

Re: Written Notice regarding City of Stockton Communication Users' Tax Ordinance 025-08 C.S. (Pub. Util. Code § 799)

Dear Utility Service Provider:

Please be advised that the City of Stockton adopted its Communication Users' Tax Ordinance (Chapter 8, Part 10, of the Stockton Municipal Code (SMC), Ord. 025-08 C.S.), which received voter approval on November 4, 2008. The new Ordinance continued the tax percentage of six percent (6%) and modernized the definition of telecommunication and video services.

Please note that Ordinance 025-08 C.S. no longer references the federal excise tax law or its exemptions. It does, among other things, specifically apply to **intrastate, interstate, and international telecommunication services; "private communication services"; paging; instant and text messaging; wireless and VoIP services based on the "place of primary use"; and IP-TV.** I am also enclosing, as a clarification, an Administrative Ruling regarding the sourcing of "private communication services" that is similar to the sourcing rule used in the Streamlined Sales and Use Tax Agreement, as followed in a growing number of states.

You can find a copy of the Administrative Ruling and the City's newly adopted Communication Users' Tax Ordinance (025-08 C.S.) on the following website: www.stocktongov.com/uut and/or www.uutinfo.org.

By its terms, the Ordinance became effective immediately after the election results were certified by the City Council on December 9, 2008. For implementation purposes, however, state law (Pub. Util. Code § 799(a)(5)) establishes the following rule:

"If a local jurisdiction repeals the tax, reduces an existing tax rate, changes the tax base, or makes any other changes to the tax that would affect the collection and remittance of the tax, the local jurisdiction shall submit, on and after the effective date of the enactment of the change, a written notification and supply all requisite information to the public utility or service supplier, in accordance with the procedures established by the public utility or service supplier. The public utility or other service supplier shall not be required to implement the changes any earlier than 60 days from the date on which the public utility or other service provider receives the written notification and all other information required by the public utility or other service supplier. If the 60th day is not the first day of a month, then the public utility or other service provider shall implement the changes on the first day of the month following the month in which the 60th day occurs." (Emphasis added)

Since this written notice is provided in December, 2008, you should begin collecting this tax, as set forth in Ordinance 025-08 C.S., **no later than March 1, 2009. However, by Ordinance (SMC § 8-339) you are allowed an additional month (to April 1, 2009) to collect under the existing SMC section 8-072 and 8-076, or under the new Ordinance (SMC § 8-323).** Yet, in no event should collection of the City's utility users' tax under Section 8-072 or 8-076 or under the new Section 8-323 be applied for the same time period so that a double tax results.

Also, please note SMC section 8-327 et seq., collection penalties, requires that payment be received by the City no later than the twentieth day of the following month (due date). Penalties (15%) and interest will be imposed on delinquent payments and interest 75/100th percent (0.75%) per month.

If you have any questions regarding the collection and application of this tax, please do not hesitate to contact Kathy Whitman at (209) 937-8673. Thank you for your cooperation.