BEFORE THE IOWA DEPARTMENT OF REVENUE
HOOVER STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF VERTEX INC 2301 RENAISSANCE BLVD KING OF PRUSSIA PA 19406-2722 SALES, USE, OR EXCISE TAX	**DECLARATORY ORDER** DOCKET NO. 1187310

Pursuant to a Petition for Declaratory Order ("Petition") filed with the Iowa Department of Revenue ("Department") by VERTEX INC. (hereinafter referred to as "Vertex Inc." or "Petitioner") on December 18, 2025, and in accordance with Iowa Code section 17A.9 (2025) and Iowa Administrative Code rule 701—4.7(17A), "Declaratory order-in general," the Director issues the following order.

I. FACTS

The findings of fact are based on the Petition submitted to the Department and publicly available information on Petitioner's website.[1] Petitioner is a technology company that provides tax research and compliance solutions for businesses, including telecommunications companies. Pet. for Dec. Order at 2, No. 1187310. Petitioner is seeking clarification on the proper tax treatment of Voice Over Internet Protocol (VoIP) lines in order to provide correct guidance to their customers, and ensure their customers are charging the correct fees on VoIP lines.

II. ISSUE PRESENTED

How does the 911 surcharge imposed by Iowa Code chapter 34A apply to VoIP services?

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[1] When considering a petition for declaratory order, "[t]he department may solicit comments or information from any person on the questions raised. Also, comments or information on the questions raised may be submitted to the department by any person." Iowa Admin. Code r. 701—4.7(7)"*b*"

III. STANDARD OF REVIEW

A. Declaratory Orders under the Iowa Administrative Procedure Act

Iowa's Administrative Procedure Act ("IAPA") was enacted "to provide a minimum procedural code for the operation of all state agencies when they take action affecting the rights and duties of the public." Iowa Code § 17A.1(2). Under the IAPA, "[a]ny person may petition an agency for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the agency." *Id.* at § 17A.9(1)(a). The IAPA also describes agency rights and responsibilities with respect to declaratory order proceedings. *Id.* at § 17A.9(8). Pursuant to Iowa Code section 17A.9(2), the Department adopted Iowa Administrative Code rule 701—4.7, which outlines department-specific rules governing declaratory orders.

The purpose of a declaratory order is to provide a "generally available means for persons to obtain reliable information about agency administered law as it applies to their particular circumstances." *Sierra Club Iowa Chapter v. Iowa Dep't of Transp.*, 832 N.W.2d 636, 647 (2013) (citing Arthur Earl Bonfield, Amendments to Iowa Administrative Procedure Act, Report on Selected Provisions to Iowa State Bar Association and Iowa State Government, 1–8 (1998)). Declaratory orders are not contested cases that "entitle[] parties affected by the agency action to an adversarial hearing" in order to "adjudicate disputed facts pertaining to particular individuals in specific circumstances." *Greenwood Manor v. Iowa Dep't of Pub. Health, State Health Facilities Council*, 641 N.W.2d 823, 834 (Iowa 2002); *see also* Iowa Code § 17A.12. Instead, the IAPA "contemplates declaratory rulings by administrative agencies on purely hypothetical sets of facts." *City of Des Moines v. Pub. Emp't Relations Bd.*, 275 N.W.2d 753, 758 (Iowa 1979).

As such, "[t]he procedure established by section 17A.9 allows persons to seek formal opinions on the effect of future transactions and arrange their affairs accordingly." *Bennett v. Iowa Dep't of Nat. Res.*, 573 N.W.2d 25, 26 (Iowa 1997). Declaratory orders issued by an administrative agency do, however, have "the same status and binding effect as any final order issued in a contested case proceeding." Iowa Code § 17A.9(7). The Department's rules governing declaratory orders are consistent with this understanding of the role of declaratory orders in administrative procedure. *See* Iowa Admin. Code r. 701—4.7.

B. Statutory Construction and Interpretation of Tax Statutes

"When engaging in statutory interpretation," the Department "first examine[s] the language of the statute and determine[s] whether it is ambiguous." *Kay-Decker v. Iowa State Bd. of Tax Review*, 857 N.W.2d 216, 223 (Iowa 2014) (citing *Rolfe State Bank v. Gunderson*, 794 N.W.2d 561, 564 (Iowa 2011)). "'Generally, we presume words used in a statute have their ordinary and commonly understood meaning.'" *Id.* (quoting *McGill v. Fish*, 790 N.W.2d 113, 119 (Iowa 2010)). "[L]egislative intent is expressed by what the legislature has said, not what it could or might have said. When a statute's language is clear, we look no further for meaning than its express terms. Intent may be expressed by the omission, as well as the inclusion . . . of statutory terms . . . ." *Hawkeye Land Co. v. Iowa Utils. Bd.*, 847 N.W.2d 199, 210 (Iowa 2014) (quoting *State v. Beach*, 630 N.W.2d 598, 600 (Iowa 2001)).

In addition to applying the general principles of statutory construction, "[s]tatutes which impose taxes are construed liberally in favor of the taxpayer and strictly against the taxing body. It must appear from the language of a statute that the tax assessed against the taxpayer was clearly intended." *Iowa Auto Dealers Ass'n v. Iowa Dep't of Revenue*, 301 N.W.2d 760, 762 (Iowa 1981).

IV. <u>DISCUSSION</u>

A. Voice Over Internet Protocol

Voice Over Internet Protocol is a service that allows users to make phone calls over the internet instead of a traditional phone line. It is defined as:

> A service to which all of the following apply:
> a. The service provides real-time two-way voice communications transmitted using internet protocol or a successor protocol.

> b. The service is offered to the public, or such classes of users as to be effectively available to the public.
> c. The service has the capability to originate traffic to, and terminate traffic from, the public switched telephone network or a successor network.

Iowa Code § 34A.2(24). There are several different ways to use VoIP technology, ranging from plugging an adaptor into a traditional phone, using the service entirely on a computer, or using a special VoIP phone.[2] The Federal Communications Commission (FCC) does warn consumers about some drawbacks of VOIP. The reliance on an internet connection means that a user is likely to lose access during a power outage or similar situation where internet connection is not available. *Id.* Additionally, the FCC does require VoIP service providers to provide 911 service to consumers. 47 C.F.R. § 9.11(b)(2)(i). However, VoIP services can present complications when calling 911 because they do not connect to cell towers so they are not able to transmit location data to 911 operators. *Id.*

B. 911 Surcharge

Iowa law imposes a 911 surcharge in order to offset the cost of implementing 911 service areas. Iowa Code section 34A.7A(1)(a) imposes a surcharge of one dollar on all originating service numbers in the state, except that it does not apply to wire-line-based communications or prepaid wireless telecommunications service. The statute does not provide a definition of 'originating service number,' but it does define an 'originating service provider' as "a communications provider that allows its users or subscribers to originate 911 voice or nonvoice messages from the public to public safety answering points, including but not limited to wire-line, wireless, and voice over internet protocol services." *Id.* § 34A.2(23). Additionally, the originating service provider is responsible for collecting the 911 surcharge imposed on originating service numbers. *Id.* § 34A.7A(1)(c). Iowa Code section 34A.7A(1)(c) requires the service provider to remit the surcharge collected to the 911 program manager, but allows them to retain 1% of the gross surcharges collected in compensation for the costs of billing and collection. Based on the

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[2] Federal Communications Commission, *Voice Over Internet Protocol (VoIP)* (last visited April 14, 2026), https://www.fcc.gov/general/voice-over-internet-protocol-voip

definition of originating service provider, and the responsibility the provider has to collect the 911 surcharge imposed on originating service numbers, it is reasonable to conclude that an originating service number is the number provided by an originating service provider. The service provided is a number that originates 911 voice or nonvoice messages from the public to public safety answering points. *Id.* § 34A.2(23).

The definition of originating service provider specifies that it can apply to wireline, wireless, and voice over internet protocol services. *Id.* § 34A.2(23). Therefore, the 911 surcharge imposed on originating service numbers applies to all of these services unless specifically exempted. Iowa Code section 34A.7A(1)(a) specifically states that "[t]he surcharge shall not be imposed on wire-line-based communications or prepaid wireless telecommunications service." Surcharges for those communications are covered elsewhere in chapter 34A. Since VoIP falls under the general categorization of originating service number, it is subject to the surcharge imposed by 34A.7A unless it meets the definition of one of the exempted services.

C. Local Wireline 911 Services

Iowa Code section 34A.7(1) imposes a surcharge on local wireline 911 services. The surcharge is one dollar per month per access line on each access line subscriber, and is to be collected by the local exchange service provider as part of the periodic billing to the subscriber. *Id.* § 34A.7(2)(a). A subscriber is required to pay the surcharge in each 911 service area in which they have access line service, but they are only required to pay the surcharge on a maximum of one hundred access lines in each service area. *Id.* § 34A.7(3). The service provider is required to remit the surcharge collected to the 911 service board governing the appropriate service area, but may retain 1% of the gross surcharges collected in compensation for the costs of billing and collection. *Id.* § 34A.7(2)(a).

An access line is defined as "an exchange access line that has the ability to access dial tone and reach a public safety answering point." *Id.* § 34A.2(6). A dial tone is emitted by a telephone to indicate that the system is functioning and ready to make a call.[3] Dial tones are traditionally heard on landline phones. Cell phones do not rely on dial tones to let the user know that the system is functional; they indicate functionality by showing the number of bars in relation to how strong the service is. VoIP services, similarly, do not need to rely on a dial tone because they are connected via the internet, so the signal is dependent on whether the user has an internet connection.[4] Many VoIP service providers do provide a dial tone when using a VOIP adapter on a landline phone simply because users are accustomed to hearing one.[5] However, in those cases it is merely a sound being provided to users, and it does not serve any functional purpose. *Id.* Since the tone provided is not a real, functional dial tone, the definition of access line is not met. Therefore, VoIP service lines are not access lines and the surcharge imposed under 34A.7 does not apply to VoIP.

D. Prepaid Wireless Telecommunications Service

Iowa Code section 34A.7B(2) imposes a prepaid wireless 911 surcharge on each purchase of prepaid wireless telecommunications service from a seller, other than a sale for resale. A prepaid wireless telecommunications service is defined as “a wireless communications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance and that is sold in predetermined units or dollars of which the amount declines with use in a known amount.” Iowa Code § 34A.2(19). Prepaid wireless communications services are further defined in Iowa Administrative Code rule 701—217.8, which is the rule sedition implementing Iowa Code section 34A.7B. According to this rule, prepaid wireless communication services include “prepaid wireless phones, prepaid wireless phone calling cards, rechargeable prepaid wireless phones,

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[3] *Dial Tone*, Merriam-Webster.com Dictionary, (last visited April 14, 2026), https://www.merriam-webster.com/dictionary/dial%20tone
[4] Brynne Ramella, *What is a Dial Tone and How it Works*, getvoip.com (last visited April 14, 2026), https://getvoip.com/library/dial-tone/
[5] FCC, *Voice Over Internet Protocol (VoIP)* (last visited April 14, 2026)

rechargeable prepaid wireless phone calling cards, and prepaid wireless service plans." Iowa Admin. Code r. 701—217.8(1).

When an originating service provider is providing VoIP services, it is an ongoing subscription billed on a specified timeline. If a seller does provide a prepaid VoIP service, such as a prepaid calling card or prepaid service plan, those transactions would be subject to the surcharge of 33 cents imposed by Iowa Code section 34A.7B. However, any VoIP service subscriptions that are not prepaid are not subject to this surcharge.

E. Applicability to Petitioner's Clients

Petitioner is not an originating service provider, nor do they make sales of wireless telecommunications services. According to the facts presented in the Petition, Petitioner provides tax research and compliance solutions to businesses. Pet. for Dec. Order at 2, No. 1187310. Petitioner's clients are not parties to this Order. The Department cannot issue a Declaratory Order that would "substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to the determination of the matter by a declaratory order proceeding." Iowa Code section § 17A.9(1)(b)(2). Since Petitioner's clients are not parties to the Order, this Order is not binding on any party other than the Petitioner.

V. CONCLUSION

Iowa Code section 34A.7A imposes a 911 surcharge of one dollar on all originating service numbers in Iowa. This surcharge applies to service numbers provided by originating service providers to wire-line, wireless, or voice over internet protocol services. Iowa Code § 34A.2(23). However, the surcharge explicitly does not apply to wire-line-based communications or prepaid wireless telecommunications service. *Id.* § 34A.7A(1)(a). As discussed above, VoIP services do not fit under the definition of wire-line-based communications because they do not have a functional dial tone. Some VoIP services may be prepaid, and sales of those services would be subject to the surcharge under Iowa Code section 34A.7B instead of the surcharge imposed by Iowa Code section 34A.7A. Any VoIP subscription services that are not prepaid are subject to the 911 surcharge imposed under Iowa Code section 34A.7A because they are provided by originating service providers.

ORDER

THEREFORE, based on the facts presented, foregoing reasoning, and applicable provisions of the law, the Director finds that voice over internet protocol services are subject to the 911 surcharge imposed by Iowa Code section 34A.7A. Additionally, the retail sale of any prepaid VoIP services are subject to the surcharge imposed by Iowa Code section 34A.7B.

Issued at Des Moines, Iowa this 5th day of May, 2026.

IOWA DEPARTMENT OF REVENUE

By Mary Mosiman
Mary Mosiman, Director