

**COLLECTION OF COMMUNICATIONS SALES
AND
USE TAX**

**REPORT ON AUDIT
FOR THE YEAR ENDED
JUNE 30, 2008**





Commonwealth of Virginia

Auditor of Public Accounts

P.O. Box 1295

Richmond, Virginia 23218

Walter J. Kucharski, Auditor

August 28, 2008

The Honorable Harry R. Purkey
Chairman, House Finance Committee

The Honorable Charles J. Colgan
Chairman, Senate Finance Committee

Ms. Janie E. Bowen
Commissioner, Department of Taxation

Chapter 780 of the 2006 Acts of Assembly (HB 568), 7th enactment clause requires that the Auditor of Public Accounts certify when the taxes and fees collected in a fiscal year under the provisions of the act are at least equal to the amount of revenue collected for the taxes and fees repealed or amended by this act for the fiscal year ending June 30, 2006, at the tax rates that were adopted on or before January 1, 2006, plus the annual cost to the Department of Taxation to pay for the administration of the Virginia Communications Sales and Use Tax.

We have determined the total communication taxes and fees collected for the period July 1, 2007 through June 30, 2008 exceed the total taxes and fees repealed or amended by the act for the period July 1, 2005 through June 30, 2006 plus the Department of Taxation's annual administration cost as shown below. The reported amounts include adjustments for amended returns and other documentation received by the Department of Taxation that affected the communication taxes collected for the reported period. There may be other matters that we are not aware of that could also affect the reported collections.

Communication taxes and fees collected	
For the period July 1, 2007 through June 30, 2008	\$462,278,975
For the period July 1, 2005 through June 30, 2006	(459,526,065)
Department of Taxation's administration cost	
For the period July 1, 2007 through June 30, 2008	<u>(829,293)</u>
Collections over the amount of the fiscal year ended June 30, 2006	<u>\$ 1,923,617</u>

The attached schedules list the detail tax and fee amounts for the two reported periods.

AUDITOR OF PUBLIC ACCOUNTS

Schedule of Communication Taxes and Fees
Collected by the Department of Taxation
For the Period July 1, 2007 through June 30, 2008

<u>Month</u>	<u>Communications Tax</u>	<u>E-911</u>	<u>Right-of-Way</u>	<u>Payment in Worklist (Note A)</u>	<u>Monthly Totals</u>
Jul 2007	\$ 37,392,970	\$ 2,882,573	\$ 1,343,136	\$(6,317,178)	\$ 35,301,501
Aug 2007	32,625,779	2,411,688	897,998	1,633,212	37,568,677
Sep 2007	37,337,896	3,230,102	957,232	5,741,906	47,267,136
Oct 2007	44,066,441	2,777,556	967,443	(7,294,667)	40,516,773
Nov 2007	36,365,175	2,649,912	964,969	106,145	40,086,201
Dec 2007	32,881,734	2,708,556	461,728	3,178,707	39,230,725
Jan 2008	34,456,103	1,954,821	1,044,692	1,657,985	39,113,601
Feb 2008	40,361,771	3,684,970	921,157	85,067	45,052,965
Mar 2008	43,054,798	2,825,356	1,485,852	(4,818,038)	42,547,968
Apr 2008	35,349,334	2,652,665	903,744	1,104,790	40,010,533
May 2008	32,766,731	2,872,802	540,389	2,827,603	39,007,525
Jun 2008	<u>36,659,694</u>	<u>2,837,000</u>	<u>1,330,702</u>	<u>(2,773,040)</u>	<u>38,054,356</u>
Subtotal	<u>\$443,318,426</u>	<u>\$33,488,001</u>	<u>\$11,819,042</u>	<u>\$(4,867,508)</u>	<u>483,757,961</u>

Adjustments for assessment corrections and prior period adjustments:

Note B	2,755,656
Note C	(5,096,036)
Note D	(940,535)
Note E	(7,116,461)
Note F	(6,760,397)
Note G	<u>(4,321,213)</u>

Total adjusted communication tax collections	<u>\$462,278,975</u>
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Notes to Schedule of Communication Taxes and Fees
For the Period July 1, 2007 through June 30, 2008

- A. Taxation places payments on a work-list when there is an error in the processing of the return. The error can result from questions about either the preparation or processing of the return. Once Taxation posts the payment to the tax account and they remove the payment from the work-list it shows as a positive amount in the other column: Communications, E-911, or Right of Way and as a negative amount in the work-list. The amount shown in the "Payment in Work-list" column is the net amounts processed.
- B. Three large providers paid a total of \$2,755,656 of June 2007 revenues, before Taxation had processed their May 2007 tax returns. Therefore the amount Taxation processed in July for distribution in August did not include these amounts, which understates the collection for fiscal year 2008.
- C. In October 2007, a provider paid \$7.8 million, including interest, for \$7.3 million in taxes collected for the period January 2007 through July 2007. The adjustment of \$5,096,036 is the portion applicable to fiscal year 2007.
- D. In November 2007, a provider filed amended Communications tax returns for the months of January 2007 through July 2007 and made a one-time payment of approximately \$1.35 million, including interest. The adjustment of \$940,535 is the portion applicable to fiscal year 2007.
- E. In June 2008, a provider filed amended Communications tax returns for the months of January 2007 through July 2007 and made a one-time payment of approximately \$7.8 million, including interest. The adjustment of \$7,116,461 is the portion applicable to fiscal year 2007.
- F. Taxation received a refund request for approximately \$11.4 million. The provider is requesting the refund for having collected the tax on exempt communications services and access fees. The provider paid \$12 million, which includes interest, when submitting their amended returns for January 2007 through April 2008. The adjustment of \$6,760,397 is the portion of the refund applicable to tax months processed in fiscal year 2008. The amended return is subject to audit by Taxation before they will issue the refund.
- G. Taxation received a refund request for \$4.8 million. The provider is requesting the refund for having collected the tax on exempt communications services and access fees. The adjustment of \$4,321,213 is the portion of the refund applicable to tax months processed in fiscal year 2008. The amended return is subject to audit by Taxation before they will issue the refund.

Communication Taxes and Fees Repealed or Amended by the Act
For the Period July 1, 2005 through June 30, 2006

Consumer utility taxes on telephones	\$267,449,013
Wireline 911 service taxes	107,482,329
Gross receipt tax in excess of 0.5 percent	5,562,335
Consumer utility taxes on cable service	11,438,079
Cable franchise fees	59,639,424
Video program excise taxes	<u>5,035</u>
 Total local communication taxes and fees	 451,576,215
 Virginia Relay Center assessment surcharge	 <u>7,949,850</u>
 Total communication taxes and fees	 <u>\$459,526,065</u>

