Hampshire Department of Revenue Administration (the “Department”) accompanied by a Form DP-135, “Communications Services Tax Return” by the 15th day of the month that follows the month in which the tax was collected. A retailer whose average monthly liability is reasonably estimated to be in excess of \$10,000 must also make monthly estimated payments on or before the 15th day of the month during which the tax is collected in an amount equal to at least 90% of the actual tax collected for the same calendar month of the preceding year or, if no tax was collected in the preceding year, 90% of the reasonably estimated tax to be collected for the month.

“Prepaid wireless telecommunications service” means “prepaid commercial mobile radio service” as that term is defined in RSA 106-H:2, VIII-b, namely “commercial mobile radio service that allows a caller to dial 911 to access the E911 system, which service must be paid for in advance and is either sold in predetermined units or dollars which decline with use in a known amount or is sold for unlimited use during a predetermined period of time.”

“Voice over Internet Protocol” or “VoIP” means any service that:

- (1) Enables real-time, 2-way voice communications that originate from or terminate to the user’s location in Internet Protocol or any successor protocol;
- (2) Requires a broadband connection from the user’s location; and
- (3) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

Effective January 1, 2020 for taxable periods ending after December 31, 2019, Chapter 346, Sections 252 through 258 clarifies that retailers of prepaid wireless and VoIP must assess and collect the 7% CST, make monthly estimated payments (if applicable), and file the CST return and remit payment to the Department on a monthly basis.

Additionally, Chapter 346, Sections 252 through 258 sets forth specific sourcing rules for prepaid wireless and VoIP. Charges for intrastate and interstate VoIP shall be sourced to New Hampshire and thereby subject to the CST if provided to a person with a place of primary use in this state. Charges for intrastate and interstate VoIP shall not be sourced to New Hampshire nor subject to the CST if provided to a person with a place of primary use outside the state.

Charges for intrastate and interstate prepaid wireless shall be sourced to New Hampshire and thereby subject to CST as follows:

- (1) If the retail transaction occurs in person at a seller's location in New Hampshire;
or
- (2) If (1) does not apply, the prepaid wireless is evidenced by a physical item, such as a card, and the purchaser provides a New Hampshire delivery address for such item; or
- (3) If (1) and (2) do not apply, the consumer gives a New Hampshire address during the consummation of the sale, including the address associated with the consumer's payment instrument if no other address is available, and the address is not given in bad faith; or
- (4) If (1)-(3) do not apply, the consumer's mobile telephone number is associated with a postal zip code, telephone area code, or location within New Hampshire.

Lastly, pursuant to Rev 1611.05, every retailer of communications services must also apply for and receive a registration number from the Department utilizing Form DP-139, "Communications Services Tax Application for Registration Number." Retailers of prepaid wireless and VoIP that are not registered must complete and file [Form DP-139](#) and mail the form to:

New Hampshire Department of Revenue Administration
109 Pleasant Street
PO Box 637
Concord, NH 03302-2035

Additional information about the CST can be obtained by referencing RSA 82-A and N.H. Code of Admin. Rules, Rev 1600, which can be accessed on the Department's [website](#).

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the N.H. Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301 or by contacting them at (603) 230-5920.