



# Prepaid Mobile Telephony Services Surcharge

For Telecommunication Service Suppliers

## **Prepaid MTS Surcharge Law Declared Unenforceable: Effective January 1, 2019, Service Suppliers Must Collect the Emergency Telephone Users (911) Surcharge on Charges for Prepaid Intrastate Telephone Services**

On November 15, 2018, the United States District Court, Northern District of California (*MetroPCS California, LLC v. Michael Picker et al*, case number 17-cv-05959-SI) enjoined state agencies from enforcing the provisions of the Prepaid Mobile Telephony Services (MTS) Surcharge Collection Act because it conflicts with federal law. A notice of appeal of the district court's decision was filed on December 14, 2018, but a judicial stay of the injunction was not requested, thereby ending CDTFA's enforcement of the prepaid MTS surcharge program. Therefore, service suppliers of prepaid MTS must now collect the Emergency Telephone Users (911) Surcharge (ETUS) on all charges for intrastate telecommunication service including VoIP and wireless services.

### **Background**

Beginning January 1, 2016, a prepaid MTS surcharge was imposed on purchasers of prepaid MTS based upon the sales price of each retail transaction in this state. Sellers of prepaid MTS were required to register with the CDTFA and charge and collect the prepaid MTS surcharge from their customers at the time of the retail sale. The prepaid MTS surcharge was in lieu of charges imposed pursuant to the Emergency Telephone Users Surcharge Act (Part 20, commencing with Revenue and Taxation Code section 41001) for prepaid MTS.

### **Prepaid MTS Service Suppliers**

Generally, service suppliers must collect the ETUS on all charges for intrastate telecommunication service, including VoIP and wireless services (prepaid and postpaid). Effective January 1, 2019, prepaid MTS service suppliers shall report and pay the ETUS on charges for prepaid and postpaid intrastate telecommunication services in the same manner as they did prior to January 1, 2016.

The *Emergency Telephone Users Surcharge Return* will be converted to a single-column return with updated filing instructions for reporting periods beginning January 2019. As a service supplier, you will continue to file your ETUS returns with the CDTFA and pay the ETUS surcharge collected from your customers on both prepaid and postpaid charges for intrastate telecommunication services.

### **Calculating the Intrastate Portion of Charges for Services Subject to the ETUS**

A service supplier is permitted to choose between two (or three for a VoIP service supplier) optional methods for calculating their exempt interstate portion of its charges that in turn provide the intrastate portion of their charges subject to the ETUS surcharge. For each type of service supplied by the service supplier, an election **must be made at least once** for one of the optional methods. For additional information, please refer to form, [CDTFA-501-TEA, Emergency Telephone Users Surcharge — Exempt Interstate Revenue Election Form](#).

**Sellers of Prepaid MTS**

Sellers of prepaid MTS that are currently registered with the CDTEFA will be advised to stop collecting the Prepaid MTS Surcharge from their customers on their sales of prepaid MTS effective immediately. Please note that local charges still apply to the sale of prepaid MTS in jurisdictions that impose a utility user tax on charges for access to communication services or to local "911" emergency telephone systems.

**For More Information**

For more information, please call the Customer Service Center at 1-800-400-7115 (TTY:711) from the main menu select the option for *Special Taxes and Fees*. Customer service representatives are available Monday through Friday from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.