

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2002 Legislative Session

Bill No. CB-37-2002
 Chapter No. 16
 Proposed and Presented by The Chairman (by request – County Executive)
 Introduced by Council Members Shapiro, Hendershot and Bailey
 Co-Sponsors _____
 Date of Introduction April 30, 2002

EMERGENCY BILL

1 AN EMERGENCY ACT concerning

2 Sales and Use Tax on Telecommunications Service

3 For the purpose of imposing, levying and collecting a sales and use tax on telecommunications
 4 service in Prince George's County; defining certain terms; providing for the levy and imposition
 5 of a sales and use tax on telecommunications service; providing for the applicability of a sales
 6 and use tax on telecommunications service; providing for certain exemptions from a sales and
 7 use tax on telecommunications service; providing for the collection of a sales and use tax on
 8 telecommunications service; providing for the dedication of the sales and use tax on
 9 telecommunications service; requiring certain recordkeeping; providing for a certain penalty;
 10 providing certain powers to the Director of Finance; providing for the severability of the various
 11 provisions of this Act; making this Act an emergency measure; making this Act subject to a
 12 certain contingency; providing for the effective date of this Act; providing for the effective date
 13 of the provisions of this Act; and generally relating to a sales and use tax on telecommunications
 14 service in Prince George's County.

15 BY adding:

16 SUBTITLE 10. FINANCE AND TAXATION.

17 Sections 10-192.02, 10-192.03, 10-192.04, 10-192.05, 10-192.06,
 18 10-192.07, 10-192.08, 10-192.09, and 10-192.10,

19 The Prince George's County Code
 20 (1999 Edition, 2001 Supplement).
 21

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that new Sections 10-192.02, 10-192.03, 10-192.04, 10-192.05, 10-192.06, 10-192.07, 10-192.08, 10-192.09, and 10-192.10, comprising a new Subdivision 3 under Division 7 of Subtitle 10 of the Prince George's County Code, be and the same are hereby added:

SUBTITLE 10. FINANCE AND TAXATION.

DIVISION 7. TAXES AND TAX CREDITS.

Subdivision 3. Sales and Use Tax on Telecommunications Service.

Sec. 10-192.02. Definitions.

(a) As used in this Subdivision, the following terms shall have the following meaning:

(1) **Director** shall mean the Director of Finance or the Director's designee.

(2) **Mobile Telecommunications Sourcing Act** means the Federal Mobile Telecommunications Sourcing Act, P.L. 106-252.

(3) **Service Address** means the location of the telecommunications equipment to which a call is charged, regardless of where the call is billed or paid; and in the case of mobile telecommunications service, the location of the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Act.

(4) **User** shall mean any person who purchases or acquires for use telecommunications service subject to the tax imposed under this Subdivision.

(5) **Vendor** shall mean any person who sells, distributes, or delivers telecommunications service subject to the tax imposed under this Subdivision.

Sec. 10-192.03. Sales and use tax on telecommunications service levied and imposed.

(a) There is hereby levied and imposed a sales and use tax on telecommunications service in Prince George's County as set forth in Section 10-192.04. The tax rate shall be eight percent (8%) on the gross receipts for telecommunications service in Prince George's County as provided under this Subdivision. For purposes of this Subdivision, gross receipts shall not include any Federal, State or Local taxes and any Federal, State or Local fees or surcharges.

Sec. 10-192.04. Applicability.

(a) Except as otherwise provided in this Subdivision, the sales and use tax imposed under Section 10-192.03 shall apply to telecommunications service that:

(1) originates and terminates in Prince George's County;

or

(2) originates or terminates in Prince George's County and has a service address in Prince George's County.

(b) Notwithstanding Subsection (a) of this Section, for customer bills to which the amendment made by the Mobile Telecommunications Sourcing Act applies, the sales and use tax imposed under Section 10-192.03 shall apply to mobile telecommunications services to the fullest extent authorized under Section 117(b) of the Mobile Telecommunications Sourcing Act.

Sec. 10-192.05. Exemptions.

(a) A tax imposed under Section 10-192.03 does not apply to:

(1) telecommunications services provided to a person to whom a sale of tangible personal property or a taxable service is exempt under Section 11-204 or Section 11-220 of the Tax - General Article; or

(2) a prepaid telephone calling arrangement that is a taxable service under Title 11 of the Tax - General Article.

Sec. 10-192.06. Collection.

(a) The tax shall be itemized on each bill for telecommunications service in Prince George's County.

(b) Each vendor providing telecommunications service in Prince George's County shall collect the tax on behalf of the County and remit the tax to the County.

(c) Each vendor shall have the same rights against the user for the collection of this tax as for the collection of the telecommunications service bill.

(d) To compensate for the cost of collecting and remitting the sales and use tax on telecommunications service in Prince George's County, each vendor may retain one-half of one percent (.5%) of the collections remitted to the County in accordance with Section 10-192.06(f).

(e) To compensate Prince George's County for the cost of administration of the collection of the sales and use tax on telecommunications service in the County, Prince George's County may retain one-half of one percent (.5%) of the collections remitted to the County in accordance with Section 10-192.06(f).

(f) Each vendor shall pay the tax and shall report upon such forms and set forth such information as the Director of Finance may prescribe. The report and payment of the tax shall be made on or before the fifteenth day of each month, covering the preceding calendar month.

(g) Any vendor who fails or refuses to remit to the Director the taxes imposed under this

1 Subdivision shall be liable for the taxes due.

2 (h) Whenever a vendor fails or refuses to remit the taxes due or to make proper return to
 3 the Director of Finance, within the time and in the amount specified, the vendor shall be assessed
 4 the amount of taxes due, plus interest on the amount of tax due at the rate of one percent (1%)
 5 per month or fraction thereof and penalty on the amount of tax due at five percent (5%) per
 6 month or fraction thereof until paid, not to exceed a total of twenty-five percent (25%) of the
 7 amount of taxes due. The interest and penalty is collected as part of the tax.

8 (i) Whenever any vendor stops doing business or otherwise disposes of the business, any
 9 tax payable to the County is immediately due and payable and the vendor must within ten (10)
 10 business days make a report and pay any tax due.

11 **Sec. 10-192.07. Dedication of sales and use tax on telecommunications service.**

12 (a) (1) Except as provided in Section 10-192.06(d) and Section 10-192.06(e), the sales
 13 and use tax imposed under Section 10-192.03 shall be used only for operating expenditures of
 14 the Prince George's County school system.

15 (2) The proceeds provided under Section 10-192.03 for operating expenditures of the
 16 Prince George's County school system may not be used to supplant any State aid for education
 17 provided to the County, or any County funds provided to the Prince George's County school
 18 system.

19 **Sec. 10-192.08. Records.**

20 (a) Every vendor shall keep all invoices and other pertinent records and documents as are
 21 necessary to determine the amount of taxes due or otherwise comply with the provisions of this
 22 Subdivision. Vendors shall maintain said records for a minimum of three (3) years after the
 23 close of the calendar year. Such records and other documents of vendors shall be open at all
 24 times during regular business hours for inspection or examination by the Director or other duly
 25 authorized representatives, agents, or employees of the County.

26 (b) When any vendor fails to keep records or data from which the tax imposed under
 27 Section 10-192.03 may be accurately computed, the Director may make use of any reasonable
 28 alternative for determining the amount of tax due and owing based on the estimates of the
 29 amount of telecommunications service provided. Such determinations by the Director shall be
 30 presumed valid.

Sec. 10-192.09. Penalty.

(a) In addition to the interest and penalty prescribed in Section 10-192.06(h), any vendor willfully failing to remit to the Director the taxes actually collected under this Subdivision, shall be guilty of a misdemeanor punishable in accordance with Section 1-123 of the Code.

Sec. 10-192.10. Powers of the Director of Finance.

(a) In addition to the powers granted to the Director in connection with the administration of the collection of the tax imposed under Section 10-192.03, the Director is hereby authorized and empowered:

(1) To make, adopt, and amend such rules and regulations as the Director may deem necessary or proper to fully provide for the collection of the tax imposed under Section 10-192.03 and to fully implement exemptions from such tax.

(2) To audit the records of any vendor to assure compliance with the provisions of this Subdivision.

(3) To compromise disputed claims in connection with the tax imposed under Section 10-192.03.

(4) To delegate any of the Director's powers, duties, and functions in connection with the administration of the collection of the tax imposed under Subdivision as deemed necessary.

(5) To extend for good cause shown, the time required of vendors for filing any return required to be filed under this Subdivision, for such period of time as the Director may deem reasonable.

SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

SECTION 3. BE IT FURTHER ENACTED that in accordance with the provisions of Section 317 of the Charter, the County Council hereby declares that a public emergency exists affecting the public health, safety, and welfare; said emergency being the need to impose, levy and collect a sales and use tax on telecommunications service in Prince George's County as

1 mandated by State law effective June 1, 2002.

2 SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect, contingent on
3 the taking effect of Chapter 289 (H.B. 949) of the Acts of the General Assembly of 2002, and if
4 Chapter 289 does not become effective, this Act shall be null and void without the necessity of
5 further action by the County Council.

6 SECTION 5. BE IT FURTHER ENACTED that this Act shall take effect on the date it
7 becomes law.

8 SECTION 6. BE IT FURTHER ENACTED that the provisions of this Act shall take effect
9 on June 1, 2002 and the provisions of this Act shall apply to bills for telecommunications service
10 issued on or after August 1, 2002.

11 Adopted this 22nd day of May, 2002, by an affirmative vote of two-thirds of the members of
12 the full County Council.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Peter A. Shapiro
Chair

ATTEST:

Redis C. Floyd
Acting Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Wayne K. Curry
County Executive