

Federal Mobile Telecommunications Sourcing Act



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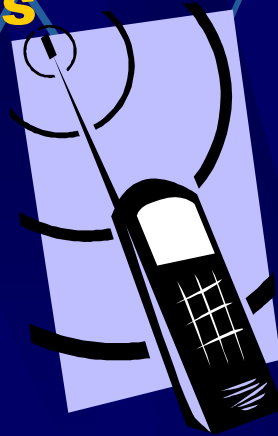
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Mobile Sourcing Act's Effect on State & Local Taxes

- Pre Mobile Sourcing Act ("MSA")
- Post MSA Taxation Simplification
- State and Local Requirements



Pre Mobile Sourcing Act Rules of Tax Situs

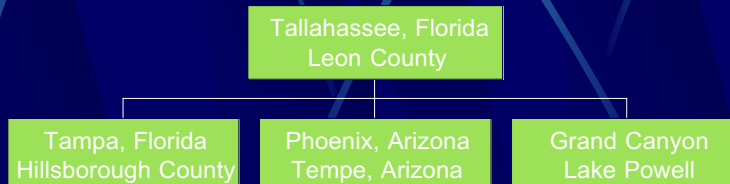
- Commerce Clause Limits State & Local Government Taxing Authority
- *Goldberg v. Sweet*, 488 U.S. 252 (1989) Said Jurisdictions Could Tax a Telecommunication:
 - If It Originates and Terminates in Jurisdiction
 - OR If It Originates or Terminates and is Billed to an Address in Jurisdiction



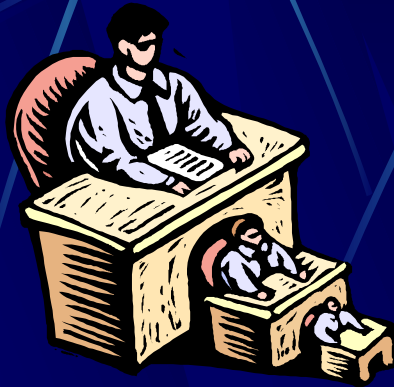
Call by Call Determination

- Under *Goldberg*, mobile carriers determined where each call was placed and what jurisdiction's tax rates applied.
- Different taxing authorities used different methods for determining whether a tax was due.
- Growing problem, given bucket pricing.

Roaming Example



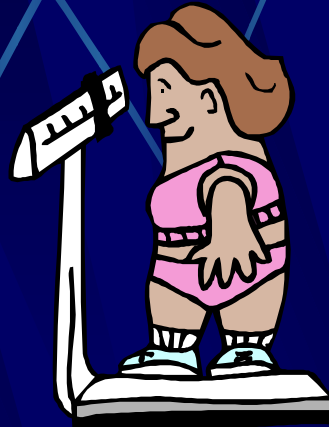
Tax Administration Under Goldberg



- Confusing and costly to companies
- Confusing and costly to state and local governments
- Confusing and costly for customers

Taxation of Mobile Calls Under Goldberg

- Roaming Callers
- Multiple jurisdictions levying tax on a single customer
- Multiple taxation of a single call.



MSA: Public Law 106-252 (HR 4391)

- Joint Effort of Communication Services and Government Groups
 - Simplify Billing Statements
 - Reduce Cost of Tax Administration
 - Provide Certainty and Consistency
 - Eliminate Double Taxation

MSA Major Provisions

- Uniform Sourcing Rules
- Rules for Taxation of Bundled Services
- Industry Safe Harbor



Uniform Sourcing Rules

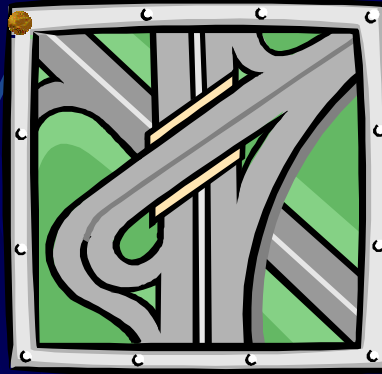
- Sets a uniform basis for determining which jurisdiction may tax mobile services.
- Assigns for purpose of state and local taxation a consumer's purchase of wireless services to a single place.
- Allows a jurisdiction that contains a customer's place of primary use to tax the service.

Taxes Subject to MSA

- Broad application to state and local transactional taxes on mobile telecommunications, regardless of nomenclature, rate calculation, or payer.
- Not applicable to income taxes, prepaid calling cards or air-ground radio-telephone.

Customer's Place of Primary Use ("PPU")

- The residential street address or the business street address
- Representative of where the customer's use of the phone primarily occurs



Goldberg vs. MSA

- | | |
|--|--|
| ● <i>Goldberg</i> | ● MSA |
| ● Situs call by call. | ● Situs Once by Primary Use |
| ● Originate and terminates or | ● MSA allows state and local taxation of mobile service that neither originate or terminate in jurisdiction. |
| ● Originates or terminates and is billed at service address. | |

State & Local Adoption of MSA Rules

- Revise state and local law, imposing tax in jurisdiction of customer's primary place of use.
- Consider changing tax base to include all wireless services.
- May also adjust tax receipts within state through revenue sharing.

Special Rules in MSA for Bundled Services

- When no tax is imposed on a mobile telecomm service, but it is sold with a taxable service, then the tax may apply to the entire bundle unless the home service provider can reasonably identify charges not subject to the tax from its books and records.

Segregating Among Bundles

- **Examples of Non-taxable Mobile Services, depending on jurisdiction**
 - Long Distance
 - Interstate Long Distance
 - Internet Access

State & Local Bundling Law Changes

- Determine pre MSA bundling rules.
- Talk with auditors about books and records.
- Draft limited exemption for bundled services
 - apply only to non-taxable mobile telecommunication services

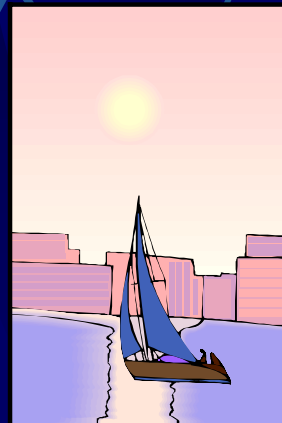
Too Many Addresses

- Difficulty of Determining Address Jurisdiction
 - Tax Situs
 - Tax Rate
 - Tax Receipt Remittance
- Industry Need for Certainty



MSA Offers Safe Harbor

- Must use state's electronic address database or, if none available, enhanced zip code (Zip Plus Four)
- No liability for mistakes in database



State Address Database

- Decision to develop state data base depends on
 - Reliance on Wireless Revenues
 - View of Zip plus Four Accuracy
- Address data base format approved by the Federation of Tax Administrators and the Multi-state Tax Commission.

Revenue Estimating Issues with MSA

- Revenue neutral nation-wide, said CBO
- But fiscal effects may vary from state to state and local to local.
 - Determine jurisdiction's breadth of taxation under *Goldberg*.
 - Compare with revised tax base, if any, under post MSA adopted legislation.

Post MSA Revenues

● LOOSERS

- University communities
- Migratory havens
- Tourist traps
- State capitals

● WINNERS

- Communities with a high number of travelers

It's the law!

- MSA Effective Date: August 1, 2002

● For Examples of Legislation

- Section 202.155, Florida Statutes, on Sourcing and Bundling
- Section 202.22, Florida Statutes, on State Data Base
- <http://www.leg.state.fl.us>