

1989 Legislation
Telephone and Telegraph Corporations

Chapter 61 of the Laws of 1989 amended subdivisions 2 and 2-a of section 186-a of the Tax Law. The amendments affect telephone and telegraph corporations that file Form CT-186-P or Form CT-186-A.

The definition of gross income and gross operating income for telephone and telegraph corporations was amended to insure against the double taxation of receipts under section 186-a and to allow exchange telephone companies to deduct from gross income exempt carrier access services.

Telephone and Telegraph Companies that file Form CT-186-P or Form CT-186-A.

To insure against the double taxation of receipts under section 186-a, the definition of gross income and gross operating income was amended to provide for taxation on the initial sale or furnishing of telephony or telegraphy within New York State rather than taxation on the sale or furnishing of telephony or telegraphy for ultimate consumption or use by the purchaser within New York State.

- Effective on July 1, 1989, and thereafter, a provider who initially sells or furnishes telephone or telegraph services within New York State will pay the tax on gross income or gross operating income. The sale for resale deduction (other than exempt carrier access services sold by an exchange telephone company to an interexchange telephone company) will not be allowed on or after July 1, 1989.
- Effective on July 1, 1989, and thereafter, a reseller who purchases telephone or telegraph services within New York State and subsequently resells such service is allowed to deduct from gross income or gross operating income the cost of such service on which tax under section 186-a was paid by the utility which furnished such service to the reseller. Accordingly, resellers (other than an interexchange telephone company that purchases exempt carrier access services from exchange telephone company) will pay a section 186-a tax on their markup of the resold telephone or telegraph service provided, the 186-a tax was paid on the initial sale or furnishing of the telephone or telegraph service.

Carrier Access Services - Affects Telephone Companies that file Form 186-P

The amendment made into law existing policy which allows an exchange telephone company to deduct from gross income receipts received from the sale of carrier access service within New York State to an interexchange telephone company, where the interexchange telephone company resells the carrier access service as part of interexchange telephone company service. Accordingly, the interexchange telephone company, not the exchange telephone company, will pay the tax on the sale of the carrier access service. Exchange telephone companies

which claim this deduction must complete Schedule D on Form CT-186-P for the taxable year January 1, 1989 - December 31, 1989 and each taxable year thereafter.

For purposes of this deduction, the following terms are defined as follows:

Exchange telephone company means the following 41 telephone companies subject to the supervision of the New York State Department of Public Service.

Alltel New York, Inc.
Armstrong Telephone Company
Ausable Valley Telephone Company
Berkshire Telephone Corporation
Cassadaga Telephone Corporation
Champlain Telephone Company
Chautauqua & Erie Telephone Corporation
Chazy & Westport Telephone Corporation
Citizens Telephone Company of Hammond, New York Inc.
Clymer Telephone Company
Contel of New York, Inc.
Crown Point Telephone Corporation
Delhi Telephone Company
Deposit Telephone Company, Inc.
Dunkirk & Fredonia Telephone Company
Edwards Telephone Company, Inc
Empire Telephone Corporation
Fishers Island Telephone Corporation
Germantown Telephone Company, Inc.
Hancock Telephone Company
Highland Telephone Company
Margaretville Telephone Company, Inc.
Middleburgh Telephone Company
New York Telephone Company
Newport Telephone Company, Inc.
Nicholville Telephone Company, Inc.
Ogden Telephone Company
Oneida County Rural Telephone Company
Ontario Telephone Company, Inc.
Oriskany Falls Telephone Corporation
Pattersonville Telephone Company
Port Bryon Telephone Company
Rochester Telephone Corporation
Seneca-Gorham Telephone Corporation
State Telephone Company
Sylvan Lake Telephone Company, Inc.
Taconic Telephone Corporation
Township Telephone Company, Inc.
Trumansburg Home Telephone Company
Vernon Telephone Company, Inc.,
Warwick Valley Telephone Company

An interexchange telephone company means one who sells interexchange telephony (whether intrastate, interstate or foreign) to the public as a common carrier within the meaning of subsection (h) of Section 153 of Title 47 of the United States Code. The interexchange telephone company is one who has obtained a Certificate of Convenience and Necessity issued by the Federal Communications Commission or the New York Public Service Commission.

Receipts received from the sale of carrier access service within New York State means:

- receipts from interstate or foreign carrier access services rendered within New York State which services are included in Federal Communication Commission Tariff No. 41 as presently constituted, or
- receipts from intrastate carrier access services rendered within New York State which services are included in Public Service Commission tariff No. 913 as presently constituted.