Prepaid Wireless Telecommunications E911 Fee

Notice #11-06 June 2011

- *Effective July 1, 2011, retailers must collect a 53¢ prepaid wireless E911 fee from consumers*
- *Retailers will report and pay prepaid wireless E911 fees on sales and use tax return*
- *Defined in T.C.A. § 7-86-128(5)*
- *Prepaid wireless includes prepaid wireless phone cards and prepaid cell phones*
- *Retailer should collect the E911 fee on each prepaid wireless retail transaction occurring in this state*
- *E911 fee does not apply to purchases for resale*

INTRODUCTION

This notice is intended to provide retailers and the general public with information concerning changes in the emergency telephone service charge (E911 fee) collected from consumers of prepaid wireless telecommunications services.

Retailers selling prepaid wireless telecommunications services must collect a 53¢ emergency telephone service charge (E911 fee) from the consumer on each retail transaction occurring in this state on or after July 1, 2011, for the purchase of prepaid wireless telecommunications such as prepaid phone cards and prepaid cell phones.

A new line has been added to the sales and use tax returns to facilitate reporting and remitting to the Department of Revenue the prepaid wireless telecommunications E911 fee in conjunction with sales and use tax.

DISCUSSION

Since 1999, subscribers of prepaid wireless telecommunications have been subject to a statewide emergency telephone service charge (E911 fee) that is collected by a wireless telecommunications service provider pursuant to Tenn. Code Ann. § 7-86-108. Effective July 1, 2011, in lieu of the fee collected by wireless telecommunications service providers, Tenn. Code Ann. § 7-86-128 provides retailers must collect an E911 fee in the amount of 53¢ from consumers on each retail transaction occurring in this state for the purchase of prepaid wireless telecommunications.

> "Prepaid wireless telecommunications service" means a wireless telecommunications service that allows a caller to dial 911 to access the 911 system, which service must be 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 includes prepaid wireless phone cards, recharge or refill authorization codes, and prepaid cell phones or other prepaid wireless devices preloaded with airtime minutes. Prepaid wireless telecommunications services do not include wireless telecommunications services that are not paid for in advance.

Collecting E911 Fees

Retailers must collect the E911 fee on each retail transaction occurring in Tennessee for the purchase of prepaid wireless telecommunications service. A retail transaction occurs in this state if the retail transaction is subject to Tennessee sales tax without regard for any sales tax exemption the purchaser may claim.

Retailers may elect not to apply the E911 fee when a minimum amount (10 minutes or less, or $5.00 or less) of prepaid wireless telecommunications service is preloaded and sold with the prepaid cell phone or other wireless device.

A retail transaction includes any purchase of prepaid wireless telecommunications except a purchase for resale. Purchases for resale means the same as sales for resale for sales tax purposes. Retailers maintaining certificates of resale for sales tax purposes are not required to obtain additional documents for purposes of documenting purchases for resale with regard to the E911 fee.

- *E911 fee must be separately stated*
- *E911 fee is not included in price subject to sales tax or business tax*
- *Changes in sales and use tax return have been made for reporting and paying prepaid wireless E911 fee*

In addition, when more than one separately priced prepaid wireless item is sold, each item is subject to the fee. For example, if two prepaid phone cards are sold to a consumer, the retailer must collect E911 fees from the consumer in the amount of $1.06 (53¢ for each retail transaction).

Retailers must separately state the E911 fee on the invoice, receipt, or other sales document given to the purchaser. Separately stated E911 fees are **not** included in the sales price subject to sales and use tax or gross receipts subject to business tax. A retailer failing to separately state the E911 fee on the invoice, receipt or other similar document given to the purchaser is liable for the fee. In addition, retailers may deduct and retain from the E911 fees collected from consumers a 3% administrative fee.

Reporting E911 Fees

The sales and use tax return and TV programming and telecommunications sales and use tax return have been revised to facilitate reporting and remitting prepaid wireless E911 fees to the Department of Revenue in conjunction with a retailer's responsibilities to file and remit Tennessee sales and use taxes. Line 18 on the front of the sales and use tax return and Line 21 on the front of the TV programming and telecommunications sales and use tax return are to be used for purposes of reporting the total amount of prepaid wireless E911 fees collected less the 3% administrative fee the retailer may retain for collecting the E911 fee from the consumer.

E911 fees applied to purchases of wireline and other wireless telecommunications are **not** reported and paid to the Department of Revenue. Telecommunications service providers may not utilize the TV programming and telecommunications sales and use tax return to report and pay E911 fees collected on wireline telecommunications or wireless telecommunications that are not prepaid wireless telecommunications.

References:

T.C.A. § 7-86-128
T.C.A. § 7-86-108
PC 774 (2010)

The information provided here is current as of the date of publication but may change as a result of new statutes, regulations, or court decisions. While this notice is intended to be comprehensive, events and situations unanticipated by this notice may occur. In such cases you should contact the department or your tax professional for further guidance.