

Colorado imposes two charges on all retail sales of prepaid wireless telecommunication service: a 911 charge and a telecommunications relay service (TRS) charge. In general, anyone selling prepaid wireless telecommunication service is required to collect the amount of the charges from the consumer, file monthly returns with the Department, and remit with the return all charges collected during the month. Additionally, anyone who uses federally supported services or programs to offer customers free prepaid wireless telecommunications service is also required to file returns and remit to the Department the 911 charge, but not the TRS charge.

This publication is designed to provide general guidance regarding the prepaid wireless charges. Nothing in this publication modifies or is intended to modify Colorado's statutes and regulations. Sellers and providers of prepaid wireless telecommunication service are encouraged to consult their advisors for guidance regarding specific situations.

## Transactions subject to the charges

The prepaid wireless charges are imposed on each retail purchase of prepaid wireless telecommunications service in Colorado. The charges apply to any wireless telecommunications access that satisfies all three of the following requirements:

- it allows the user to make 911 calls;
- it is paid for in advance, and
- it is sold in predetermined units or dollars, of which the number of units or dollars available to the caller declines with use in a known amount.

The charges apply to every retail purchase in Colorado, regardless of the identity of the purchaser. Retail purchases by government entities and charitable organizations are subject to the charges irrespective of any sales and/or use tax exemptions allowed to these entities and organizations.

## Federally supported services and programs

Under federally supported services and programs, prepaid wireless telecommunication service may be provided to customers for free. The provider in such case collects the necessary consumer information required for reimbursement. In these situations, the provider is required to pay the 911 charge, but not the TRS charge, as though the provider had sold the prepaid wireless telecommunication service to the consumer. In general, any requirements for sellers of prepaid wireless telecommunication service described in this publication in relation to the 911 charge apply to anyone who uses federally supported services or programs to offer customers free prepaid wireless telecommunications service.

## Determining purchase location

The charges apply to any retail purchase of prepaid wireless telecommunication service occurring in Colorado. A retail purchase occurs in Colorado if any of the following conditions exists:

- The purchase is made by the consumer in person at a business location in Colorado.
- The product is delivered to the consumer at a Colorado address provided to the seller.
- The seller's records, maintained in the ordinary course of business, indicate that the consumer's address is in Colorado and the records are not made or kept in bad faith.
- The consumer gives a Colorado address during the consummation of the sale, including the consumer's payment instrument if no other address is available, and there is no indication that the address is given in bad faith.
- The mobile telephone number is associated with a Colorado location.

### Exempt wholesale transactions

Wholesale sales of prepaid wireless telecommunication service purchased by retailers for resale are not subject to the prepaid wireless charges.

A seller of prepaid wireless telecommunication service must exercise due diligence with respect to any transaction the purchaser claims has been made for resale. If evidence readily discernible to the seller at the time of the transaction provides reason to doubt the purchase has been made for resale, the seller must either obtain and retain sufficient information and documentation from the purchaser to resolve the doubt or must collect the applicable charges.

### Exemption verification

For any exempt wholesale transaction, the seller must verify that the purchaser's sales tax license is current and valid at the time of the transaction and can do so online at [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline). Alternately, a seller may inspect a physical copy of the purchaser's sales tax license, issued by the Department or the comparable tax administration agency of another state, to verify that it is current and valid and retain a copy for their records. A retailer may also accept from an out-of-state purchaser a fully completed *Standard Colorado Affidavit of Exempt Sale* (DR 5002), *Sales Tax Exemption Certificate* (DR 0563), or *Multistate Tax Commission Uniform Sales & Use Tax Exemption/Resale Certificate*. The seller must retain a copy of the completed exemption form.

### Rates and calculation for the charges

For any prepaid wireless telecommunication service purchased on or after January 1, 2021, the TRS charge is imposed at a rate of 0.1% of the price for the service and the 911 charge is imposed as a flat rate of \$1.38 for each retail purchase. The flat amount of the 911 charge is established annually by the Public Utilities Commission.

### Purchases made in years prior to 2021

For any prepaid wireless telecommunication service purchased on and before December 31, 2020, the 911 and TRS charges are 1.4% and 0.1%, respectively, of the price for the service.

### Bundled transactions

For bundled transactions that include the sale of prepaid wireless telecommunications service and the sale of other items, such as a mobile or wireless phone, insurance, or data, only the amount paid for the prepaid wireless telecommunication service is subject to the charges. If the amount paid for the prepaid wireless telecommunications service is not stated separately from the other items included on the invoice, receipt, or other similar document, the charges are calculated on only the fair market value of the prepaid wireless telecommunications service.

**Example.** A customer purchases a phone for \$50 that includes 100 minutes of prepaid wireless telecommunications service. The retailer charges \$10 for prepaid wireless telecommunications service for 100 minutes sold without the purchase of a mobile phone. The charges are therefore calculated on only the \$10 that is the fair market value of the prepaid wireless telecommunications service and not on the \$50 that is charged for the bundled transaction.

### Collection of charges

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Anyone who sells prepaid wireless telecommunications service or uses federally supported services or programs to offer customers free prepaid wireless telecommunications service bears responsibility for remitting the amount of the charges to the Department for each retail transaction, except as provided by law.

### Sales of prepaid wireless service

Anyone who sells prepaid wireless telecommunications service, including, but not limited to, any governmental agency and any corporation, whether public or private, for-profit or non-profit, must collect the charges from the consumer on each retail transaction occurring in the state.

The amount of the charges must be either disclosed to the consumer or separately stated on an invoice, receipt, or other similar document the seller provides to the consumer. A seller must elect to either disclose or separately state the charge and may not change the election without the written consent of the Department. The amount of the prepaid wireless TRS charge and the amount of the prepaid wireless 911 charge may be stated on an invoice, receipt, or other documentation together as a single line item and as a single charge.

The seller is required to remit to the Department the amount of the charges for each retail transaction even if the seller fails to separately disclose or state the charge on an invoice, receipt, or other similar document the seller provides to the consumer.

### Providers of federally supported services

In general, telecommunications providers who use federally supported services or programs to offer customers free prepaid wireless telecommunications service must remit the 911 charge, but not the TRS charge, to the Department for each retail transaction that occurs in Colorado in which the provider receives consumer information required for reimbursement claims under the federally supported service or program.

### Existing commission orders and agreements

A provider that pays 911 fees on federally supported services or programs pursuant to an order or agreement from the Public Utilities Commission in connection with the provider's eligible telecommunications carrier designation that is in effect as of July 10, 2020 must continue to remit fees in accordance with that agreement, subject to any subsequent changes made to the agreement by the commission.

### Filing and remittance

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Anyone who sells prepaid wireless telecommunications service or uses federally supported services or programs to offer customers free prepaid wireless telecommunications services must file returns and remit any applicable prepaid wireless charges to the Department.

Returns must be filed using form DR 0526, *Prepaid Wireless Return*. Returns can be filed electronically at [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline). Sellers and providers who prefer to file paper forms can access and download forms and instructions at [Tax.Colorado.gov](https://tax.colorado.gov).

Sellers and providers must file returns and remit payment of the amount due with the same frequency and by the same due date as their sales tax returns. In general, returns must be filed on a monthly basis. If the seller or provider is not required to file a sales tax return, their prepaid wireless returns and payments are due quarterly. Regardless of filing frequency, returns and payment are due on or before the 20th of the month following the close of the filing period. If the 20<sup>th</sup> falls on a Saturday, Sunday, or legal holiday, the return and the remittance of charges are due the next business day.

### Service fee

A seller or provider who files and remits payment of the amount due on or before the applicable due date may deduct and retain 3.3% of the charges otherwise due. If the seller or provider is late in filing or paying the amount due, the seller or provider is not allowed to retain any service fee.

### Penalty for late remittance

A seller or provider who fails to remit payment of the amount due by the applicable due date is subject to penalties provided by law. Penalty for late payment is imposed at a rate of 10% of the unpaid charges, plus an additional 0.5% for each month the charges remain unpaid, not to exceed a total of 18%.

### Seller registration

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Anyone who sells prepaid wireless telecommunications service or uses federally supported services or programs to offer customers free prepaid wireless telecommunications services must register with the Department prior to selling or providing prepaid wireless telecommunications service. Sellers and providers who do not have an existing sales tax account may register and apply for a sales tax license online at [mybiz.colorado.gov](https://mybiz.colorado.gov) or by filing form CR 0100AP, *Colorado Sales Tax and Withholding Account Application*. A seller or provider who has an existing sales tax account can register for collection and remittance of the prepaid wireless charges by sending an email to [DOR\\_ExciseTax@state.co.us](mailto:DOR_ExciseTax@state.co.us). Failure to register for the collection and remittance of the charges does not relieve a seller or provider from liability for collecting, reporting, and remitting the charges.

### Recordkeeping requirements

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Sellers and providers are required to keep and preserve any books, accounts, and records as may be necessary to determine the correct amount of the charge for a minimum of three years. Such books, accounts, and records must be kept and preserved with respect to both retail and wholesale transactions. See [page 2](#) of this publication for information about documentation required with respect to wholesale transaction. The seller or provider's books, accounts, and records must also reflect the fair market value of the prepaid wireless telecommunications service included in any bundled transaction described on [page 2](#) of this publication occurring prior to January 1, 2021.

### Audits and appeals

If, upon examination of a filed return, the Department determines the correct amount of charges have not been paid, the Department will issue a notice of deficiency to the seller or provider. In general, the Department may issue such notice no later than three years after the return was filed or three years after the return was due, whichever is later. In the case of a false or fraudulent return with intent to evade payment of the charges, there is no limit on the time for the Department to issue a notice of deficiency.

If a seller or provider neglects or refuses to file a return, the Department may estimate the amount due, based upon the information that may be available. The Department will issue a written notice to the seller or provider of the estimated amount due, along with any applicable penalty and interest. If a seller or provider does not file a required return, there is no limit on the time for the Department to estimate the amount due and issue a notice of the estimated amount due to the seller or provider.

### Protests and appeals

A seller or provider who receives a notice of deficiency may submit a written protest and request a hearing to dispute the notice. Any protest or request for hearing must be submitted within 30 days of the date of the notice. The protest or request for hearing must contain at least the following information:

- the retailer's name, address, and account number;
- the filing period(s) involved;
- the amount of charges in dispute;
- a summary statement of the findings with which the seller or provider does not agree and the grounds upon which the seller or provider relies for the purpose of showing the amount is not due.

### Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to the prepaid wireless charges. This list is not, and is not intended to be, an exhaustive list of authorities that govern the application and administration of the charges in every situation. Anyone with specific questions should consult their advisors.

#### Statutes and regulations

- § 29-11-101, C.R.S. Definitions.
- § 29-11-102.5, C.R.S. Imposition of charge on prepaid wireless.
- § 29-11-102.7, C.R.S. Imposition of telecommunications relay service surcharge on prepaid wireless.
- Special Rule 43. Prepaid wireless telecommunication service surcharges.
- § 39-26-102, C.R.S. Definitions
- § 39-26-116, C.R.S. Record of sales.
- § 39-26-118, C.R.S. Recovery of taxes, penalties, and interest.
- Rules 39-26-105-1. Remittance of sales tax.
- Rule 39-26-105-3. Documenting exempt sales.
- Rules 39-26-109. Sales tax filing schedules
- § 39-21-103, C.R.S. Hearings.
- § 39-21-107, C.R.S. Limitations.
- § 39-21-113, C.R.S. Reports and returns.
- § 39-21-119, C.R.S. Filing with executive director.
- Rule 39-21-103. Request for hearing.

#### Forms and guidance

- [Tax.Colorado.gov](https://tax.colorado.gov)
- *Prepaid Wireless Return* (DR 0526)
- *Colorado Sales Tax and Withholding Account Application* (CR 0100AP)