

**GOVERNOR BROWN SIGNS AB 1717 (CHAPTER 885, STATUTES OF 2014) AND TAKES EFFECT IMMEDIATELY**

Congratulations to the participating Utility User Tax (UUT) cities and counties and other stakeholders for their hard work and collective effort over the last several years on this major accomplishment – it was very much a team effort!

AB 1717 (Perea) protects existing and future state and local revenues by providing a collection mechanism for prepaid (non-contract) wireless services. The bill is important for cities and counties with a UUT as well as for those considering voter-approval for a UUT. Currently there are approximately 150 cities in California with a UUT ordinance as well as 3 counties.

In response to the Governor's veto of last year's bill, AB 300, MuniServices worked with the bill's sponsor and other stakeholders to explore various options to address the Governor's concerns. AB 1717 responds to those concerns with appropriate safeguards, including a direct pay requirement by the wireless carriers, a 2020 sunset provision and a reporting requirement of the BOE that will allow stakeholders to assess the cost effectiveness of the program and recommend any needed adjustments.

On behalf of MuniServices and those cities that expressed support for this legislation, we thank Assembly Member Perea and his staff, especially Jonathan Arambel, for their work on this important issue. We look forward to working with local government stakeholders on the implementation of AB 1717 and the remittance and collection of the local revenues on prepaid wireless services. The below includes commonly asked questions with responses, and notice regarding a near-future webinar on AB 1717.

Sincerely,

Fran Mancia, VP, Government Relations
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COMMONLY ASKED QUESTIONS ABOUT AB 1717

- **What happens during the first year following AB 1717's enactment?** The BOE, the wireless carriers, the retail stores and online sellers will make the necessary changes to their systems to be able to collect and remit the state and local taxes beginning January, 2016. The UUT cities will need to verify whether their UUT ordinances apply to prepaid wireless, and also determine the correct tiered rate. AB 1717 is earmarked as 'urgency' legislation which means the bill will take effect immediately upon enactment. This also means the State Board of Equalization will begin the formal emergency regulatory process soon to ensure the provisions of AB 1717 are in place. Finally, the participating UUT cities under AB 1717 will be required to enter into an agreement with the BOE in the same manner as they do for sales taxes before September 1, 2015.
- **Does a city's UUT ordinance apply to prepaid wireless?** Each City Attorney will have to make this determination. Most updated, voter-approved UUT ordinances specifically refer to prepaid and postpaid wireless. New UUT ordinances enacted in the future would be eligible.
- **What rate applies?** AB 1717 includes a "compromise" provision to significantly reduce the number of different UUT rates. See Section 42102 for the set of tiered rates. If your rate is not at a tiered rate, then the next lower tiered rate applies (a .5% reduction in most cases). This lower rate only applies to prepaid wireless.
- **What is the scope of the tax?** Basically, your UUT will apply to the entire bundled rate or price, pursuant to a "bundling rule" in Sec. 42018. The UUT would not apply to the state 911 or CPUC surcharges.



- **What determines the nexus or sourcing of the taxable event?** Sec. 42014 of AB 1717 creates a list of those events. Normally, the taxable event is the point of sale of the retail store, and the “known address” for online sales (usually the billing address), which is presumed to be the place of primary use.
- **Who collects the UUT?** The wireless carriers will collect your UUT on their prepaid sales and remit them directly to your city along with the postpaid UUT each month. The prepaid portion will be separately stated, and your city is entitled to conduct an audit of the wireless carriers pursuant to your local ordinance.

Retail stores and online retail sellers are responsible for collecting your city’s UUT and remitting it to the Board of Equalization (BOE) on a quarterly basis, in a similar manner as your sales taxes. The BOE will be responsible for identifying those retail sellers and creating the software and implementation and audit procedures necessary to collect your UUT. You city is entitled to access information of the BOE to assure the correct collection and remittance of your City’s UUT.

- **How much does this cost?** The retail stores and online retailers are entitled to keep 2% of the UUT collected and remitted. The wireless carriers are not entitled to any compensation. The BOE will determine its implementation costs, and will deduct these costs from the state and local revenues collected on a pro rata basis. Approximately, 65% of the BOE’s costs will be borne by the UUT local agencies.
- **Are there any protections against excessive BOE costs?** During the BOE’s budgetary process, there will be an opportunity to review and comment on the BOE’s proposed implementation plans and costs. Also, Sec. 42103(g) allows the BOE to contract with a third party to perform some of its functions. Finally, there is a sunset provision in January, 2020, so that the stakeholders will have an opportunity to revise AB 1717 as may be appropriate to reduce implementation costs.
- **How much new UUT will my city receive under AB 1717?** It is hard to predict, as that will depend on the number of larger retail stores in your city that sell prepaid wireless, and whether or not the wireless carriers are currently collecting some UUT on prepaid wireless. As a general rule, you should expect to see about a 20% increase in wireless UUT. However, the most important part of AB 1717 is that it protects your existing wireless UUT as more and more postpaid wireless customers convert to prepaid. You are currently losing wireless UUT each year to prepaid.

AB 1717 WEBINAR – TENTATIVELY SCHEDULED FOR LATER THIS MONTH

MuniServices and industry representatives will be hosting a webinar in the near future to discuss the next steps for participating in the collection of prepaid wireless UUT under AB 1717. We will advise you of the webinar date(s) once they are scheduled. Please contact Fran Mancia for additional information at Fran.Mancia@MuniServices.com or at 559.288.7296, or Gary Grace at 800.800.8181 (5520) or at Gary.Grace@MuniServices.com.