

AT-A-GLANCE | MAY 2018

# FCC EXEMPTIONS FOR REPORTING WHOLESALE (CARRIER'S CARRIER) REVENUE ON FORM 499-A

Under the rules governing the Federal Universal Service Fund (“FUSF”), all telecommunications service providers must determine what revenue is subject to direct FUSF contribution, and what revenue can be considered wholesale and exempt from contribution requirements. Under the Federal Communications Commission’s (“FCC”) Carrier’s Carrier rule, FUSF contribution should only be made on retail, end-user services. Wholesale carriers, or “Carrier’s Carriers,” that provide services to other carriers who contribute directly to the FUSF (or have customers which contribute directly to the FUSF) may exempt this revenue from contribution.

The Carrier’s Carrier Rule exempts revenue from FUSF contribution obligations on the basis of “wholesale” sales if the carrier can reasonably certify that their reseller-customers, or the reseller’s own carrier-customers, are directly contributing to FUSF. Revenue not verified in accordance with the Carrier’s Carrier Rule must be classified as retail, end-user revenue and will be subject to direct FUSF contribution. Specifically, wholesale carriers that do not maintain necessary documentation of direct contributor status from reseller-customers (e.g., an exemption certificate) will be responsible for contributing to the FUSF on all un-verified revenue.

## **I. Exemption Certificates**

For purposes of Form 499 reporting, all filers should have documented procedures to ensure that telecommunications services revenue is accurately reported to USAC, and that underlying pass-through charges are appropriately assessed on reseller-customers. The FCC has adopted a “safe harbor” procedure, under which wholesale carriers should manifest contributor status based on written certifications (i.e., an Exemption Certificate) from reseller-customers.

To comply with the safe harbor, a wholesale service provider must obtain the following information from resellers: (1) the reseller’s USAC Filer 499 ID; (2) the reseller’s legal name; (3) name/ phone number of a contact person; and (4) a reseller’s certification of its FUSF contributor status.

### **a. Reseller Certification**

All wholesale service providers must demonstrate, on an annual basis, that it had a reasonable expectation that a particular customer is a reseller of the wholesaler’s services by obtaining a signed certificate each calendar year that:

- Specifies the exact services the reseller is or is not purchasing for resale from the wholesaler; and
- Certifies, under the penalty of perjury, that the reseller is:
  - Purchasing services from the wholesaler for resale;
  - Incorporating the specific purchased services into its own service offerings (i.e., telecommunications services or I-VoIP) to end-user customers; and
  - Either directly contributes or has a reasonable expectation that another downstream reseller directly contributes to FUSF.

1. *Service-Specific Exemption*

FCC rules emphasize that in order for a carrier to be classified as a reseller, the carrier-customer must both: (1) incorporate the purchased wholesale services into its own service offerings; and (2) reasonably expect to be a FUSF direct contributor based on those offerings. This language indicates a wholesaler must verify that its customer contributes to FUSF on revenues specifically derived from the purchased wholesale services – not just as a general FUSF contributor overall revenues. Therefore, carrier must verify contribution status on the service-specific level, and cannot rely upon a blanket exemption.

If a carrier fails to comply with the above exemption certification procedures, **it will be responsible for any FUSF assessments that may result if any customer revenue is reclassified as retail, end-user revenue.**