

DEPARTMENT OF STATE REVENUE

Commissioner's Directive #39
November 2016
(Replaces Directive #39 dated February 2016)
Effective Date: Upon Publication

SUBJECT: Enhanced Prepaid Wireless Telecommunications Service Charge

REFERENCE: [IC 36-8-16.6](#); [IC 36-8-16.7](#)

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SUMMARY OF CHANGES

Other than non-substantive changes, this version adds the definition of "eligible communications carrier" and updates the definition of a "retail transaction" to not include transactions in which an eligible telecommunications carrier receives Lifeline reimbursement from the universal service fund.

INTRODUCTION

[IC 36-8-16.6](#) provides an enhanced prepaid wireless telecommunications service charge be collected from users of prepaid wireless telecommunications services by sellers and remitted to the Indiana Department of Revenue by the sellers.

DEFINITIONS

"Board" means the Statewide 9-1-1 Board established by [IC 36-8-16.7-24](#).

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

"Department" means the Indiana Department of Revenue.

"Eligible telecommunications carrier" means a provider that is designated by the Indiana utility regulatory commission as an eligible telecommunications carrier for purposes of receiving Lifeline reimbursement from the universal service fund through the administrator designated by the Federal Communications Commission.

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

"Fund" means the Statewide 9-1-1 Fund established by [IC 36-8-16.7-29](#).

"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. A retail transaction does not include a transaction in which an eligible telecommunications carrier receives Lifeline reimbursement from the universal service fund.

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

AMOUNT OF PREPAID CHARGE

Effective July 1, 2015, the enhanced prepaid wireless charge on each retail transaction is increased from \$0.50 to \$1.00. The board may increase the charge to ensure adequate revenue for the board to fulfill its duties and

obligations one time from July 1, 2015, to June 30, 2020. Any additional increase may only occur after review by the State Budget Committee and may only be for \$0.10 per retail transaction.

A telecommunications carrier eligible to receive reimbursement from the universal service fund is not considered an agency of the federal government and is liable for the enhanced prepaid wireless charge with respect to prepaid wireless telecommunications service offered by the provider.

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 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.in.gov/dor/4336.htm.

A seller can deduct 1% of the enhanced prepaid wireless charges collected 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.

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

DEPARTMENT OF REVENUE RESPONSIBILITIES

The department shall deposit all enhanced prepaid wireless charges in the Statewide 9-1-1 Fund. The board shall administer money deposited in the fund in the same manner as wireless emergency enhanced 911 fees under [IC 36-8-16.7-32](#).

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.

The department shall allow a seller to document when a sale of a prepaid wireless telecommunications service is not a retail transaction. The established procedure is to require the seller to request a ruling from the Tax Policy Division, Indiana Department of Revenue, Indiana Government Center North, Room N248, Indianapolis, IN 46204.

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Commissioner

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