
By Mr. Kenneally, a petition of George V. Kenneally, Jr., for legislation to impose an excise of five per cent on intrastate telephone service. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Six.

AN ACT TO IMPOSE AN EXCISE OF FIVE PER CENT ON INTRASTATE TELEPHONE SERVICE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Said chapter 63 is hereby further amended by
2 adding after section 52A the following section: —

3 Section 52B. (a) Whenever used in this section the follow-
4 ing term shall have the following meanings: —

5 1. "Local telephone service", (i) the access to a local tele-
6 phone system, and the privilege of telephonic quality communi-
7 cation with substantially all persons having telephone or radio
8 telephone stations constituting a part of such local telephone
9 system, and (ii) any facility or service provided in connection
10 with a service described in clause (i), to which the subscriber
11 is entitled upon payment of a charge or charges other than a
12 toll charge. The term "local telephone service" does not in-
13 clude any service which is a toll telephone service or a private
14 communication service, as defined in this subsection.

15 2. "toll telephone service," (i) a telephonic quality com-
16 munication for which there is a toll charge which varies in
17 amount with the distance and elapsed transmission time of
18 each individual communication and the charge is paid within
19 this commonwealth, and (ii) a service which entitles the sub-
20 scribe, upon payment of a periodic charge (determined as a
21 flat amount or upon the basis of total elapsed transmission time,
22 to the privilege of an unlimited number of telephonic com-
23 munications to or from all or a substantial portion of the per-
24 sons having telephone or radio telephone stations in a specified

25 area which is outside the local telephone system area in which
26 the station provided with this service is located.

27 3. "teletypewriter exchange service", the access from a tele-
28 typewriter or other data station to the teletypewriter exchange
29 system of which such station is a part, and the privilege of
30 intercommunication by such station with substantially all per-
31 sons having teletypewriter or other data stations constituting
32 a part of the same teletypewriter exchange system, to which
33 the subscriber is entitled upon payment of a charge or charges
34 (whether such charge or charges are determined as a flat
35 periodic amount, on the basis of distance and elapsed transmis-
36 sion time, or in some other manner).

37 4. "private communication service", (i) the communication
38 service furnished to a subscriber in consideration of a charge
39 which entitles the subscriber to exclusive or priority use of any
40 communication channel or groups of channels (regardless of
41 whether such channel or groups of channels may be connected
42 through switching with a service described in paragraph 1, 2
43 (ii) or 3 for which a separate charge is paid); (ii) switching
44 capacity, extension lines and stations, or other associated serv-
45 ices which are provided in connection with, and are necessary
46 or unique to the use of, channels described in clause (i); and
47 (iii) the channel mileage which connects a telephone station
48 located outside a local telephone system area with a central
49 office in such local telephone system; except that such term
50 does not include any communication service for which a sepa-
51 rate charge is not made.

52 5. "taxpayer", any person furnishing local telephone serv-
53 ice, toll telephone service or teletypewriter exchange service.

54 (b) 1. There is hereby imposed on amounts paid for local
55 telephone service, toll telephone service and teletypewriter ex-
56 change service furnished within this commonwealth an excise
57 equal to 5 per cent of the amount so paid. The taxes imposed
58 by this subsection shall be paid by the person paying for the
59 service and shall be collected by the taxpayer.

60 2. In the case of amounts paid pursuant to bills rendered on
61 or after January first (on which a new tax rate goes into effect)
62 for services for which no previous bill was rendered, the new

63 tax rate shall apply to such amounts except with respect to
64 amounts paid for any such services as were rendered more than
65 two months before such January first. A new tax rate shall
66 not apply with respect to amounts paid for services rendered
67 more than two months before the January first on which such
68 new rate goes into effect. As used in this paragraph, the term
69 "new tax rate" includes the initial imposition of the tax.

70 (c) The following shall be exempt from the excise imposed
71 by this section: —

72 1. Service paid for by inserting coins in coin-operated tele-
73 phones available to the public with respect to local telephone
74 service or with respect to toll telephone service, if the charge
75 for such toll telephone service is less than twenty-five cents;
76 except that where such coin-operated telephone service is fur-
77 nished for a guaranteed amount, the amounts paid under such
78 guarantee plus any fixed monthly or other periodic charge shall
79 be subject to tax.

80 2. Any payment received from any person for toll telephone
81 service and teletypewriter exchange service used in the collec-
82 tion of news for the public press, or a news ticker service fur-
83 nishing a general news service similar to that of the public
84 press, or radio broadcasting, or in the dissemination of news
85 through the public press, or a news ticker service furnishing a
86 general news service similar to that of the public press, or by
87 means of radio broadcasting, if the charge for such service is
88 billed in writing to such person.

89 3. Any payment received for services furnished to an inter-
90 national organization, to the American National Red Cross, or
91 to the commonwealth and the subdivisions thereof.

92 4. Any payment received from the government of the
93 United States or any agencies or instrumentalities thereof, to
94 the extent that such payment is immune from taxation under
95 the constitution or laws of the United States.

96 5. Any payment received for any toll telephone service
97 which originates within a combat zone, as defined in section
98 one hundred and twelve of the Federal Internal Revenue Code
99 of nineteen hundred and fifty-four, as amended, from a member
100 of the armed forces of the United States performing service in

101 such combat zone, as determined under such section, provided
102 a certificate, setting forth such facts as the commissioner may
103 by regulation prescribe, is furnished to the person receiving
104 such payment.

105 6. Only one payment of tax under this section shall be re-
106 quired with respect to the tax on any service, notwithstanding
107 the fact that the lines or stations of one or more persons are
108 used in furnishing such service.

109 7. The amount paid for any toll telephone service described
110 in paragraph 2 (ii) of subsection (a) to the extent that the
111 amount so paid is for use by a common carrier, telephone or
112 telegraph company, or radio broadcasting station or network
113 in the conduct of its business as such.

114 8. So much of any amount paid for the installation of any
115 instrument, wire, pole, switchboard, apparatus or equipment
116 as is properly attributable to such installation.

117 9. Any payment received for any services furnished which
118 the commonwealth is prohibited from taxing under the consti-
119 tution or laws of the United States.

120 10. Any payment received from a nonprofit educational
121 organization. The term "nonprofit educational organization"
122 shall mean an educational organization described in section
123 five hundred and three (b) (2) of the Federal Internal Revenue
124 Code of nineteen hundred and fifty-four, as amended, which is
125 exempt from taxation under section five hundred and one (a)
126 of said Code. The term shall also include a school operated as
127 an activity of an organization described in section five hundred
128 and one (c) (3) of said Code which is exempt from taxation
129 under section five hundred and one (a) of said Code, if such
130 school normally maintains a regular faculty and curriculum
131 and normally has a regularly enrolled body of pupils or stu-
132 dents in attendance at the place where its educational activities
133 are regularly carried on.

134 (d) If a bill is rendered for local telephone service or toll
135 telephone service, the amount on which the tax with respect to
136 such services shall be based shall be the sum of all charges for
137 such services included in the bill; except that the person who
138 renders the bill groups individual items for purposes of render-

139 ing the bill and computing the tax, then the amount on which
140 the tax with respect to each such group shall be based shall be
141 the sum of all items within that group, and the tax on the re-
142 maining items not included in any such group shall be based on
143 the charge for each item separately. If the tax imposed by this
144 section with respect to toll telephone service is paid by insert-
145 ing coins in coin-operated telephones, the tax shall be computed
146 to the nearest multiple of five cents, except that where the tax
147 is midway between multiples of five cents, the next higher mul-
148 tiple shall apply.

149 (e) The taxes imposed by this section shall be added to and
150 become part of the charges for such services made by the tax-
151 payer and shall be payable to the taxpayer on the due date of
152 the bill for such charges. Such taxes shall be a debt from the
153 person paying for the services to the taxpayer and shall be re-
154 coverable at law in the same manner as other debts. The tax-
155 payer may apply and use any deposit left with him by the per-
156 son paying for the services to satisfy therefrom any tax im-
157 posed by this section and unpaid by such person. The taxpayer
158 may discontinue local telephone service for failure to pay the
159 taxes imposed by this section.

160 (f) Every taxpayer shall, for each calendar month, on or
161 before the twentieth day of the month following the close of
162 such calendar month, make a return to the commissioner sworn
163 to by its treasurer or assistant treasurer, or in their absence or
164 incapacity by any other principal officer, in such form as the
165 commissioner, with the approval of the commission, shall pre-
166 scribe, and pay over to the commissioner the taxes collected
167 under the provisions of this section during such calendar
168 month.

169 (g) Every taxpayer shall keep and preserve suitable records
170 of charges and payments for local telephone service, toll tele-
171 phone service and teletypewriter exchange service and other
172 books and accounts as the commissioner may require to deter-
173 mine the amount of tax due under this section. Such records
174 shall be open to inspection and examination at any reasonable
175 time by the commissioner or his duly authorized representative
176 and shall, unless the commissioner consents in writing to an

177 earlier destruction, be preserved for three years after the date
178 the return was filed or the date it was due, whichever occurs
179 later and for such further period as may be agreed upon for the
180 assessment of any tax.

181 (h) All provisions of this chapter relative to the assessment,
182 collection, payment, abatement, verification and administra-
183 tion of taxes, including penalties, applicable to domestic busi-
184 ness corporations, as defined in section thirty, shall, so far as
185 pertinent, be applicable to taxes under this section.

186 (i) The commission shall have authority to make such rules
187 and regulations as, in its opinion, are reasonably necessary to
188 effectuate the purposes and intent of this section.

1 SECTION 2. This act shall take effect on the first day of
2 the first month following its passage.

