

**Amend Sections 41030, 41031, and 41032 of the Emergency Telephone Users Surcharge Law to change the effective date of the surcharge rate period from November 1 through October 31 to January 1 through December 31 (calendar year basis) in order to prevent quarterly and yearly filers from having to report split tax returns each time there is a rate change effective November 1.**

**Source: Excise Taxes Division**

### **Existing Law**

Under existing Emergency Telephone Users Surcharge Law, the Department of General Services (DGS) is required to annually determine, on or before September 1, a surcharge rate that it estimates will produce sufficient revenue to fund the current fiscal year's 911 costs. The surcharge rate determined by the DGS will apply for the period of November 1 of the current calendar year to October 31 of the next succeeding calendar year once the determined rate is fixed (approved) by the Board of Equalization (Board). The Board is required each year no later than September 15 to publish in its minutes the new surcharge rate.

Current statutes provide that every service supplier shall collect the surcharge from each service user at the time it collects its billings from the service user. A service supplier is currently defined as any person supplying intrastate telephone communication service to any service user in this state.

The current surcharge rate is 0.50 percent of the amounts paid for intrastate telephone services in this state.

The surcharge is paid to the Board and deposited in the State Treasury to the credit of the State Emergency Telephone Number Account in the General Fund. The funds in this account are used to pay for the costs of administration of the 911 emergency telephone number system.

### **Comments**

The surcharges imposed and the amounts required to be collected by service suppliers are due monthly unless, however, the Board require returns and payment of the amount of surcharges for a calendar quarter or calendar year period to ensure payment or to facilitate the collection by the state of the amount of taxes. As such, service suppliers required to file quarterly or annual returns have to file an extra (split) return whenever the rate changes effective November 1. For example, a service supplier required to file quarterly returns would file a return for the period of October 1 to October 31 reflecting the old surcharge rate and a second return for the period of November 1 to December 31 reflecting the new surcharge rate. This results in extra work for service suppliers and the possibility of increased errors when filing split returns.

Existing law also provides the Board a very short time to update and publish the new surcharge rate in its minutes (approximately 15 days). This could be problematic since the Board may not meet during the period from when the DGS determines the rate (on or before September 1) and the statutory mandated date the Board is required to publish the rate in its minutes (September 15). In 2006, the DGS had to determine and notify the Board of the new surcharge rate prior to the September 1 deadline so that the Board could fix and publish the new rate at its August 31 Board meeting. The Board wasn't scheduled to meet again until September 12 and 13, which could have been problematic for the Board to meet its September 15 deadline to publish the rate in its minutes if questions arose about the determined rate that required further research or any other any other surcharge-related issues needed resolution.

### **This Proposal**

This proposal would change the effective date and time period for the imposition of a newly determined surcharge rate to be January 1 to December 31 of the next succeeding calendar year. This proposal would prevent the additional burden imposed upon service suppliers of preparing and filing an extra return when a new rate is determined which could reduce the number of errors resulting from taxpayers filing split returns.

This proposal would also allow the DGS an additional 30 days to determine the annual surcharge rate and provide the Board additional time to publish and notify taxpayers of the new surcharge rate.

*Section 41030 of the Revenue and Taxation Code is amended to read:*

41030. The Department of General Services shall determine annually, on or before ~~September~~ October 1, a surcharge rate that is estimates will produce sufficient revenue to fund the current fiscal year's 911 costs. The surcharge rate shall be determined by dividing the costs (including incremental costs) the Department of General Services estimates for the current fiscal year of 911 plans approved pursuant to Section 53115 of the Government Code, less the available balance in the State Emergency Telephone Number Account in the General Fund, by its estimate of the charges for intrastate telephone communications services to which the surcharge will apply for the period of ~~November~~ January 1 of the current calendar year to ~~October~~ December 31 of the next succeeding calendar year, but in no event shall such surcharge rate in any year be greater than three-quarters of 1 percent nor less than one-half of 1 percent.

*Section 41031 of the Revenue and Taxation Code is amended to read:*

41031. The Department of General Services shall make its determination of such surcharge rate each year no later than ~~September~~ October 1 and shall notify the board of the new rate, which shall be fixed by the board to be effective with respect to charges made for intrastate telephone communication services on or after ~~November~~ January 1 of ~~each~~ the next succeeding calendar year.

*Section 41032 of the Revenue and Taxation Code is amended to read:*

41032. Immediately upon notification by the Department of General Services and fixing the surcharge rate, the board shall each year no later than ~~September~~ November 15 publish in its minutes the new rate, and it shall notify by mail every service supplier registered with it of the new rate.