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Out of State User Charges for Services

Section 41011 provides, in part, that charges for services shall not include charges for intrastate toll calls where bills for such calls originate out of California. This exemption applies only to intrastate calls made by an out-of-state user between two California locations when billed by the user's out-of-state service supplier who bills the user's out-of-state address, even if the service supplier was also engaged in business in California. The origination point of the bill for purposes of this exemption is not the location from which the service supplier sends or causes its billing notices to be sent to the service user, rather, it is the location of the out-of-state number to which the bill applies. This exemption does not apply to bills mailed from outside this state to California residents by a California service supplier. 1/18/84. (Am M99-1). (Am 2003-1).

Memorandum

Mr. Greg Hu
Mr. Jim Van Gundy
Mr. Al Michel
Mr. Joel Ragsdale

Date: September 3, 1991

From: Monte Williams
Subject: Section 41011 – Charges for Services

Section 41011 provides in part:

“ ‘charges for services’ shall not include charges for intrastate toll calls where bills for such calls originate out of California.”

For consistency purposes this exemption will apply only to intrastate calls made by an out-of-state user between two California locations where the bill is sent to the user at his/her out-of-state location by an out-of-state service supplier. For example, a Colorado resident using their credit card to make intrastate calls in California.

The bill for these calls is sent to the user’s Colorado residence/location by an out-of-State service supplier. This would apply even if the service supplier was also engaged in business in California such as AT&T, Sprint, MCI, etc.

This exemption does not apply to bills mailed from outside this state to a California resident by a California service supplier.

If you have any questions please let me know.

MW:lab

Cc: Mr. E. V. Anderson
Mr. Edward W. King
Mr. Larry Augusta

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Memorandum

To: Mr. Monte Williams
Excise Taxes Section – Special Taxes

Date: August 15, 1991

From: Larry Augusta

Subject: Proposed 911 Regulations

I agree with your interpretation of the law regarding billings originating out of state. I think the reference, however, should be to section 41011 not 41021.

I have only two concerns. First, it seems completely clear to me that the phrase “charges for services” does not include bills originating out of state. That is the specific language of the statute. Given the position of some of the cellular folks, that “all the other states” and the cellular company agreements provide the opposite, I wonder if we want to even imply there is an ambiguity by proposing a regulation to cover this point. In other words, if there is no doubt, why do we need a regulation.

Second, it has been the policy of OAL in the past to reject regulations which merely repeat the language of the statute in question. We may run afoul of that policy. (On the other hand, if we propose it and OAL rejects it as unnecessary as repetitive of the statute, maybe that strengthens our position.)

I wonder if proposing a regulation to cover the point is worth the time and effort it will require.

Larry Augusta

LAA:cb

Cc: Mr. Allen K. Stuckey
Mr. E. V. Anderson
Mr. Edward King
Mr. Al Michel
Ms. Mary Armstrong
Mr. Gordon Adelman

(916) 445-8485

January 18, 1984

Dear Mr. (redacted):

On April 20, 1982, I wrote you concerning the application of the California Emergency Telephone Users Surcharge Law to (redacted). In reviewing that correspondence, it has come to my attention that additional clarification is needed with respect to comments concerning the meaning of the phrase "charges for services" discussed in the third paragraph of that letter.

Revenue and Taxation Code Section 41011 defines "charges for services" and provides in pertinent part:

"Charges for services shall not include charges for intrastate toll calls where bills for such calls originate out of California."

My letter to you indicated that where billings for intrastate toll calls originate in (redacted), they would come within the above cited language of Section 41011. The statement is correct on its face, however, further clarification should have been offered as to our interpretation of the law.

Our review of the available legislative history of Section 41011 indicates that the Legislature intended to exclude from the meaning of the phrase "charges for services" those charges incurred by placing an intrastate toll call in California but having it charged to an out-of-state telephone number. The typical example of this type of usage is where a caller makes a toll call between California points but charges it to his out-of-state telephone calling card number. Under such circumstances, we would consider that the bill for the call originates at the location of the out-of-state number. Such charges would not be subject to tax under the California Emergency Telephone Users Surcharge Law (Revenue and Taxation Code Section 41020).

Based on the foregoing, we do not consider the origination point of a bill to be the location from which the service supplier send or causes its billing notices to be sent to the service user. It follows, the mere fact that Western Union might mail billing notices to service users from out of state would not relieve it from the duty to collect the tax and remit it as required by law.

If (redacted)'s reporting practices have not been in accord with the proper application of the law as discussed above, we suggest that changes be made to rectify the situation and properly report the tax. If

January 18, 1984

assistance is needed, contact Mr. Robert M. Frank, Supervisor, Excise Tax Unit, State Board of Equalization, 1405 21st Street, Sacramento, California 95814.

Very truly yours,

Les Sorensen

LS:md

Cc: Mr. Robert M. Frank
Mr. E. V. Anderson