

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Petition for Redetermination of
GTE CALIFORNIA, INC. Petitioner TU HQ 35-100012-030 CentraNet Service

Appearances:

For Petitioner: Mr. Robert Dunn, Attorney

*For Appeals Section,
Legal Division:* Mrs. Susan M. Wengel
Assistant Chief Counsel

*For Excise Taxes
Division:* Ms. Janet Vining
Senior Tax Counsel

MEMORANDUM OPINION

This opinion considers the issue of whether certain charges for Petitioner's CentraNet Special Feature Packages qualify as charges for exempt private communication service under the Emergency Telephone Users Surcharge Law¹ (the "Law"). The Law imposes a surcharge on amounts paid by every person in California for intrastate telephone communication services (the "911 Surcharge"). The 911 Surcharge must be collected by the service supplier, but charges for "private communication service" are exempt. Revenue and Taxation Code Section 41017 defines private communication service as follows:

“ ‘Private communication service’ shall mean

(a) The communication service furnished to a subscriber which entitles the subscriber—

(1) To exclusive or priority use of any communication channel or groups of channels, or

(2) To the use of an intercommunication system for the subscriber's stations, regardless of whether such channel, groups of channels, or intercommunication system may be connected through switching with a service described in Sections 41015 and 41016,

(b) Switching capacity, extension lines and stations, or other associated services which are provided in connection with, and are necessary or unique to the use of channels or systems described in subdivision (a), and

(c) The channel mileage which connects a telephone station located outside a local telephone system area with a central office in such local telephone system, except that such term shall not include any communication service unless a separate charge is made for such service.”

The CentraNet Service offered by Petitioner has two components. First is a CentraNet charge of \$9.10 per month per line for working primary station lines and direct inward and outward dialing, which it is agreed, does not constitute private communication service. Second

¹ Revenue and Taxation Code Part 20, Division 2 (commencing at Section 410001).

is a choice among three optional Special Feature Packages which are separately priced at a monthly rate per station of \$3 (Package 1000), \$5 (Package 2000), and \$6 (Package 3000). The features which are included in Package 1000 are station-to-station dialing, call forward, call hold, call pickup, call transfer, call waiting, conferencing (three way calling), speed calling (6 or 8 numbers), and station hunting. Package 2000 includes the Package 1000 features plus automatic call back (camp on), call park, last number redial, and toll restriction. Package 3000 includes the features in both Package 1000 and Package 2000 plus automatic route selection/flexible route selection, remote access to features, and message detail recording. Petitioner argues that these Special Feature Packages qualify as private communication services.

OPINION

The Board finds that the charge for a GTE CentraNet Special Feature Package qualifies as a charge for private communication service and is therefore exempt from the 911 Surcharge. This finding is based on the fact that a separately stated charge is made for the CentraNet Special Feature Package, and the services bundled together in the package include a recognized private communication service (station to station dialing), as well as other services provided in connection with the private communication service such as call forward, call hold, call pickup, call transfer, call waiting, conferencing, speed calling and station hunting.

The Board finds, however, that a package of services which includes direct inward-outward dialing would not qualify as private communication service. Therefore, no exemption will be allowed for a package of services for which a separate charge is made if the package includes direct inward-outward dialing or similar type service. Services that are not bundled into a package, but instead are separately identified along with a separate charge, will be subject to the 911 Surcharge if the individual service qualifies as taxable "intrastate telephone communication service" as defined in Revenue and Taxation Code Section 41010.

For the reasons expressed in this opinion, the amount of tax due on the charges for CentraNet Special Feature Packages is reduced by \$40,591.32. With this adjustment, the amount determined to be owing pursuant to the Board's second reaudit, \$366,811.31, is redetermined to \$326,219.99.

Done at Sacramento, California, this 27th day of August, 1998.

Dean F. Andral, Chairman
Johan Klehs, Member
Ernest J. Dronenburg, Jr., Member
Marcy Jo Mandel, Member*
John Chiang, Acting Member**

* For Kathleen Connell, per Government Code section 7.9.

** Acting Member, 4th District