

**CITY OF PALM SPRINGS UTILITY USERS' TAX  
ADMINISTRATIVE RULING AND INTERPRETATION (3.0)  
(Bundling of Taxable and Non-taxable Telecommunication Services)**

*Authority. Pursuant to Section 3.32.180(b) of the City of Palm Springs Utility Users' Tax Ordinance, the Tax Administrator hereby adopts the following administrative ruling and administrative interpretation of Section 3.32.030 and 3.32.031:*

**A. Administrative Ruling (Bundling of Taxable and Non-taxable Telecommunication, including Internet Access).**

1. **Internet Access Only.** If a service supplier offers broadband service that includes internet access (as defined by the federal Permanent Internet Tax Freedom Act or PITFA), and the internet access is not bundled under a single charge with any other taxable service (e.g., VoIP), then the entire charge shall be deemed exempt pursuant to PITFA.
2. **Internet Access Bundled with Taxable Services.** If a service supplier offers broadband service that includes internet access (as defined by the federal Permanent Internet Tax Freedom Act or PITFA), and which is bundled under a single charge with any other taxable service (e.g., VoIP), then the entire charge shall be subject to the Utility Users' Tax. *See Section 1106 "Accounting Rule" of PITFA. See also Revenue and Taxation Code Section 42018(a) establishing a similar rule for prepaid mobile telephony services that are sold in combination with mobile data services or any other services or products for a single price.*
3. **Internet Access with Taxable Services "Unbundled" by Service Supplier for Taxation Purposes.** If a service supplier offers broadband service with internet access (as defined by the federal Permanent Internet Tax Freedom Act or PITFA), along with any other taxable service (e.g., VoIP) under a single charge, and the service supplier wishes to "unbundle" the package of services for taxation purposes, the tax shall be applied based on the reasonable values of each of the various taxable and non-taxable services, regardless of the pricing of such services listed on the customer invoice. The service supplier has the burden of proving the reasonableness of such assigned values.
  - a. **Per se Reasonable.** If the service supplier assigns a value to a taxable service that is not less than the price of such service on a stand-alone basis (including the network service), such assigned value shall be deemed per se reasonable.
  - b. **Other Factors of Reasonableness.** The following are other factors that may be considered by the Tax Administrator in determining reasonable valuations of unbundled services: i) the price of each service as offered by the service supplier on a stand-alone basis (including the network service); and, ii) current market price for a

comparable service on a stand-alone basis (including the network service) offered by competitors. Note: relative usage of network bandwidth is not a reasonable basis for tax valuation purposes.

4. If a service supplier provides “private communication services” including T-1 or higher bandwidth, and such service is bundled with internet access, the value of the taxable T-1 service shall not be less than the value of such service if offered on a stand-alone basis (without internet access).
5. The service supplier will have the burden of proving the reasonableness of its values and allocation of values with respect to bundled and unbundled offerings. A service supplier may submit its proposed values and allocation of values to the Tax Administrator for prior review for “reasonableness”.

**Limitation.** This Ruling and Interpretation is intended to give general guidance and should not be viewed as providing a definite answer to all factual situations, as the exact application of the tax will depend on the nature of the service, the manner in which it is billed (*e.g.*, bundled or unbundled), and other factors that could bear on whether the telecommunications tax is applied or not applied.

**Effective and Expiration Dates.** This Ruling and Interpretation shall automatically expire on January 1, 2020, so that the conditions then existing may be reviewed, and the Administrative Ruling and Interpretation may be thereafter revised, as appropriate, and then re-adopted. Nothing herein, however, shall preclude the Tax Administrator from revising or rescinding this Administrative Ruling and Interpretation at any time.

City of Palm Springs Finance Director and Utility Users’ Tax Administrator



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Geoffrey S. Kiehl

Date: December 21, 2017