



Application of Tax Law Section 184 to Mobile Telecommunication Service Providers

This memorandum explains the application of Tax Law section 184 to mobile telecommunication service providers.

New policy

Tax Law section 184 imposes an additional franchise tax on certain transportation and transmission corporations. With respect to telecommunication services, imposition is limited to corporations formed for or principally engaged in a telegraph or local telephone business. *Local telephone business* means:

“the provision or furnishing of telecommunication services for hire wherein the service furnished by the provider thereof consists of carrier access service or the service originates and terminates within the same local access and transport area (“LATA”)...”

Since mobile telecommunication service providers’ services are not limited to intra-LATA or carrier access service, they are **not** engaged in the conduct of a local telephone business. Therefore, mobile telecommunication service providers are **not** taxable under Tax Law section 184.

Previous policy

In 2000, the Tax Department issued advisory opinion [TSB-A-00\(18\)C](#), concluding that wireless communications service providers that provide intra-LATA and inter-LATA communications services are conducting a “local telephone business.” Since the industry as a whole has changed, this conclusion no longer represents the view of the Tax Department. The interpretation in this technical memorandum supersedes the view expressed in that advisory opinion.

Effective date of change in policy

If a mobile telecommunication service provider has previously paid the tax imposed under Tax Law section 184, and the statute of limitations for the tax year is open, the provider may be entitled to a refund.

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