

RCW 82.08.0289 Exemptions—Telephone, telecommunications, and ancillary services. Subject to the enactment into law of the 2013 amendments to RCW 82.14B.040 in section 103, chapter 8, Laws of 2013 2nd sp. sess., the 2013 amendments to RCW 82.14B.042 in section 104, chapter 8, Laws of 2013 2nd sp. sess., the 2013 amendments to RCW 82.14B.030 in section 105, chapter 8, Laws of 2013 2nd sp. sess., the 2013 amendments to RCW 82.14B.200 in section 106, chapter 8, Laws of 2013 2nd sp. sess., the 2013 amendments to RCW 80.36.430 in section 108, chapter 8, Laws of 2013 2nd sp. sess., and the 2013 amendments to RCW 43.20A.725 in section 109, chapter 8, Laws of 2013 2nd sp. sess.:

(1) Until August 1, 2013, the tax levied by RCW 82.08.020 does not apply to sales of:

(a) Local service;

(b) Coin-operated telephone service; and

(c) Mobile telecommunications services, including any toll service, provided to a customer whose place of primary use is outside this state.

(2) The definitions in RCW 82.04.065, as well as the definitions in this subsection, apply to this section.

(a) "Local service" means: (i) Ancillary services and telecommunications service, as those terms are defined in RCW 82.04.065, other than toll service, provided to an individual subscribing to a residential class of telephone service offered under a tariff required to be filed with the Washington utilities and transportation commission under Title 80 RCW; and (ii) fixed interconnected voice over internet protocol service, other than the nonlocal service allocation attributable to that service, sold by a provider to an individual classified as residential by that provider.

(b) "Toll service" means long distance service regardless of the method of billing for such service, but does not include customer access line charges for access to a toll calling network.

(c) "Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

(d) "Fixed interconnected voice over internet protocol service" means a service that meets the definition of interconnected voice over internet protocol service in 47 C.F.R. Sec. 9.3 on January 1, 2009, and that offers an active telephone number or successor dialing protocol assigned by a provider; provides inbound and outbound calling capability; and can be used for transmission of telephone calls only from a fixed location.

(e) "Nonlocal service allocation" means the portion of the provider's fixed interconnected voice over internet protocol service attributable to the provider's nationwide nonlocal service activity as determined using a method sanctioned by the federal communications commission in FCC 06-94 and reported to the federal communications commission for the same calendar quarter. If the provider does not report any nonlocal service activity to the federal communications commission, the full revenue derived from the fixed interconnected voice over internet protocol service is deemed part of the nonlocal service allocation.

(f) "Provider" means a provider of a fixed interconnected voice over internet protocol service that is, or is affiliated with a person that is, subject to a franchise fee in this state under the authority of Title 47 U.S.C. Sec. 542(a). A provider is affiliated with a person if the provider and the person have one hundred percent common

ownership. [2013 2nd sp.s. c 8 § 107. Prior: 2007 c 6 § 1006; 2007 c 6 § 1005; 2002 c 67 § 6; 1983 2nd ex.s. c 3 § 30.]

Retroactive application—2013 2nd sp.s. c 8 § 107: "Section 107 of this act applies prospectively as well as retroactively to tax periods open for assessment or refund of taxes under RCW 82.32.050 or 82.32.060, including any refund claims or disputed assessments pending before the department of revenue, board of tax appeals, or any court of law." [2013 2nd sp.s. c 8 § 111.]

VOIP sales tax refunds not authorized before August 1, 2013—2013 2nd sp.s. c 8 § 107: "In accordance with Article VIII, section 5 of the state Constitution, section 107 of this act does not authorize refunds of sales tax validly collected before August 1, 2013, on fixed interconnected voice over internet protocol service as defined in section 107 of this act." [2013 2nd sp.s. c 8 § 112.]

Application—Local service ending after August 1, 2013—2013 2nd sp.s. c 8: "For services affected by the expiration of the exemption for local service under RCW 82.08.0289(1) that cover a billing period starting before and ending after August 1, 2013, RCW 82.08.064(3)(a) is deemed to apply, and retail sales tax will apply to the first billing period starting on or after August 1, 2013." [2013 2nd sp.s. c 8 § 110.]

Findings—Intent—Effective dates—2013 2nd sp.s. c 8: See notes following RCW 82.14B.040.

Contingent effective date—2007 c 6 §§ 1003, 1006, 1014, and 1018: See note following RCW 82.04.065.

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.390.

Finding—Effective date—2002 c 67: See notes following RCW 82.04.530.

Construction—Severability—Effective dates—1983 2nd ex.s. c 3: See notes following RCW 82.04.255.