



General 21 E911 and TRS Surcharges

GENERAL INFORMATION

All prepaid wireless telecommunication services are subject to an E911 surcharge and, effective September 1, 2016, a telecommunications relay service (TRS) surcharge. The surcharges are due on all retail purchases of prepaid wireless services, including online purchases and purchases of additional minutes to recharge wireless devices.

[§ 29-11-102.5, C.R.S. and § 29-11-102.7, C.R.S.]

DEFINITION OF PREPAID WIRELESS TELECOMMUNICATION SERVICE

Prepaid wireless telecommunication service is defined as any wireless telecommunication access that (1) allows a caller to access a 911 system by dialing 911, (2) is paid for in advance, and (3) is sold in a predetermined amount of units or dollars that declines with use. [§ 29-11-101, C.R.S.]

RATES

The E911 surcharge is 1.4% of the retail transaction purchase price. The proceeds fund enhanced 911 services in Colorado. The TRS surcharge is 0.1% of the retail transaction purchase price. The proceeds fund relay services for telephone users with disabilities.

WHOLESALE SALES OF PREPAID WIRELESS TELECOMMUNICATION SERVICE

Wholesale sales are not subject to the E911 and TRS surcharges. Purchases by a retailer who resells the prepaid wireless service as part of the retailer's regular business activity are wholesale sales. Wholesale sales are reported on the Prepaid Wireless E911 and TRS Surcharge Return (DR 0526), line 2.

To document a wholesale sale, the seller must obtain the buyer's sales tax account number and verify that the license has not expired. The seller can verify a sales tax account in Revenue Online at www.Colorado.gov/RevenueOnline. The seller must take reasonable measures to verify that the sales tax account number provided by the buyer is valid. Once verified, the seller must record the sales tax account number and maintain such records or documents for three years. [§ 39-26-116, C.R.S.] The seller should establish an account for buyers who purchase items for resale. If the buyer has a business outside Colorado and does not have a business location in Colorado, the seller may accept the license number from the buyer's home state, but should also record the license number and check for an expiration date if available. It is the seller's responsibility to collect the surcharges in questionable situations.

TYPE OF SALES SUBJECT TO SURCHARGES

The E911 and TRS surcharges are due on all retail sales of prepaid wireless service. Retail sales include sales in-store, online and recharge transactions.

A sale is considered subject to the Colorado E911 and TRS surcharges if:

- The purchase is made in person at a Colorado retail location, or
- The product is delivered to a Colorado address, or
- The wireless service is purchased by a consumer whose address is in Colorado, or
- The wireless service is purchased by a consumer who provides a Colorado address during the sale, including a consumer who uses a payment instrument that lists a Colorado address, or
- The mobile number is based in Colorado. [§ 29-11-102.5(2)(b)(II), C.R.S.]

SALES THAT INCLUDE A PHONE AND MINUTES

If a consumer purchases a phone with prepaid wireless minutes included as a package and the price of the wireless minutes is not separately stated from the phone, the seller shall calculate the surcharges on the fair market value of the prepaid wireless service included in the sale. The internal books and records of the seller must reflect the fair market value of the prepaid wireless service on which the surcharges were assessed. If the price of the phone and the wireless minutes are separately stated, the surcharges shall be calculated only on the charge for the wireless minutes.

In addition, when a consumer purchases a phone with prepaid wireless minutes included as a package, sales tax is due on the entire price of the package. However, if the phone and the prepaid wireless minutes are separable and separately stated on an invoice, sales tax would be calculated only on the purchase price of the phone.

COLLECTING THE SURCHARGES

The surcharges are paid by the consumer to the seller of the prepaid wireless service. The E911 and TRS surcharges must be disclosed to the consumer or separately stated on the sales receipt. The amount of the prepaid wireless TRS surcharge and the amount of the prepaid wireless E911 surcharge may be stated on an invoice, receipt, or other documentation together as a single line item and as a single charge.

FILING AND REPORTING

The seller must remit the surcharges on the Prepaid Wireless E911 and TRS Surcharge Return (DR 0526) to the department at the same time their Colorado sales tax is due. A taxpayer may use one return for all businesses listed under their Colorado account number. If the seller does not remit Colorado sales tax, the surcharges are due on the 20th day following the end of the quarter. Failure to collect and remit the surcharges subjects the seller to the penalties and provisions set forth in § 39-26-118, C.R.S. Upon timely filing and payment, the seller may retain 3.3% of the surcharges for collection expenses.

Sellers who do not have a Colorado Department of Revenue account number should download and complete the Prepaid Wireless E911 and TRS Surcharge Return (DR 0526) from www.TaxColorado.com and include the seller's name, address and FEIN or Social Security number. Pre-printed forms will then be mailed approximately four weeks before the surcharge is due. All payments and returns must be sent to the department by the due date.

To receive pre-printed prepaid wireless returns before filing the Prepaid Wireless E911 and TRS Surcharge Return (DR 0526), email the department at DOR_ExciseTax@state.co.us to request such pre-printed returns. You must include the name, address, FEIN or Social Security number and Department of Revenue account number (if available) in the email.

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.