

Revenue Information Bulletin

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Sales Taxes

Prepaid Wireless 911 Service Charge

Louisiana Revised Statute 33:9109.1, as enacted by Act 531 of the Regular Session of the 2009 Louisiana Legislature, imposes a service charge on the purchase of prepaid wireless telecommunications service. This service charge has been imposed to maintain effective and efficient 911 systems across the state and to be a source of funding for the upcoming deployment of enhanced 911 services. The effective date of Act 531 is January 1, 2010.

Beginning on January 1, 2010, a consumer's retail purchase of prepaid wireless telecommunications service will incur a 2 percent service charge. Prepaid wireless telecommunication service is defined as a wireless telecommunication service that is paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount. Prepaid wireless telecommunications service gives the caller the ability to dial 911 to access the 911 system. Prepaid wireless telecommunications service includes the sale of the following to a consumer:

- Cellular phones preloaded with minutes or units of air time or sold with rebates for airtime;
- Calling cards for cellular phones preloaded with minutes or units of air time; and
- The recharging of a reusable cellular phone calling card or the cellular phone itself with additional minutes or units of air time.

The service charge should not be imposed upon the sale of a cellular phone sold without preloaded minutes or units of air time or sold without a rebate for minutes or units or airtime. A retail transaction does not include the purchase of prepaid wireless telecommunications service for resale. The prepaid wireless 911 service charge is not imposed upon the sale of a calling card to be used with a landline phone. A consumer is defined as a person who purchases prepaid wireless telecommunications service. A seller is a person who sells prepaid wireless telecommunications service to another person. A provider is a person who provides prepaid wireless telecommunications service pursuant to a license issued by the Federal Communications Commission. The term "person" encompasses both individuals and businesses.

If a consumer purchases prepaid wireless telecommunications at a Louisiana location of a seller's business, then the transaction is to be treated as occurring in Louisiana. Any other retail transaction shall be treated as if it occurred in Louisiana for purposes of La. R.S. 47:301(16). Pursuant to La. R.S. 47:301(16), if a customer does not physically purchase the prepaid wireless telecommunication service at the seller's place of business, then the retail transaction shall be deemed to take place in the following locations:

- The consumer's shipping address, if there is a shipment;
- The consumer's billing address;
- Another address of the consumer, that is known by the seller; or

- The seller's address, or alternatively in the case of prepaid wireless calling service, the location associated with the mobile telephone number.

Sellers should calculate and collect the prepaid wireless 911 service charge from consumers for each retail transaction beginning on January 1, 2010. The service charge is the liability of the consumer and not of the seller or any provider of prepaid telecommunications service. The service charge must be separately stated for each transaction on an invoice, receipt or similar document provided to consumer. If the service charge has not been separately stated, then the seller has been deemed to have collected the service charge. When a tax or other fee is calculated on the retail transaction, the prepaid wireless 911 service charge is not included in the base for measuring the tax, fee, surcharge or other charge imposed by the state, political subdivision of the state or any intergovernmental agency.

Sellers must remit all prepaid wireless service charges collected to the Louisiana Department of Revenue (LDR) on a quarterly basis. The return shall be filed on or before the twentieth day of the first of month of the next succeeding quarter. Sellers will be able to register, file, and pay the service charges electronically to LDR. The first quarter return, which covers the period from January 1 through March 31, 2010, will be due on or before April 20, 2010. During the first quarter of 2010, sellers will be permitted to deduct and retain all service charges collected from consumers on retail transactions. Sellers **must file** a return for the first quarter, even if no service charges are to be remitted to the department. Thereafter and beginning on April 1, 2010, sellers may deduct and retain 4 percent of the prepaid wireless 911 service charges collected from consumers. Audit and appeal procedures applicable to state sales tax under Chapter 2 of Title 47 of the Louisiana Revised Statutes shall apply to the prepaid wireless 911 service charge. Prescription of the prepaid wireless 911 service charge is governed by Article VII § 16 of the Louisiana Constitution.

LDR is to pay all remitted prepaid wireless 911 service charges over to eligible 911 communications districts. LDR is allowed to retain up to 2 percent of the remitted service charges to reimburse its direct costs. For the fiscal year 2009-2010, LDR may retain up to \$800,000 of remitted funds to pay for actual start-up costs to implement the system for collection and remittance of the prepaid wireless 911 service charge. Each communications district will receive its distribution of its portion of the service charges remitted to LDR within thirty days of the end of each calendar quarter. The amount of the distribution to each 911 district is determined by the formula set forth in La. R.S. 33:9109.1

Questions may be directed to the Louisiana Department of Revenue's Special Programs Division, Sales Tax Section at 225-219-7356, Option 3 or by email sales.inquiries@la.gov.

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Secretary