



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

November 21, 2013

## **E911 Taxes Must Be Collected by Sellers of Prepaid Wireless**

### **Background**

Effective January 1, 2014, a new state law requires sellers of prepaid wireless telecommunications services to collect and remit the state and county enhanced 911 excise taxes (E911 taxes) on each retail transaction of prepaid wireless telecommunications services or prepaid wireless telecommunications products. (Chapter 8, Laws of 2013 2nd spec. sess. [Second Engrossed Second Substitute House Bill 1971])

**Note:** For the purpose of this notice, prepaid wireless telecommunications services and prepaid wireless telecommunication products have the same meaning.

In the past, the obligation to collect and remit these taxes was on the provider of these services.

### **Prepaid wireless telecommunications services includes:**

- Prepaid wireless phone cards
- Recharge or refill authorization codes for wireless services
- Cell phones bundled with prepaid service
- Other prepaid wireless devices preloaded or bundled with wireless airtime minutes

### **Prepaid wireless telecommunications services do not include:**

Sales of traditional prepaid long distance telephone cards marketed and used for landlines and payphones. These cards:

- Often have a PIN associated with them.
- Do not require activation.
- Are not associated with specific phone numbers.

### **E911 taxes apply to each prepaid wireless telecommunications product**

The E911 taxes are due on each prepaid wireless product sold. If a retail transaction involves multiple prepaid wireless cards and/or other prepaid products, retailers must collect E911 taxes on each prepaid wireless product sold.

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### **E911 taxes must be separately stated**

The prepaid wireless telecommunications services seller must separately state the E911 taxes on any sales invoice or instrument of sale provided to the consumer. The seller is required to remit the taxes even if not collected from the consumer.

### **Retail sales tax also applies**

The E911 taxes on prepaid wireless telecommunications services are in addition to the state and local retail sales taxes imposed on the sale of prepaid wireless service. The retail sales tax applies to the selling price of the prepaid wireless service but does not apply to the E911 taxes or the optional 5 cents in seller compensation discussed below.

### **Determining the place of sale**

For purposes of the E911 taxes, the retail transaction is deemed to occur at the location where the transaction is sourced (RCW 82.32.520(3)(c)). Often, the place of sale is the seller's business location where the prepaid wireless services are purchased by the consumer.

**Note:** the location code for reporting the E911 taxes may differ from the location code for reporting the retail sales tax. The E911 local tax rate flyer with a complete list of the location codes and rates can be found at [dor.wa.gov/E911](http://dor.wa.gov/E911).

### **Reporting E911 taxes**

The E911 taxes are reported on the state excise tax return:

- E-file – If you file electronically, report the E911 taxes on the E911 page within the electronic return. Select the tab titled “E911 Prepaid Wireless Tax.” The taxes must be reported to the appropriate location code.
- Paper – If you file on paper, complete the E911 addendum and include with your return. The taxes must be reported to the appropriate location code.

### **Seller compensation**

Sellers of prepaid wireless telecommunications services may (until July 1, 2018) charge an additional 5 cents on each prepaid wireless product sold as compensation for the cost of collecting and remitting the E911 taxes. This compensation is subject to the Service and Other Activities business and occupation (B&O) tax.

### **Examples**

1. Bob purchases a \$30 prepaid wireless phone card from Local Convenience Store in Pierce County. Local Convenience Store must collect and remit E911 taxes of \$0.25 for the state and \$0.70 for the county for a total of \$0.95, plus state and local retail sales tax. Local Convenience Store would report the E911 taxes to the Pierce County location code, code 2700, on their excise tax return.

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2. Cindy purchased a cell phone from Phone Store that included prepaid wireless airtime minutes for one set price. Phone Store has the option to collect an additional 5 cents on this transaction until July 1, 2018, as compensation for collecting the E911 taxes. This retail transaction is subject to a total of \$0.95 in E911 taxes, plus retail sales tax on the purchase price (not including the E911 taxes or the additional 5 cents). Phone Store would report the additional 5 cents under the Service and Other Activities B&O tax classification on their excise tax return.
3. Melissa purchases three prepaid wireless cards and one cell phone that included prepaid wireless airtime minutes from Online Store. Online Store must collect and remit E911 taxes totaling \$3.80 (4 x 95 cents). Online Store may choose to collect the additional 5 cents as compensation for a total of \$4.00.

**Definitions (RCW 82.14B.020)**

“Seller” means a person who sells prepaid wireless telecommunications services to another person.

“Consumer” means a person who purchases prepaid wireless telecommunications services in a retail transaction. (Note: “retail transaction” does not include sales for resale.)

“Prepaid wireless telecommunications services” means a telecommunications service that provides the right to use mobile wireless service as well as other non-telecommunications services including the download of digital products delivered electronically, content, and ancillary services, which must be paid for in full in advance and sold in predetermined units or dollars of which the number declines with use in a known amount.

“Retail transaction” means the purchase of prepaid wireless telecommunications services from a seller for any purpose other than resale.