

State of California

Memorandum

Board of Equalization

Legal Division - MIC:85

To : Petition Section

Date: JUN 02 1994

From : D. J. Hennessy
Appeals Review Section

Subject: Approved Notice of Action - Board Meeting of MAY 03 1994

The Board concluded that the Interstate Access Charge is a billing mandated by the Federal Communications Commission for interstate service and is not subject to the surcharge.

Accordingly, the Board ordered the tax redetermined to \$0 and the protective claim for refund granted.

2/5/94



ATE BOARD OF EQUALIZATION

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JULY 25 1994

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Second District, Los Angeles
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Third District, San Diego
MATTHEW K. FONG
Fourth District, Los Angeles
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Controller, Sacramento

BURTON W. OLIVER
Executive Director

NOTICE TO ALL LOCAL EXCHANGE CARRIERS UNDER THE CALIFORNIA EMERGENCY TELEPHONE USER'S SURCHARGE LAW

In a recent Board of Equalization hearing, the Board ruled that the Federal Communications Commission (FCC) access line charges are interstate in nature and therefore not subject to Emergency Telephone Users Surcharge (9-1-1 tax). Effective immediately, you should discontinue charging the 9-1-1 tax on the FCC access line charges.

The amount of any 9-1-1 surcharge billed and collected from service users must either be remitted to the Board or refunded to the service user. Any 9-1-1 tax previously billed on monthly FCC access line charges and remitted to the Board must either remain with the Board or be refunded by the service supplier to the service user in accordance with Section 41023 of the Emergency Telephone Users Surcharge Law which reads as follows:

Surcharge collections are debts. The surcharge required to be collected by the service supplier, and any amount unreturned to the service user which is not a surcharge but was collected from the service user as representing a surcharge, constitutes debts owned by the service supplier to the state.

A service supplier that has collected any amount of surcharge in excess of the amount of surcharge imposed by this part and actually due from a service user, may refund such amount to the service user, even though such surcharge amount has already been paid over to the Board and no corresponding credit or refund has yet been secured. Any service supplier making a refund of any charge to a service user upon which surcharge is collected under this part from the service user may repay therewith the amount of the surcharge paid. The service supplier may claim credit for such overpayment against the amount of surcharge imposed by this part which is due upon any other quarterly return, providing such credit is claimed in a return dated no later than three years from the date of overpayment.

Any amount of 9-1-1 tax refunded to service users resulting in credit taken on any tax return will be subject to audit verification. If any refund and subsequent credit is claimed, the service supplier shall maintain all records related to the refund and any claimed credit. To avoid any possible conflicts, we recommend contacting the Board prior to making any refunds or credits to assure the proper records are maintained.

If you have any questions regarding this matter, please contact the Excise Taxes Division at (916) 322-9651.

BOARD OF EQUALIZATION

Excise Taxes Division