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**DEPARTMENT OF STATE REVENUE**  
**Commissioner's Directive #39**  
**May 2010**

**DISCLAIMER:** Commissioner's directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

**SUBJECT:** Enhanced Prepaid Wireless Telecommunications Service Charge

**EFFECTIVE:** July 1, 2010

**REFERENCE:** [IC 36-8-16.6](#)

### **INTRODUCTION**

House Enrolled Act 1086-2010, effective July 1, 2010, added [IC 36-8-16.6](#) to provide an enhanced prepaid wireless telecommunications service charge to be collected from users of prepaid wireless telecommunications services by sellers and to be remitted to the Indiana Department of Revenue by the sellers.

### **DEFINITIONS**

"Board" means the wireless enhanced 911 advisory board established by [IC 36-8-16.5-18](#).

"Consumer" means a person who purchases prepaid wireless telecommunications service from a seller.

"Department" means the Indiana Department of Revenue.

"Enhanced prepaid wireless charge" means the charge that a seller is required to collect from a consumer.

"Fund" means the wireless emergency telephone system fund established by [IC 36-8-16.5-21\(a\)](#).

"Prepaid user" means a user of prepaid wireless telecommunications service who is issued an Indiana telephone number or an Indiana identification number for the service, or a user who purchases prepaid wireless telecommunications service in a retail transaction that is sourced to Indiana.

"Prepaid wireless telecommunications service" means a prepaid wireless calling service that allows a user of the service to reach emergency services by dialing the digits 911.

"Provider" means a person or an entity that offers prepaid wireless telecommunications service.

"Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

"Seller" means a person who sells prepaid wireless telecommunications service to another person.

### **PREPAID CHARGE IMPOSED**

The enhanced prepaid wireless charge on each retail transaction is twenty-five cents (\$0.25). The board, with legislative approval, may increase the charge to ensure adequate revenue for the board to fulfill its duties and obligations.

The charge is not imposed on any consumer that is the federal government or an agency of the federal government.

### **SELLER RESPONSIBILITIES**

A seller is required to collect the charge from the consumer with respect to each retail transaction and to disclose

to the consumer the amount of the charge. The seller may separately state the amount of the charge on an invoice, a receipt, or a similar document that the seller provides to the consumer. If the seller does not separately state the amount of the charge on an invoice, a receipt, or a similar document, the seller is still required to remit to the Department the charges collected from the consumer.

A seller is required to remit the charges collected to the Department on the same date that the seller's sales tax return is due. The seller shall report and remit the charges collected using the Department's online tax filing program (INtax). A seller can register for INtax by going to [www.intax.in.gov](http://www.intax.in.gov)

A seller can deduct 1% of the enhanced prepaid wireless charges that the seller collects from consumers if the seller reports and remits the charges collected in a timely manner.

A seller is not liable for damages to a person resulting from or incurred in connection with providing or failing to provide wireless 911 services or identifying or failing to identify the telephone number, address, or name associated with a person or device that accesses or attempts to access wireless 911 services.

## **DEPARTMENT OF REVENUE RESPONSIBILITIES**

The Department shall deposit all enhanced prepaid wireless charges in the wireless emergency telephone system fund, and the board shall administer money deposited in the fund in the same manner as wireless emergency enhanced 911 fees under [IC 36-8-16.5-25.5](#).

The Department may audit any seller in the same manner as with respect to the collection and remittance of the sales tax under [IC 6-2.5](#). An audit shall be conducted jointly by the Department and the board.

In accordance with the procedures established concerning listed taxes, the Department shall establish procedures that allow a seller to document when a sale of a prepaid wireless telecommunications service is not a retail transaction.

Not later than Jan. 1, 2011, the Department shall determine the total amount of charges collected and remitted by a commercial radio service provider from its prepaid users during the period beginning July 1, 2008, and ending on June 30, 2010.

Not later than Jan. 1, 2013, the Department shall determine the total amount of charges collected and remitted by the sellers of the enhanced prepaid wireless charge during the period beginning July 1, 2010, and ending June 30, 2012.

If the amount of enhanced prepaid wireless charges collected and remitted by the sellers is more than 5% less than the amount collected and remitted by the commercial radio service providers from its prepaid users, the enhanced prepaid wireless charge expires on July 1, 2013.

The amount of the enhanced prepaid wireless charge that is collected by a seller from a consumer may not be included in the sales tax base or the utility receipts tax base.

John Eckart  
Commissioner

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