

Mobile Telecommunications Sourcing Act

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About Kimbell Sherman Ellis

- **Multistate government affairs firm**
- **Assisted tax departments of major wireless telecommunications companies in MTSA legislative efforts (ALLTEL, AT&T Wireless, Cingular, Nextel, Sprint, Verizon Wireless, T-Mobile, and Western Wireless)**

MTSA Success Story

- **Model of industry / government cooperation in development of federal bill**
- **State tax agencies and industry cooperation in legislative passage**
- **Carriers have implemented successfully**

Why MTSA?

- **Some roaming calls do not meet Goldberg test**
- **Companies concerned about:**
 - ◆ **Lawsuits**
 - ◆ **Double taxation**
 - ◆ **Administrative costs**

Review of MTSA Provisions

- **Sourcing to Place of Primary Use**
- **Zip+4 or state-provided database**
 - ◆ **FTA & MTC adopt database standards**
 - ◆ **If zip+4, due diligence**
- **Hold harmless**
- **Bundled transactions**

Industry-backed Provisions

- **“Customer remedy” provision (not in MTSA bill)**
 - ◆ **Customer must contact company first, before filing suit**
 - ◆ **Intended to cut down of class-action lawsuits for improper collection of tax**

Link to SSTP

- **Most MTSA provisions are in SSTP agreement**
- **Most states are waiting for SSTP “technology model” development for MTSA tax jurisdiction assignment**

MTSA Status Report

- **Legislation enacted in 47 states**
- **MD – rule issued**
- **WV – no tax, fees conform to MTSA in practice**
- **DC – temporary legislation expected to be made permanent this fall**
- **MT – bill vetoed, roaming not taxed**

Issues Raised During Process



- **Interstate vs. intrastate tax base**
- **Bundling – how will it work in practice**

Issues for the Future



- **The wireless industry is migrating away from traditional voice communications and toward digital products and data applications**
- **Wireless competitors of the future are not just telecommunications companies**

Issues for the Future

- **New products and services – taxed at telecom rates while competitors' products are untaxed or taxed a lower sales tax rates**
- **Bundling of content and transmission**

Need for Telecommunications Tax Reform

- **Legislative (NCSL, ALEC) and executive (NGA) have endorsed**
- **New product offerings defy traditional categorization**
- **Feds may pre-empt through ITFA**

What is Telecommunications Industry Seeking?



- **Tax telecommunications like general business**
 - ◆ **Tax customers under sales and use tax**
 - ◆ **End discriminatory property tax treatment**
 - ◆ **Eliminate taxation of business inputs**
 - ◆ **Provide administrative simplification**

What is Industry Seeking?



- **If industry-specific taxes are retained:**
 - ◆ **Eliminate local filing**
 - ◆ **Provide other simplification that is contained in SSTP agreement**

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