



Wyoming Prepaid Wireless Tax

Date Issued May 2, 2016
Wyoming Department of Revenue

Beginning July 1, 2016 Wyo. Stat. Ann. § 16-9-109 imposes a 1.5% excise tax on every retail sale of prepaid wireless communications access in Wyoming. The purpose of the tax is to support city and county E911 operations. This tax applies to prepaid wireless communications as postpaid wireless communications customers are already billed for this charge as part of their periodic bill from their wireless telecommunications provider.

- Recharging or reloading of units or minutes of prepaid wireless airtime, whether purchased through the seller's website, or over the telephone, or in person at the seller's physical location;
- Prepaid wireless service where the purchaser pays in advance for the unlimited use of the service for a fixed time period, and such service automatically terminates unless additional payment is made.

What Form Is Used for Reporting?

What is Prepaid Wireless communications access?

Prepaid wireless communications access means wireless communications access requiring advance payment that is sold in predetermined units or dollars of which the amount declines with the use in a known amount. Examples of prepaid wireless communications include:

- Prepaid wireless calling cards preloaded with minutes or units of airtime;
- Prepaid wireless phones that are sold for a single, non-itemized or "bundled" price, if they are preloaded with more than ten (10) minutes of airtimes or with more than \$5.00 worth of prepaid wireless service;

Vendors who sell prepaid wireless communications access are responsible to collect and remit this tax on all sales of these products/services effective July 1, 2016. The prepaid wireless tax will be reported at the same frequency as the vendors' sales/use tax reporting. However, this tax is reported on a separate form, and is in addition to, the sales tax that is also due on these items. Because the prepaid wireless communications access tax is not a sales or use tax, collections cannot be reported and remitted on the vendor's periodic sales and use tax return. Instead vendors must report their wireless communications access sales on the ETS Form 91-1, Wyoming E911 Prepaid Wireless Tax Return. Payment must also be made separately from the vendor's sales and

use tax remittance. There is no option at this time, to report and or remit this tax electronically.

Instructions for Filing Form 91

Line A. Enter the total amount of all Prepaid Wireless Communications Access Sales. Do not include the amount of sales tax or prepaid wireless tax collected.

Line B. Enter the total amount of deductions for the reporting period. This would include sales where another telecommunications provider is reporting the tax on the subscriber's behalf.

Line C. Subtract the total deduction amount (line B) from the gross sales amount (line A) and enter the difference. This figure represents the amount of sales which are subject to the prepaid wireless access tax.

Line D. Enter the amount of Prepaid Wireless Communications Access Tax due. This is calculated by multiplying Line C by the tax amount of 1.5%.

Line E. Enter the amount of Collection Allowance allowed for the filing period. This is calculated by multiplying the amount of Prepaid Wireless

Communications Assess Tax (Line D) by 3%.

Line F. Enter the total amount of penalty, interest and department billings notices that relate to the Prepaid Wireless Communications Access Tax.

Line G. Enter the amount of any Credit Notice you have received from the Department. *Note: Do not enter a credit amount here unless you have received a notice from the department as this could cause an underpayment of your return.*

Line H. Subtract Lines E and G from the sum of Lines D and F. Enter the difference. This is the total amount of Prepaid Wireless Access tax due for the reporting period. $(D + F - E - G)$

Please sign and date the return.

Please be advised that this bulletin addresses issues in general terms and cannot be appropriate or applicable in all situations. If your situation is markedly different or you have concerns about this issue, please do not hesitate to contact this department. You can do so by e-mail directed to:
DOR_taxability@wyo.gov

Supporting Authority –

W.S. 16-9-109. State-wide imposition of tax; prepaid wireless; collection; distribution; immunity.

(a) Except as otherwise provided in this section, on and after July 1, 2016, there is imposed a 911 emergency tax of one and five-tenths percent (1.5%) on every retail sale of prepaid wireless communications access in Wyoming. The tax shall not be imposed on sales of prepaid wireless communications access intended for resale or upon any state or local governmental entity.

(b) A service supplier who sells prepaid wireless communications access shall collect the tax imposed by subsection (a) of this section from each purchaser of prepaid wireless communications access, which purchaser shall be considered a service user. The amount of the tax shall be either separately stated on an invoice, receipt or other similar document that is provided to the service user by the service supplier or shall be otherwise disclosed to the service user.

(c) For purposes of this section, a retail sale of prepaid wireless communications access occurs in Wyoming if the transaction would be sourced to Wyoming under W.S. 39-15-104(f)(xi)(C).

(d) The tax imposed by subsection (a) of this section is the liability of the service user and the service supplier. The service supplier shall be liable to remit all taxes due or collected as provided in subsection (g) of this section.

(e) If the tax collected pursuant to this section is separately stated on an invoice,

receipt or similar document provided to the service user by the service supplier, the tax shall not be included in the base for calculating any other tax, fee, surcharge or other charge imposed by this state, any political subdivision of the state or any intergovernmental agency.

(f) When prepaid wireless communication access is sold with one (1) or more other products or services for a single, nonitemized price, the tax authorized by subsection (a) of this section shall not be applied to a retail sale of prepaid wireless communications access of ten (10) or fewer minutes or which has a value of five dollars (\$ 5.00) or less.

(g) All taxes collected under subsection (a) of this section shall be remitted by the service supplier who collected them to the department of revenue as follows:

(i) A service supplier shall remit to the department of revenue all monies collected at the times and in the manner provided by W.S. 39-15-107(a). The department of revenue may establish by rule procedures reasonably necessary to facilitate the transfer of these monies. The service supplier shall be subject to the penalty and enforcement provisions provided by W.S. 39-15-108 for any failure to collect or remit funds;

(ii) A service supplier remitting collected taxes may deduct and retain three percent (3%) of the taxes collected as the cost of administration for collecting the taxes;

(iii) The audit and appeal procedures applicable to the collection of state sales

taxes shall apply to the collection and remittance of taxes authorized by this section;

(iv) Pursuant to rules adopted for this purpose, the department of revenue shall establish a procedure by which service suppliers shall document that a transaction is not a retail sale subject to the tax imposed by this section. The procedure shall be substantially similar to the procedure used to document a sale for resale transaction for purposes of sales tax.

(h) The monies collected by the department of revenue under this section shall not be general revenues of the state and shall be held by the department in a separate account for distribution as follows:

(i) The department shall deduct one percent (1%) of the total monies collected to cover its administrative expenses and costs, which amount shall be remitted to the treasurer for credit to the general fund;

(ii) After deduction of the amount authorized by paragraph (i) of this subsection, the department shall pay all remaining amounts collected to each county that imposes and collects the 911 emergency tax authorized by W.S. 16-9-103;

(iii) The payment authorized by paragraph (ii) of this subsection shall be remitted to the county no later than fifteen (15) days after the close of the calendar quarter and is subject to the

requirements of paragraph (iv) of this subsection;

(iv) Each county receiving payment pursuant to paragraph (ii) of this subsection shall receive three percent (3%) of the total amount distributed pursuant to paragraph (ii) of this subsection. Each county shall receive the remaining balance of the amount distributed under paragraph (ii) of this subsection in proportion to the percentage that the county's total population relates to the state's total population;

(v) If a governing body other than a county imposes a 911 emergency tax pursuant to W.S. 16-9-103, the county in which that governing body is located shall divide all monies received by the county pursuant to paragraph (iv) of this subsection equally between the county and the governing body;

(vi) All funds received by any governing body pursuant to this subsection shall be expended only for the purposes authorized by W.S. 16-9-105;

(vii) Amounts collected by any governing body pursuant to this subsection in excess of necessary expenditures within any fiscal year shall be carried forward to subsequent years and shall be used only for the purposes authorized by W.S. 16-9-105;

(viii) The department of revenue may promulgate rules necessary to implement this subsection.

(j) The department of revenue and the Wyoming public service commission shall jointly report to the joint corporations, elections and political subdivisions committee on or before July 1, 2019 and every four (4) years thereafter. The report required by this subsection shall contain an analysis of the tax rate imposed by subsection (a) of this section and shall determine whether that tax rate places a tax burden on purchasers of prepaid wireless communication access which is substantially equivalent to the tax burden imposed by W.S. 16-9-103(b). If the tax burden imposed by this section is not substantially equivalent to the tax burden imposed by W.S. 16-9-103(b), the department and the commission shall advise the committee on the tax rate that would make the burden imposed by the two (2) taxes equivalent. The department of revenue and the Wyoming public service commission may adopt rules requiring the reporting of sales data or other information necessary to complete the analysis required by this subsection.