

# **HOW TO COMPLY: NORTH CAROLINA'S LAW ON 911 Point-of-Sale Collection EFFECTIVE JULY 1, 2013**

## **Background**

In the 1980s, each North Carolina county created a 911 Board to provide emergency response service. Funding for their programs was originally a 70¢ monthly tax on land lines and cell phones. With the increasing use of calling cards and prepaid wireless phones, the money flowing to 911 Boards has been dramatically reduced. While 21 states mandate prepaid wireless carriers (not retailers) to collect and remit these 911 fees, AT&T convinced the National Conference of State Legislators to support legislation mandating retail collection at point-of-sale on prepaid wireless phones.

As was already law in North Carolina, a 60¢ monthly 911 service charge is imposed on each phone call (landline or mobile) that is capable of accessing the 911 system. The previous legislation designated that the fee was to be charged to the consumer on a monthly basis. This made the imposed service charge inapplicable to prepaid-phone services as they usually incorporate an advance, one-time payment sales transaction and do not render a monthly phone bill. The new law considers the different nature of the prepaid transaction so that the consumer will be charged the 911 service charge at the time of purchase.

In 2010, NCRMA negotiated a one-year moratorium on the collection of the 911 fees, but the telecom industry was determined to pass legislation in 2011 requiring retail collection.

Despite NCRMA continuing to argue that phone companies should collect the tax, it became clear that the bill was going to move. Along with the North Carolina Petroleum Marketers and Convenience Store Association, NCRMA worked to iron out a bill that would give retailers the best deal possible with ample time to prepare for the change.

The law as passed considers the retail implications of providing 911 access to prepaid wireless telephones. Instead of a monthly charge, the retailer of a prepaid wireless telephone collects the 911 service charge on each retail transaction occurring in North Carolina. The service charge will be collected by the retailer and remitted to the Department of Revenue. The Department of Revenue then transfers the service charges, absent the costs of collection, to the county 911 funds so as to support the 911 services received in North Carolina.

## **North Carolina's § 62A-54 (House Bill 571, S. L. 2011-122) Requirements**

### **Service Charge**

- Flat 60¢ service charge on each retail purchase of a prepaid telecommunication service
- The service charge must be separately stated on an invoice, receipt or other form of notification so that the consumer is provided notification of the charge at the time of the retail transaction.
- *[Note: The imposed 911 service charge amount is subject to adjustment and may be lowered or raised at the direction of the 911 Board, but not without a minimum of 90 days' notice to the Department of Revenue.]*

### **Administrative Allowance**

- Retailers will deduct and retain a 5% administrative allowance of each 60¢ from the service charges it collects from consumers and remits to the Department of Revenue.

### **Remitting the Service Charge**

- Retailers must remit the 911 service charge for prepaid wireless telecommunications service collected by it in either of the following ways:
  - Semiannually: The service charges collected in the first six months of the calendar year are due by July 20. The service charges collected in the second six months of the calendar year are due by January 20.
  - Monthly: The service charges collected in a month are due by the 20th day of the month following the calendar month covered by the return.

### **Exceptions**

- The 911 service charge is not imposed on a resale transaction.
- If selling a prepaid wireless phone service for a resale purpose, the retailer must document that the sale is not a retail transaction.

### **Registering for the Service Charge**

- A retailer engaged in business in the State of selling prepaid wireless telecommunications service sourced to the State and that is not registered to file Form E-500L, 911 Service Charge Prepaid Wireless Telecommunications Return, must complete [Form NC-BR, Business Registration Application for Income Tax Withholding, Sales and Use Tax, and Machinery and Equipment Tax](#). Only the web-fill version of Form NC-BR can be used to submit an application to register a retailer required to remit the 911 service charge to the department at this time. Form E- Revised April 10, 2015 Page 2 500L is available online at the Department's website, [www.dorn.com](http://www.dorn.com). There is no fee required to register to file Form E-500L and to obtain a certificate of registration.

### **Additional Information**

If a consumer provides a fraudulent or bad check or otherwise fails to pay the prepaid service charge, the retailer will not have to remit the service charge on the transaction to the Department of Revenue. The statute incorporates additional provisions that shield retailers and providers of prepaid wireless telecommunications service from liability of damages. The retailer or provider is not liable for damages arising from a failure to provide the 911 service. They are also shielded from damages that may occur from identifying, or failing to identify, the telephone number, address, location, or name of any person or device that accesses or attempts to access the 911 service. And lastly, the retailer is not liable for damages arising from their assistance to a law enforcement officer conducting an investigation or other law enforcement activity.

## **Frequently Asked Questions**

### **Question: What is prepaid wireless telecommunication service as defined by the law?**

*Answer: The law defines the service as one that allows a caller to dial 911 to access the 911 system and must be paid for in advance in predetermined units or dollars. Examples of these devices include one-time use prepaid wireless phones, prepaid wireless phone cards, and the recharge of prepaid wireless phones or cards.*

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*Please note that while this document is intended to help you comply with this new North Carolina law, it is in no way intended to serve as legal advice. Please consult a licensed attorney to address more specific questions that may arise concerning this issue.*

**Question: What constitutes a retail transaction for a prepaid wireless telecommunication service?**

Answer: *The sale or recharge of a prepaid wireless phone or card for any purpose other than resale.*

**Question: If a customer brings a prepaid wireless phone or card back to a retail store to reload, is the retail store required to charge the service charge again at the time of reload?**

Answer: *Yes. Under the law, retail wireless service transactions subject to the surcharge include: a sale of a prepaid wireless phone card, a sale of a prepaid wireless phone, or the recharge of either a prepaid wireless phone card or prepaid wireless phone.*

**Question: How does a retailer who sells prepaid wireless telecommunications services/devices register to report and remit the service charges to the Department of Revenue?**

Answer: *See the Department of Revenue's Important Notice: 911 Service Charge for Prepaid Wireless Telecommunications Service on the Department's website at [www.dornc.com](http://www.dornc.com).*

**Question: Do I need to specify at the time I file my first E500L report the frequency of my store's filing?**

Answer: *If you do not specify on the initial form, the Department of Revenue will establish your service charge account as a semi-annual filer with reports due on July 20 and January 20 of each year.*

**Question: Is there a required statement that retailers are required to post in their store?**

Answer: *While the law does state that the amount of the 911 service charge must be separately stated on an invoice, receipt or other reasonable notification provided to the consumer at the time of the transaction, it does not provide specific verbiage for this notice. The NCRMA suggests that you include a statement similar to:*

*"In accordance with NC G.S.62A-54 as of July 1, 2013, all prepaid wireless telecommunication service retail sales are subject to a 911 service charge of 60¢ to fund 911 emergency services. This charge, less a five percent administrative fee, will be remitted to the North Carolina Department of Revenue."*

**Question: What do I do for a B2B sale/resale?**

Answer: *A purchaser of prepaid wireless telecommunications service for resale is required to issue Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption, the Streamlined Sales Tax Certificate of Exemption (SST Form F0003), or provide information required on either of these forms to a seller in order for a purchase to be exempt from sales or use tax and the 911 service charge. A purchaser's Sales and Use Account ID must be entered on the certificate of exemption issued to a seller, as applicable.*

**Question: Are retail purchases of wireless telecommunication service processed online or over the phone subject to the service charge?**

Answer: *Yes, provided the retail purchase is sourced to North Carolina. See the Department of Revenue's Important Notice: 911 Service Charge for Prepaid Wireless Telecommunications Service on the Department's website at [www.dornc.com](http://www.dornc.com).*

For more information on the 911 Point-of-Sale Collection Law:  
North Carolina Department of Revenue  
1-877-252-3052  
[www.dornc.com](http://www.dornc.com)

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