

DESCRIPTION OF H.R. 3916
(REPEAL OF THE FEDERAL COMMUNICATIONS EXCISE TAX)

Scheduled for Markup

By the

HOUSE COMMITTEE ON WAYS AND MEANS

Prepared by the Staff

of the

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I. INTRODUCTION

This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the present Federal communications excise tax, an overview of the history of the tax, and a description of H.R. 3916, a bill to repeal the tax. H.R. 3916 has been scheduled for markup by the Committee on Ways and Means on May 17, 2000.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 3916 (Repeal of the Federal Communications Excise Tax)*, (JCX-47-00), May 15, 2000.

II. DESCRIPTION OF H.R. 3916

A. Present Law

In general

A three percent Federal excise tax is imposed on amounts paid for communications services (Code sec. 4251).² Communications services are defined as "local telephone service," "toll telephone service," and "teletypewriter exchange service."³ The person paying for the service (i.e., the consumer) is liable for payment of the tax. Service providers are required to collect the tax; however, if a consumer refuses to pay, the service provider is not liable for the tax and is not subject to penalty for failure to collect if reasonable efforts to collect have been made. Instead, the service provider must report the delinquent consumer's name and address to the Treasury Department, which then must attempt to collect the tax.

Local telephone service is defined as the provision of voice quality telephone access to a local telephone system that provides access to substantially all persons having telephone stations constituting a part of the local system. Toll telephone service is defined as voice quality communication for which (1) there is a toll charge that varies with the distance and elapsed transmission time of each individual call and payment for which occurs in the United States, or (2) a service (such as a "watts" service) which, for a flat periodic charge, entitles the subscriber to an unlimited number of telephone calls to or from an area outside the subscriber's local system area.

Special rules, enacted in 1997, apply to the sale of "prepaid telephone cards." These cards are subject to tax when they are sold by a telecommunications carrier to a non-carrier (rather than when communication services are provided to the consumer). The base to which the tax is applied is the face amount of the card.

Exemptions

Present law provides for the following exemptions:

- Public coin-operated service from the tax on local telephone service, and to the extent that the charge is less than 25 cents, from the toll telephone service tax.⁴
- Service for the collection of news by the public press, news ticker, or radio broadcasting services (providing a news service as part of or similar to that of the

² The tax base does not include State or local taxes on the same service provided that the amount of the State or local tax is separately stated on the customer's bill.

³ Teletypewriter exchange service refers to a data system that is understood to be no longer in use.

⁴ If coin-operated toll service is taxable, the tax is computed to the nearest multiple of five cents.

public press), from the toll telephone service tax. (Local telephone service provided to the press is subject to tax.)

- Private communication service for which a separate charge is made, from the local telephone service tax.⁵
- Service provided to international organizations and the American Red Cross.
- Toll telephone service provided to members of the Armed Services who are stationed in combat zones.
- Certain toll telephone service to common carriers, telephone or telegraph companies, or radio broadcasting stations or networks in the conduct of these businesses.
- Installation charges (including wires, poles, switchboards, or other equipment).
- Telephone service provided to non-profit hospitals.
- Telephone service provided to State and local governments.
- Telephone service provided to nonprofit educational organizations.

B. Overview of History of the Communications Tax⁶

The first tax on telephone service was enacted in 1898 to help finance the Spanish-American War. That tax was repealed in 1902 and was not re-enacted until World War I required additional revenues. The World War I telephone tax was repealed in 1924 and was re-enacted in 1932. All of these initial telephone taxes applied only to toll (long distance) service. In 1941, with the advent of World War II, the tax was extended to general local service.

⁵ Private communication service is defined as (1) service that entitles the customer to exclusive or priority use of a communication channel or group of channels, or an intercommunication system for the customer's stations; (2) switching capacity, extension lines and stations, or other associated services provided in connection with services described in (1); and (3) channel mileage connecting a telephone outside a local service area with a central office in the local area.

Unlike the other exemptions, the special treatment for private communication service is accomplished by means of an exclusion from the definition of local telephone service rather than as a stated exemption.

⁶ For a more complete discussion of the history of the communications excise tax, see Congressional Research Service (Louis Alan Talley), *The Federal Excise Tax on Telephone Service, A History*, May 9, 2000 (RL30553).

An excise tax on telephone service has been in effect in every year since 1941, despite enactment of periodic legislation to repeal or phase-out the tax. In the Excise Tax Reduction Act of 1965, Congress scheduled a phase-out, beginning with a reduction in the then 10-percent rate⁷ for both local and toll service to three percent after 1965. Additional reductions of one percentage point per year were scheduled thereafter until there would have been no tax effective on January 1, 1969. However, the scheduled reductions were repealed in 1966 (effective April 1, 1966), and the 10-percent rate was re-instated. A delayed phase-out schedule was enacted in 1968, to begin in 1970. This phase-out schedule also was postponed, with a one-percentage point per year phase-out finally going into effect on January 1, 1973.

In 1973, the tax rate declined from 10 percent to 9 percent as the first step in this phase-out, which was to be completed beginning in 1982. However, the Omnibus Reconciliation Act of 1980 delayed the repeal by one year (until 1983); and the Economic Recovery Tax Act of 1981 further delayed repeal for two additional years. After reaching a rate of one percent, the rate was increased again to three percent in 1983, and after being extended at that rate several times, the three percent rate was made permanent by the Revenue Reconciliation Act of 1990.

C. Explanation of the Bill

H.R. 3916 would repeal the three-percent Federal communications excise tax, effective for amounts paid pursuant to bills first rendered more than 90 days after the date of enactment.

⁷ At their highest, the tax rates were 15 percent on general local service and 25 percent on toll service costing more than 24 cents per message. These rates were in effect from 1944 until 1954.