

IMPORTANT CHANGE REGARDING NEW E-9-1-1 SURCHARGE ON SALES OF PREPAID WIRELESS & CORRECTION TO GENERAL INFORMATION BULLETIN 99

Maine Revenue Service (MRS) issued General Information Bulletin 99 in September 2009 recapping legislative changes from bills enacted by the First Regular Session of the 124th Legislature. That bulletin contained information about a prepaid wireless E-9-1-1 surcharge to become effective January 1, 2010.

Maine Revenue Service announced the rate would be 30¢ per retail transaction, collected by the seller from the prepaid wireless customer, based on the enactment of LD 1056, which became Public Law 400. However, Maine Revenue Service has recently become aware of a conflicting bill, LD 264, which was enacted as Public Law 416. Public Law 416 set the rate for statewide E-9-1-1 surcharges at 37¢ per month or 30-day increment of service per customer.

Retailers should begin collecting 37¢ per retail transaction beginning January 1, 2010, and not the 30¢ per retail transaction previously identified.

The surcharge is applied to purchases of prepaid wireless service from a wireless service provider and also on any prepaid wireless service sold by a retailer, such as in the form of a prepaid wireless card (not to be confused with a prepaid calling card).

The prepaid wireless E-9-1-1 surcharge must be collected by the seller from the prepaid wireless consumer with respect to each retail transaction occurring in this State. A retail transaction that is effected in person by a prepaid wireless consumer at the business location of the seller is treated as occurring in this State if that business location is in this State. If the sale does not take place at the retailer's business location, the taxation of the sale is determined in the same manner as prepaid calling service (that is, at the customer's billing address).

The amount of the prepaid wireless E-9-1-1 surcharge must be separately stated on an invoice, receipt or similar document that is provided to the prepaid wireless consumer by the seller when practicable. In circumstances in which disclosure of the E-9-1-1 surcharge on an invoice, receipt or similar document is not practicable, the seller must otherwise make information available to the consumer regarding the amount of the E-9-1-1 prepaid surcharge.

Like sales tax, the surcharge is the liability of the consumer; however the seller is responsible for its collection. The surcharge is to be remitted to the State Tax Assessor in the same manner as sales tax. A seller who is not a prepaid wireless telecommunications service provider may deduct and retain 3% of prepaid wireless E-9-1-1 surcharges that are collected by the seller from consumers.

A new line for this remittance will be included on the sales tax return beginning with the January 2010 return. The 3% collection allowance mentioned in the previous paragraph should be deducted prior to entering the amount on the return. Documentation to support the amount of surcharge collected, as well as the allowance computation, must be retained in the retailer's records. The calculation of sales tax is not to include the surcharge.