

Washington's Wireless Telecommunications Tax Rate is Discriminatory, Second Highest in Nation

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As more and more Americans increase their personal and business presence online, many of those folks are utilizing mobile phone technology, rather than traditional computing devices such as desktops and laptops, to do so.

Unfortunately, citizens and businesses in Washington state are having to pay more for using their mobile phones, even as their reliance on their handheld devices grows stronger.

A new report released by KSE Partners and published in *State Tax Notes* shows that Washington wireless customers pay the second-highest combined federal-state-local tax rate in the country in order to use their mobile phones.¹ The combined rate for Washingtonians is 23.53 percent, whereas the average rate throughout the U.S. is only 16.26 percent. Our neighbors to the south in Oregon are subject only to a 6.86 percent rate, and Idahoans pay only a 7.25 percent rate.

This puts Washington wireless customers paying a tax that is approaching the level of "sin" taxes; the state of Washington's tax on cigarettes is approximately 50 percent on a per-carton basis, and approximately 40 percent for alcohol.

Wireless services are in no way equal to social ills like cigarettes or alcohol, so why are policymakers taxing wireless services in such a manner? The Federal Universal Service Fund accounts for 5.05 percent of the combined rate (this is constant nationwide) so this means Washington's remaining average state-local rate is 18.48 percent, whereas the state-local sales tax rate is nine percent (though somewhat higher in specific locales that have enacted additional sales taxes).²

Washingtonians pay a state and county 911 service fee that goes toward maintenance and operation of the state's and counties' emergency services communications system, but they also pay a variety of other telecommunications taxes imposed either by the state, county, city, or all three (in addition to the federal government).

The KSE study did specifically mention that the city of Olympia imposes a nine percent telecommunications tax on top of the state-local sales tax. The city of Seattle also imposes a six percent tax on telecommunications using its utility tax taxing authority. Cities can impose up to a six

¹ Scott Mackey, "A Growing Burden: Taxes and Fees on Wireless Services," *State Tax Notes*, February 14, 2011, pgs 475-487. Available at <http://www.ksefocus.com/wordpress-content/uploads/2011/02/2010-Tax-Study-Final-Tax-Notes-PDF.pdf>

² Mackey's paper does not account for the recent increase in Washington E911 fees (both county and state). This paper readjusts the tax percentage to reflect the change.

percent utility tax but can impose more than that with voter approval, such as is the case in Olympia.

According to the Department of Revenue, a wireless communications customer is, or can be, subject to the following combination of taxes and fees:³

- Federal Universal Service Fee (USF)
- Federal excise tax
- Wireless Local Number Portability (charged by discretion of provider)
- State E911 tax
- State B&O tax (retailing)
- State B&O tax (wholesaling)
- State sales tax
- County E911 tax
- Local utility tax
- Local B&O tax
- Local sales tax (city and county)
- Regulatory cost recovery fee (charged by discretion of provider)

Not all wireless subscribers are subject to all the taxes and fees listed above, but a common tax burden looks like this:

Cost of wireless plan + Federal USF + State E911 tax + County E911 tax + State telecom sales tax + Local utility tax + City telecom sales tax + Regulatory cost recovery fee = Actual price of wireless service.

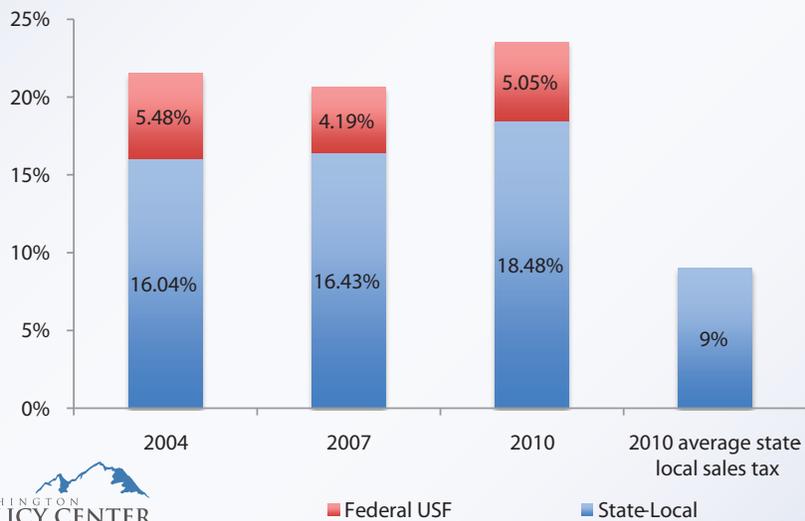
And on some customers' wireless bills, such as those in Olympia and Seattle, there may be certain additional taxes or fees as well. Wireless providers can also charge regulatory cost recovery fees, which are left up to the discretion of the provider.

It is not just the overall tax and fee burden placed on wireless customers that is distressing, but the rate at which the tax burden has grown over the last few years, especially in light of the economic downturn.

On a national average, wireless taxes increased three times faster than general transaction taxes. For Washington state, the greatest increase since 2004 is in the local city and utility taxes and in the state and county 911 fees (see graph on page following).

³ "Telecommunications Tax Policy in Washington State," Department of Revenue, September 2007. Available at <http://dor.wa.gov/docs/reports/telecombaselinereport.pdf>

Federal-State-Local Telecom Taxes vs. Average State-Local Sales Tax in Washington



In 2010, the state legislature increased the Enhanced 911 fee imposed on telephone customers. Legislators increased the fee from \$0.20 to \$0.25 per wireless/wired/VoIP line for the state portion of the fee and from \$0.50 to \$0.70 for the county portion.

The fee itself is not a controversial topic because the revenue goes to fund important services used by telephone customers. What is concerning, given the recent increase, is that the dedicated account to fund improvements to the state and county 911 systems may be raided to fund non-telecommunications services. The proposed 2011–13 state budget would raid the E911 account of \$6 million if the budget is passed as proposed.⁴

Unfortunately, this problem is not contained in Washington state. The FCC reported in 2010 that states redirected more than \$100 million in 911 fees to other purposes.⁵

Why is the upward trend of higher telecommunications taxes important? The trend is significant because more people are relying on their mobile phones to connect to the Internet. No longer are mobile phones just tools for voice communication, they are now multi-data capable, meaning they can consume and produce different types of data such as text SMS, MMS, e-mail, streaming video and music, in addition to accessing the Internet. Access to mobile data will only become more central to the user experience as carriers move toward the fourth generation of data networks (aka 4G), which will bring wired Internet-type speeds.

Several marketing and consumer research firms point out that voice traffic is declining rapidly while data traffic is growing exponentially.⁶ Cisco research reported that mobile data traffic grew 2.6-fold between 2009 and 2010, and that 2010's mobile data traffic was three times the size of the entire global Internet in the year 2000.

⁴ See Section 805 of the Governor's proposed budget at <http://apps.leg.wa.gov/documents/billdocs/2011-12/Pdf/Bills/House%20Bills/1087.pdf>

⁵ Federal Communications Commission. Second Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges, August 13, 2010.

⁶ See "It's Official: Voice is Worthless," by Stacey Higginbotham, GigaOm, February 9, 2011, at <http://gigaom.com/mobile/its-official-voice-is-worthless/>

Reliance on mobile communication devices and services is only predicted to increase. The same study by Cisco predicts that by 2015, a mere four years away, global mobile data traffic will increase by 2,600 percent from today. There will also be one mobile device per person by 2015, approximated at 7.1 billion devices.⁷

Not only are Americans using their smartphones (e.g., iPhone, Android, Windows MP 7) in greater numbers, but they are ditching their landlines in favor of a mobile-only experience. CTIA, the wireless industry's trade association, reports that 24 percent of American households have ditched their traditional Ma-Bell landline in favor of mobile phones.⁸

Another survey by the Pew Internet & American Life Project says that for many people, especially minorities, a mobile smartphone is the primary way they connect to the Internet. In fact, 51 percent of Hispanics and 46 percent of blacks use their phones to access the Internet, as opposed to 33 percent of whites.⁹ In other words, minorities tend to have a greater reliance on their smartphones for accessing the Internet, while whites are more likely to have a variety of devices with which they access the Internet.

The high tax rates that wireless services pay are discriminatory and lead to a dampening of demand for these services. Washington's average state and local sales tax rate is approximately nine percent, with several urban areas bumping up against the 10 percent mark. Even a combined state and local sales tax rate of 10 percent is less than half of what the combined federal-state-local rate is for wireless and is only 54 percent of the state-local general sales tax rate. Even when removing the E911 fee, the problem of disproportionate taxation remains.

Policymakers must resist the temptation to join the discouraging national trend of raiding dedicated accounts funded by wireless taxes that go towards critical infrastructure investments.

Wireless service providers and their customers shouldn't be exempt from paying taxes or certain telecommunications-related fees. But imposing a disproportionately higher tax rate on services that policymakers from the president on down are encouraging not only sends the wrong signal that our priorities are misaligned, but it does economic damage to the segments of society that continue to rely on their mobile services as their main connection to the Internet.

Carl Gipson is Director of the Center for Small Business at Washington Policy Center, a non-partisan independent policy research organization in Washington state. Nothing here should be construed as an attempt to aid or hinder the passage of any legislation before any legislative body. For more information visit washingtonpolicy.org.

⁷ "Cisco Visual Networking Index: Global Mobile Data Traffic Forecast Update, 2010-2015," Cisco white paper, February 1, 2011, available at http://www.cisco.com/en/US/solutions/collateral/ns341/ns525/ns537/ns705/ns827/white_paper_c11-520862.html

⁸ CTIA, Wireless Quick Facts, available at <http://ctia.org/advocacy/research/index.cfm/AID/10323>

⁹ "Mobile Access 2010," Pew Internet & American Life Project, July 2010, available at http://www.pewinternet.org/~//media//Files/Reports/2010/PIP_Mobile_Access_2010.pdf