

**18 DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

**125 MAINE REVENUE SERVICES**

**Chapter 210: TELECOMMUNICATIONS EXCISE TAX**

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**SUMMARY:** This rule provides an overview of the excise tax levied on telecommunications businesses pursuant to 36 M.R.S. § 457.

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**.01 General**

Maine imposes an excise tax on all qualified telecommunications equipment located in the State. The excise tax rate is equal to the mill rate of the municipality where the equipment is located. Maine Revenue Services (“MRS”) is responsible for assessing the tax on qualified telecommunications equipment owned or leased by a telecommunications business. Qualified telecommunications equipment owned or leased by a person who is not a telecommunications business must be assessed a tax by the assessor of the municipality in which the equipment is located. Any property subject to the telecommunications excise tax is exempt from municipal property tax.

**.02 Definitions**

- A. Certified ratio.** “Certified ratio” means the level of municipal assessed value, expressed as a percentage, relative to just value as certified by the assessor pursuant to 36 M.R.S. § 383.
- B. Distribution facilities.** “Distribution facilities,” as defined in 36 M.R.S. § 457(1)(C), means facilities used primarily to transport communications between fixed locations, including but not limited to cables, wires, wireless transmitters and utility poles.
- C. Interactive 2-way communication services.** “Interactive 2-way communication services” means services that allow transmission of voice, image, data, and information between or among two or more persons via a medium such as wires, cables, microwaves, radio waves, light waves, or any combination of those, or via some other similar media.

- D. Just value.** “Just value” means market value, i.e., the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller for a property, each acting without compulsion in an arm’s-length transaction.
- E. Mill rate.** “Mill rate” means the calculated tax rate per \$1,000 of assessed value for a municipality, based on the taxable value of property in the municipality and the portion of the municipal, school, and county budgets, including any adjustments, that the municipality must collect from property taxes.
- F. Municipality.** “Municipality” means any city, town, plantation, or that portion of a county in the unorganized territory.
- G. Qualified telecommunications equipment.** “Qualified telecommunications equipment,” as defined in 36 M.R.S. § 457(1)(B), means equipment used for the transmission of interactive 2-way communications. “Qualified telecommunications equipment” includes equipment used to provide telegraph service and any interest of a telecommunications business in poles. “Qualified telecommunications equipment” does not include equipment used solely to provide value-added nonvoice services in which computer processing applications are used to act on the form, content, code, and protocol of the information to be transmitted, unless those services are provided under a tariff approved by the Public Utilities Commission. “Qualified telecommunications equipment” does not include cellular or landline telephones.
- H. Telecommunications business.** “Telecommunications business,” as defined in 36 M.R.S. § 457(1)(A), means a person engaged in the activity of providing interactive 2-way communication services for compensation.

### **.03 Valuation**

MRS will determine the just value of all property owned or leased by a telecommunications business that is subject to the telecommunications excise tax. In determining just value, MRS will consider the three standard approaches to property valuation—the cost approach, the market approach, and the income approach—as appropriate.

In determining just value, MRS will apply the following considerations:

- A.** Fluctuations in the number of customers a telecommunications business has will not necessarily affect the value of that business taxable property.
- B.** Value is determined by the overall market, not individual persons operating within that market.
- C.** A telecommunications business must identify the municipality or municipalities in which its qualified telecommunications equipment is located. Where distribution facilities are located in multiple municipalities, their value may be apportioned among municipalities based on the length of lines or cables within each municipality, or based on the percentage of the just value of distribution facilities located within a particular municipality. A telecommunications business may use a different method for apportioning its qualified telecommunications equipment with the approval of MRS.

**.04 Tax and interest**

- A. Tax.** The tax rate on qualified telecommunications equipment equals the mill rate for the municipality where the equipment is located. The rate is applied to the product of the just value of the qualified telecommunications equipment in the municipality multiplied by the municipality's certified ratio as reported to MRS on the most recently filed Municipal Valuation Return. Although the municipal mill rate and certified ratio are used to calculate the tax, the excise tax on qualified telecommunications equipment owned or leased by a telecommunications business is assessed by MRS and paid to the State rather than the municipality.
- B. Interest.** Interest applies to late payments of telecommunications excise tax. The rate of interest is calculated pursuant to 36 M.R.S. § 186, and is charged from the date the payment is due until the tax is paid, compounding monthly.

**.05 Filing and payment**

Each telecommunications business must file an annual return by December 31 detailing its taxable property in the State, including the original and depreciated cost, the location of the property, and any other information required by MRS. For purposes of depreciation, the asset class lives set forth in IRS Publication 946 are generally used, but MRS may in appropriate circumstances modify those class lives to arrive at just value.

The annual return due December 31 is based on the status of the taxable property as of April 1 of that same year. MRS will mail assessments of telecommunications excise tax to telecommunications businesses by March 30 of the year following the due date of the return. Payment of the tax is due by August 15 following the March 30 assessment date.

**.06 Appeals**

A taxpayer who receives an assessment of telecommunications excise tax may appeal that assessment by requesting reconsideration pursuant to 36 M.R.S. § 151. The taxpayer must submit their request for reconsideration in writing within 60 days of receipt of notice of the assessment. The request should include a detailed description of why the taxpayer believes the assessment is incorrect, along with any supporting documentation.

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STATUTORY AUTHORITY: 36 M.R.S. §§ 112, 305, 457

EFFECTIVE DATE: February 13, 2022