

RETAILERS TO COLLECT 911 FEE ON PREPAID CELL PHONE SERVICE

by James L. Fritz

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Under Act 118 of 2010, signed by Governor Rendell on November 23rd, vendors of prepaid cellular phone service will have to begin collecting a "prepaid Wireless E-911 Surcharge," effective July 1, 2011. The surcharge is established at "\$1 per retail transaction" and will be adjusted if and when the standard wireless E-911 surcharge is changed.

The seller must collect the new surcharge from the consumer "for each retail transaction occurring in this Commonwealth." The surcharge must either be separately-stated on the invoice or otherwise disclosed to the consumer. Transactions not occurring at a Pennsylvania business location of the seller will be sourced on the basis of applicable sales and use tax rules. The surcharge will not be included in calculating sales tax or any other state or local tax. Vendors will be required to remit the collected surcharges to the Pennsylvania Department of Revenue on the same schedule as sales and use taxes. Assessment, audit, appeal, collection and enforcement procedures also are adopted from the sales and use tax statute.

During the first 180 days after the effective date of the Prepaid Wireless E-911 surcharge, a seller may retain 35% of collections as compensation for direct start-up costs. Subsequently, sellers will be entitled to retain "up to 3% ... for administrative purposes."

Sellers of prepaid cellular service should watch for further guidance to be issued by the Department of Revenue.

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