

State Board of Equalization

OPERATIONS MEMO

Confidential

No. : 1194
Date : December 10, 2015
Revised: July 18, 2016
Revised: July 29, 2016
Revised: September 19, 2016
Revised: January 12, 2017

SUBJECT: PREPAID MOBILE TELEPHONY SERVICES SURCHARGE

I. OVERVIEW

Effective January 1, 2016, a Prepaid Mobile Telephony Services (prepaid MTS) Surcharge¹ is imposed on consumers of prepaid wireless services and products purchased in a retail transaction in California ([Assembly Bill 1717 \(2013-2014 Reg. Sess.\)](#)). Sellers of prepaid wireless services and products are required to charge and collect the surcharge at the time of the sale. The new law is set to sunset on January 1, 2020 (Revenue and Taxation Code (RTC) sections [42001-42024](#)).

Under the new law, a seller is defined as a person who sells prepaid MTS to another in a retail transaction. This includes 1) indirect sellers such as third-party retailers and 2) prepaid MTS telecommunication service suppliers. Telecommunication service suppliers who sell prepaid MTS directly to consumers are defined as “direct sellers.” Persons other than direct sellers who sell prepaid MTS to consumers are typically referred to as indirect sellers. Different registration, filing, and reporting requirements apply to indirect sellers than those who apply to direct sellers. Section VI of this memo specifies the indirect seller requirements; Section VII specifies the direct seller requirements. There is additional information in the [Prepaid Mobile Telephony Services Surcharge](#) industry guide.

II. ITEMS SUBJECT TO THE PREPAID MTS SURCHARGE

All prepaid wireless services and plans which customers purchase in predetermined units or dollars prior to using the service are subject to the prepaid MTS surcharge. The surcharge generally applies to:

- Prepaid wireless airtime cards,
- Prepaid wireless cards compatible with pay-as-you-go cell phones,
- Prepaid wireless minutes,
- Prepaid wireless plans,
- Prepaid wireless refill or top-off cards,
- Prepaid SIM cards (with minutes/airtime),

¹ For purposes of this Operations Memo when the term “prepaid MTS surcharge” is used, it refers to all three components of the surcharge: amounts for the emergency telephone users (prepaid 911) surcharge, the California Public Utilities Commission reimbursement fee and universal services surcharges, and any local charges imposed on prepaid MTS.

- Prepaid wireless “e-Cards,”
- Prepaid mobile data or any other services when sold with any of the above,
- Any product or service (except a cell phone), when sold with prepaid MTS for a single non-itemized price, and
- A cell phone sold with prepaid MTS for a single non-itemized price, unless only a minimal amount of prepaid MTS is transferred. A minimal amount of prepaid MTS is \$5 or less, or 10 minutes or less.

III. PREPAID MTS SURCHARGE RATE

The Board of Equalization (BOE) is required to annually calculate the prepaid MTS surcharge rate by adding:

- The prepaid 911 surcharge rate as determined by the Office of Emergency Services (OES),
- The California Public Utilities Commission (CPUC) reimbursement fee and the telecommunications universal service surcharges, and
- Local charges, if any, which apply for the jurisdiction in which the sale occurs.

The BOE will post the combined total of the prepaid MTS surcharge rate and local rate(s) for each jurisdiction by December 1st of each year, to be effective the following January 1st. Any new local charges will be effective on April 1st. A detailed breakdown of the individual rates for the prepaid 911 surcharge, CPUC surcharges, and local charges will also be posted.

IV. RETAIL TRANSACTIONS AND APPLICABLE RATES

For purposes of collecting the prepaid MTS surcharge and local charge(s), a retail transaction occurs in this state if the prepaid consumer makes the retail transaction in person at a California business location (point-of-sale transaction). Furthermore, when the transaction does not occur in person at a California business location, the retail transaction is presumed to occur in California and the prepaid MTS surcharge applies when:

- The item is shipped/delivered to, or picked up by, a customer at a California location, or
- The seller’s records show that the customer’s address is located in California, or
- The customer provides an address in California during the sales transaction (for example, a billing address), or
- The mobile telephone number is associated with a location in California. Effective January 1, 2017 this presumption will only apply if the seller does not have the customer’s address information on file.

Sellers making sales of prepaid MTS products/services from their business location should generally charge and collect the prepaid MTS surcharge rate and local rate(s) that apply to the city and/or county where the business is located. When the sale does not take place in person at the business location, but one of the above scenarios

applies, the seller should charge the prepaid MTS rate that applies to the above known California location or address of the customer, in the order listed above.

V. LOCAL CHARGES

A. Local Jurisdictions Must Contract with the BOE

Under the Local Prepaid Mobile Telephony Services Collection Act (RTC sections [42100-42111](#)), cities and/or counties (local jurisdictions) that have an ordinance that applies its local charges to prepaid MTS *must* contract with the BOE to receive their local revenue charges on the sales of prepaid MTS. These local revenue charges include utility user taxes (UUT), local 911 charges, and any other local charges applicable to prepaid MTS. Beginning January 1, 2016, if the local jurisdiction does not contract with the BOE, local charges imposed upon prepaid MTS will not be collected by sellers and the local jurisdictions will not receive local charge revenue from the sales of prepaid MTS in their jurisdiction.

Local jurisdictions' responsibilities under the new law include (RTC section [42105](#)):

- Responding to consumer claims for refund of local charges pertaining to: (1) the location of the retail transaction; (2) a claim of exemption from the local charges under the local enactment; and (3) claims relating to or arising from the invalidity of a local tax ordinance, in whole or in part.
- Reallocating local charges as a result of correcting errors relating to the location of the point of sale of a seller or the known address of a consumer for up to two past quarters from the date of knowledge.
- Interpreting, generally, any provision of the ordinance and certifying that the local tax ordinance applies the local charge to prepaid MTS.
- Enforcing and auditing the collection and remittance of local charges on prepaid MTS by direct sellers.
- Paying their pro rata share of the BOE's collection and administrative costs (RTC section [42020](#)).

Local jurisdictions that wish to contract with the BOE or have questions about the collection of local charges with the prepaid MTS surcharge should be directed to the Local Revenue Branch (LRB) at (916) 324-3000, or by email at raadjuri@boe.ca.gov.

B. LRB Responsibilities

LRB is responsible for:

- Facilitating the contract process with the local jurisdictions,
- Determining the correct local charges as a percentage for each jurisdiction that has contracted with the BOE,
- Determining the amounts of local charges collected for each jurisdiction on a quarterly basis and transmitting those amounts to the

proper jurisdiction, less payments for refunds and administrative costs, and

- Preparing quarterly reports of local charge revenue collected and dispersed to each jurisdiction.

Supervisors will spot check to make sure no UUT funds are being reallocated after a quarterly unload due to an amended return, refund, or audit.

C. Budget Section Responsibilities

- Determining the pro rata share, according to revenue collected, of BOE's collection and administrative costs for each jurisdiction that has contracted with the BOE.

Additional information about the local charges can be found under the [Local Jurisdiction](#) section of the [Prepaid Mobile Telephony Services Surcharge](#) industry guide.

VI. **INDIRECT SELLERS (THIRD-PARTY RETAILERS) - SM ACCOUNTS**

The Field Operations Department (FOD) and the Business Tax and Fee Department (BTFD) are responsible for the administration of indirect seller accounts. A new Taxable Activity Type (TAT), SM, was created for indirect sellers of prepaid MTS. The SM account requires separate registration and filing from other SUTD TATs (SR, SC, or SU). All indirect sellers of prepaid MTS are required to register for an SM account, even if they currently hold a seller's permit.

A. Registration

Online registration updates for SM accounts were implemented on December 21, 2015. New vetting questions for prepaid MTS sellers were added to the Online Registration system. Upon completion of the registration process an account number is issued with a TAT SM. Staff may assist applicants who cannot register online using the current manual registration procedures.

Registrations for SM accounts may include applicants who:

- Apply for a new SM account only and have an existing seller's permit,
- Apply for a new SM account and a new seller's permit,
- Apply for a new SM account only, but are not required to have a seller's permit because they are not actively engaged in the business of selling or leasing tangible personal property, or
- Apply for a new SM account and any other type of BOE account/permit.

SM accounts:

- Cannot have a start date prior to January 1, 2016,
- Do not require security deposits, and
- Cannot be issued as a temporary account (operations less than 90 days).

1. Reporting Basis
SM accounts will be automatically placed on a quarterly reporting basis.
2. North American Industrial Classification System (NAICS)
SM accounts will automatically be assigned NAICS code 517911, *Telecommunications Resellers*, for prepaid online registration. No other NAICS code can be assigned and the code cannot be changed.
3. Account Characteristic Code (ACC)
Valid ACCs for SM accounts are 019, 025, 030, 044, 998, and 999.
4. Electronic Funds Transfer (EFT)
The EFT requirement for an SM account will be determined based on the related seller’s permit (SR, SC, or SU) at the time of online registration for the new SM account. If a related sales taxes account (SR, SC, or SU) is a mandatory or voluntary EFT payer, then the SM account shall be a voluntary EFT payer.
 - a. EFT requirements:
 - SM Account with an SR, SC, or SU Account:
If the sales and use tax account is registered as mandatory EFT, then the SM account will be registered as voluntary EFT.
 - SM Account:
If the average monthly surcharge payments equal or exceed \$20,000, then the SM account may be placed on mandatory EFT if captured through the EFT annual review. SM accounts are not placed on mandatory EFT at the time of registration.
5. Registration Holds and Assignments
Registration holds will use existing assignments in IRIS. When an SR or SM registration hold is released the EFT link will be made. There will be one new assignment for prepaid MTS (see table below).

Business Action Code	Assignment Description	Staff Action Required	Assignment Specific to
SMEFTR EL	Review EFT SM/SR Relationship	Research if the related SR/SC/SU account has an EFT requirement and update EFT screen for the	SM accounts with a related SR/SC/SU Routed to RAU EFT Team

6. Sub-locations

SM accounts will allow surcharge payers to add sub-locations online.

B. Return Filing for SM Accounts

Sellers of prepaid MTS are required to electronically file their return quarterly with the BOE. The return for prepaid MTS is separate from other BOE accounts. The prepaid MTS return will allow for the following deductions and exemptions:

- Sales to Other Retailers for the Purposes of Resale
- Out of State Transactions
- Surcharge (if any) included in Gross Sales of prepaid MTS
- Bad Debt Losses on Sales of prepaid MTS
- Lifeline Exemption

1. Seller Reimbursement

Indirect sellers may retain 2% of the prepaid MTS surcharge collected as reimbursement for part of their cost for collecting the prepaid MTS surcharge. This amount is claimed on the prepaid MTS return and reduces the overall surcharge liability. The online prepaid MTS return will calculate the 2% reimbursement for the sellers.

2. Extensions

Staff will process the taxpayer's request for extension by using the [BOE- 468, Request for Extension of Time to File a Tax Return](#), available on eBOE and forwarding to the Return Analysis Unit (RAU).

C. Collections

Effective September 20, 2016, SM accounts are routed into the Automated Compliance Management System (ACMS) and are worked as collection cases. Most collection tools including liens, offsets, levies, till taps/keepers, and Earnings Withholding Order's for Taxes (EWOT) are available for SM accounts. Staff should continue to research taxpayers with related accounts and one collector should work all related accounts. Collectors will need to update the "Memo" field in ACMS with the related account number on both the SR and SM account. SM accounts are not eligible for Top 500 posting or liquor license suspension, withholds, and/or seizures.

1. Delinquencies

Accounts with delinquent returns will receive delinquency notices through IRIS. Compliance Assessments can be created for unfiled returns. SM accounts cannot be revoked.

2. Payment Plans

Online payment plans and auto-pay are available for SM accounts. Online payment plans will be auto approved if they meet the criteria.

3. Collection Cost Recovery Fee (CRF)

The CRF applies to SM accounts. CRF's will be assessed or backed out as outlined in Operations Memo 1182, *Collection Cost Recovery Fee*.

4. Requests for Relief

Online relief requests are available for SM accounts. Feepayers can file for relief of penalty, interest, or collection cost recovery fee on the BOE's website. Declaration of Timely Mailings relief is also available to be filed online.

5. Petitions and Claims for Refund

In general, petitions and claims for refund for SM accounts will follow the normal procedures currently in place for sales and use tax accounts.

Because the surcharge is imposed on the prepaid consumer, the seller (SM) or the prepaid consumer may file a claim for refund directly with the BOE. The Audit Determination & Refund Section (ADRS) will process all claims received unless the claim pertains to local charges based on one of the issues in RTC section 42105 subdivisions (b), (c), or (d). When a claimant files a refund claim with the BOE pertaining to 1) the location of the retail transaction, 2) the local charges under a local enactment, or 3) a claim citing the invalidity of a local tax ordinance, ADRS will direct the claimant to file the local charge portion of the claim with the appropriate local jurisdiction using form [BOE-1492-CR](#), *Prepaid Mobile Telephony Services (MTS) Local Charge Refund Referral*.

6. Amend Prior Returns

Surcharge payers who need to amend their returns will do so in the same manner as other returns filed online; i.e., write the correct amount on the *Confirm Filing* page of the return, write "Amended Return" across the top, and mail the amended return and any additional amount owed to the Cashier's Unit.

If the amendment results in an overpayment, the taxpayer must file a claim for refund for any claimed overpayment.

7. Bankruptcy

Outstanding SM liabilities will be included in bankruptcy creditor claims filed by BOE. If a bankruptcy is discovered while working a case, the bankruptcy case and applicable account numbers should be entered into LGL LC on IRIS and transmitted to the Special Operations Branch bankruptcy team.

8. Transaction Reports

The Return Processing Branch and RAU will work together to resolve payments which cannot be identified and/or request a BOE EFT cross TAT move when appropriate.

9. Duals



10. Write-offs

In general, write-offs for uncollectible SM accounts will follow the normal procedures currently in place for sales and use tax accounts.

D. Audits

If a sales and use tax account selected for audit has a related SM account, audit staff should also conduct an audit of the SM account. Audit staff will prepare a separate audit report for each account.

1. Verification of Account Status

Audit staff is responsible for verifying that sellers of prepaid MTS are properly registered and in compliance with the prepaid MTS program.

a. Agency Agreements

If a prepaid MTS retailer does not have a SM account because they claim they are the agent of the telecommunication service supplier (i.e., direct seller) with respect to the prepaid MTS sales, audit staff should ask to see a copy of the Agency Agreement between the retailer (store owner or operator) and the direct seller.

The Agency Agreement must be signed by both parties and must establish an agency relationship for purposes of prepaid MTS. The agreement should specify that the carrier is the seller of the prepaid MTS and the store owner/operator is only acting as an agent of the carrier in selling prepaid MTS and collecting any applicable taxes/fees imposed on the prepaid MTS, including the prepaid MTS surcharge and local charges.

When the retailer and direct seller have a valid Agency Agreement, audit staff should then verify that the direct seller is correctly registered with a TU account. If audit staff finds an error with the

direct seller's TU account registration, they should contact the Audit Examination Branch.

2. Audit Reports

The prepaid MTS surcharge program was implemented January 1, 2016; therefore, audit periods beginning no earlier than January 1, 2016 can be included in SM audit reports. SM audit reports can be uploaded and processed in IRIS beginning in June 2017.

a. Report of Field Audit

SM accounts will have a separate case ID number from the audit case ID number of a related SR account. Audit staff will prepare a separate audit report for SM accounts using the Audit Forms (Start 21) and Audit Workbook.

b. No Opinion Warranted (NOW) Reports for SM

An audit investigation of an SM account may result in a NOW audit recommendation (i.e., field waiver or no change audit). Audit staff should follow the same criteria as an SR account in determining if a NOW is appropriate. Audit staff should follow existing SR direction in preparing and completing the NOW, i.e., by using the Audit Summary Workbook or form BOE-1010, *No Opinion Warranted Form*.

c. Transcript of Returns

Audit staff may upload the prepaid MTS transcript of returns filed for SM accounts in the same manner as SR accounts.

3. Audit Procedures

Audit staff should conduct SM audits similar to sales and use tax audits; i.e. reconcile recorded to reported sales, verify claimed deductions, such as returned merchandise and bad debts, etc., and include the following procedures:

a. Verification of Transactions Subject to the Prepaid MTS Surcharge

Audit staff should verify that the retailer is correctly charging the surcharge on sales of prepaid MTS services and products. See Section II of this Operations Memo and the online industry guide, [Prepaid Mobile Telephony Services Surcharge](#), for guidance on transactions subject to the surcharge.

b. Verification of Correct Prepaid MTS Rates Charged

The prepaid MTS surcharge rate for each city and/or county is listed on the [Prepaid Mobile Telephony Services \(MTS\) Surcharge Rates](#) webpage. Audit staff should verify that the retailer is charging the correct prepaid MTS surcharge rate for their retail transactions. For guidance on what rate retailers should charge, see the online industry guide, [Prepaid Mobile Telephony Services Surcharge](#), under the *MTS Rates* tab.

The statewide prepaid MTS surcharge rate is subject to annual adjustment.

c. Reimbursement Costs

Prepaid MTS sellers (other than direct sellers) may retain 2% of the prepaid MTS surcharge collected as reimbursement for their costs of collecting the surcharge. The reimbursement amount is automatically calculated and deducted on the SM return. Audit staff should verify that the retailer correctly reported their gross prepaid MTS sales prior to deducting the reimbursement costs.

d. Small Seller Exemption

Beginning January 1, 2017, prepaid MTS sellers (other than direct sellers) with less than \$15,000 of prepaid MTS sales in the previous calendar year are no longer required to charge and collect the surcharge from their customers; see Section VI (E) of this Operations Memo.

Sellers claiming the small seller exemption are required to maintain records of their prepaid MTS sales. Audit staff should verify that these sellers qualify for the small seller exemption.

e. Lifeline Exemption for Direct Sellers (RTC Section 42012)

Purchases by a consumer of prepaid MTS, either alone or in combination with mobile data or other services, are exempt if all of the following apply:

- 1) The prepaid consumer is certified eligible for the state lifeline program or federal lifeline program.
- 2) The seller is authorized to provide lifeline service under the state lifeline program or federal lifeline program.
- 3) The exemption is applied only to the amount paid for the portion of the prepaid mobile telephony service that the lifeline program specifies is exempt from the surcharges and fees that comprise the prepaid MTS surcharge.

Generally, only TU accounts can qualify for the lifeline exemption because the statute requires that for the exemption to apply, the person selling the prepaid services to the consumer must be an authorized lifeline telecommunications service provider (i.e., service supplier). If an SM account claims exempt lifeline sales, audit staff should ask for documentation establishing that the retailer claiming the exemption is authorized to supply prepaid lifeline telecommunications services, and should investigate whether the seller should be registered as a TU account. A third party retailer cannot claim lifeline exempt sales on behalf of a direct seller.

4. Audit Uploads

SM audit report uploads will follow the existing procedures for SR accounts. One additional noncompliance code for “Lifetime Exemption” specific to prepaid MTS was added.

5. Digital Audit Procedures

SM audit reports will follow existing digital audit procedures.

E. Small Seller Exemption (SB 84)

Beginning January 1, 2017, indirect sellers with less than \$15,000 of prepaid MTS sales in the prior calendar year are no longer required to charge and collect the surcharge from their customers. For sellers who have more than one location, sales of prepaid MTS from all locations must be used to determine annual sales.

Indirect sellers must maintain adequate records to show that their annual prepaid MTS sales are less than \$15,000 (note: the \$15,000 threshold is subject to annual adjustments by the Department of Finance). The small seller exemption does *not* apply to direct sellers.

As a convenience to their customers, indirect sellers who are no longer required to collect the surcharge from their customers may voluntarily collect the surcharge from their customers and report and pay the amounts to the BOE. Customers who purchase prepaid MTS from indirect sellers who do not charge and collect the surcharge are responsible for reporting and paying the surcharge directly to the BOE. Online registration will be updated to allow purchasers to report and pay the prepaid MTS surcharge on a one-time purchase.

The law requires all sellers, including those meeting the small seller exemption, to be registered with the BOE to collect and remit the surcharge through December 31, 2016. On and after January 1, 2017, indirect sellers qualifying for the small seller exemption, and who do not voluntarily collect and remit the surcharge, are not required to be registered with the BOE. This includes indirect sellers who begin operating and selling prepaid MTS on or after January 1, 2017, and project prepaid MTS sales of less than \$15,000 in the next calendar year. Nevertheless, any person claiming the small seller exemption must maintain the requisite documentation to support that their prior year’s sales did not meet or exceed the minimum threshold (currently, \$15,000 to qualify as a small seller for the 2017 calendar year).

F. Statewide Compliance Outreach Program (SCOP) Team Follow Up for SM Accounts

Beginning July 1, 2016, in addition to providing outreach to indirect sellers about their responsibilities under the prepaid MTS law, SCOP teams should ensure that indirect sellers selling prepaid wireless services and products are properly registered with an SM account. SCOP teams should use their normal, in-place procedures to follow-up and register indirect sellers of prepaid MTS.

SCOP teams should track hours spent on prepaid MTS and allocate hours to time code 9402 (registration) or 9403 (account maintenance) as appropriate.

G. Purchaser Registration (79B Accounts)

Purchasers buying prepaid MTS for use in this state who did not already pay the surcharge to a registered California retailer can report and pay the surcharge directly to the BOE. The online registration system allows purchasers to report and pay the surcharge on a one-time purchase of prepaid MTS.

VII. TELECOMMUNICATION SERVICE SUPPLIERS (DIRECT SELLERS) – TU ACCOUNTS

BTFD is responsible for the administration of direct sellers' accounts. A "direct seller" is defined as a prepaid MTS provider or service supplier (per RTC [section 41007](#)) who makes a sale of prepaid MTS (or prepaid wireless service) directly to a consumer in a retail transaction occurring in this state. A direct seller includes a:

- Telephone corporation (as defined in Public Utilities Code section [234](#)), or
- An "interconnected Voice over Internet Protocol (VoIP) service" provider as defined in Public Utilities Code section [285](#), or
- A retailer (as defined in RTC section [6203](#)) who is a member of the same commonly controlled group (as defined in RTC section [25105](#)), or who is a member of the same combined reporting group (as defined in paragraph (3) of subdivision (b) of section [25106.5 of Title 18 of the California Code of Regulations](#), as an entity described above.

A direct seller is required to:

- Register with the BOE under the [Emergency Telephone Users \(911\) Surcharge \(ETUS\)](#) law, if not currently registered,
- Know the correct prepaid MTS surcharge rate and any applicable local rates,
- Charge and collect the prepaid MTS surcharge from its customers on sales of prepaid MTS,

Electronically file and pay form BOE-501-TE, *Emergency Telephone Users Surcharge Return* to the BOE,

Note: Prior to November 1, 2016, direct sellers received a paper return with a waiver of the electronic filing requirement.

- Pay the portion of the prepaid MTS surcharge that consists of the CPUC reimbursement fee and surcharges directly to the CPUC, and
- Pay any applicable local charges directly to the local jurisdiction or local agency imposing the local charge.

A. Registration

Direct sellers will be registered under ETUS as a TU account. The ETUS vetting question was updated in the Online Registration system on November 2, 2015 to include the applicants which are direct sellers. If the surcharge payer is currently registered under ETUS, they do not need to

register again as a direct seller.

1. Reporting Basis

TU accounts will be automatically placed on a monthly, quarterly, or yearly reporting basis at the time of registration.

2. Account Characteristic Code (ACC)

Valid ACCs for TU accounts are 003, 004, 005, 009, 010, 011, 013, 014, 015, 019, 031, 032, 033, 036, and 037. ACC 045 will be manually added to TU accounts that are currently registered under ETUS and report the prepaid 911 surcharge.

3. EFT

TU accounts with an average monthly surcharge payment of \$20,000 or more are required to use EFT to make their payment.

4. Sub-location(s)

TU accounts will not allow surcharge payers to add sub-location(s) online.

B. Return Filing

Direct sellers must electronically file form BOE-501-TE, *Emergency Telephone Users Surcharge Return*, include the portion of the prepaid MTS surcharge that consists of the prepaid 911 surcharge, and pay the reported amounts to the BOE. In addition, direct sellers must pay the portion of the prepaid MTS surcharge that consists of the CPUC surcharges directly to the CPUC and pay any applicable local charges directly to the local jurisdiction or local agency imposing the local charge.

1. Refusal to Pay Schedule (available online June 2017)

- TU accounts must submit the *Refusal to Pay Schedule* providing the names and addresses for any consumer who refuses to pay \$3.00 or more of the ETUS and/or prepaid 911 surcharge. STFD Return Processing will issue consumers listed on the schedule a Notice of Determination.

2. Billing Aggregator Schedule

- TU accounts who report on behalf of another service provider can elect to electronically file a single return on behalf of multiple service providers. They must file a billing aggregator schedule (BOE-507-TE) identifying the total charges reported and total surcharge due on behalf of each service provider and their corresponding account number.

C. Audits, Collections, Delinquencies, Payment Plans, CRF, Requests for Relief

These accounts will be subject to the same audit and collection activities as existing TU accounts. Current functionality is available to TAT TU for

delinquencies, payment plans, CRF, and requests for relief.

D. Petitions and Claims for Refund

Petitions and claims for refund follow the normal processes currently in place for TU accounts.

E. Calculation of Emergency Telephone Users Surcharge Guaranteed Minimum Funding

Under section [41033](#) of the ETUS Law, the total collection for the prepaid 911 surcharge must total \$9,900,000 per fiscal year, net of certain deductions and expenses (discussed below). If the total collection results in less than \$9,900,000, each direct seller will be issued a deficiency determination for their pro-rata portion of the difference. Each determination will be on a pro rata basis based upon each direct seller's percentage share of total California intrastate prepaid MTS revenues for the prior fiscal year.

Beginning with the 2016–17 fiscal year and ending with the 2018–19 fiscal year, the BOE will calculate the following on or before November 1 following the end of the respective fiscal year:

- The total collections for the fiscal year of the portion of the prepaid MTS surcharge that is for the prepaid 911 surcharge, net of any amounts that an indirect seller was permitted to deduct and retain pursuant to subdivision (e) of section [42010](#).
- Less costs incurred by the BOE for the fiscal year from that portion of the prepaid MTS surcharge that is for the emergency telephone users surcharge pursuant to subdivision (e) of section [42020](#)

The BOE will provide notification of whether the amount calculated exceeds or is less than \$9,900,000 on its public website by December 15th following the calculation, along with the underlying calculations, assumptions, and methodology.

1. Petitions of Guaranteed Minimum Funding Deficiency Determinations

Direct sellers who wish to contest a minimum funding deficiency determination have 60 days to file a petition for redetermination. Interest begins to accrue at the end of the 60 day period. All direct sellers will receive a new billing if one or more direct sellers successfully petition and receive a re-determination.

VIII. TIME CODES

To properly report the cost of administering the prepaid MTS surcharge, staff must track and record all time spent on prepaid MTS and charge the time to the appropriate time code on their monthly time reports. This includes time spent on functions for supervision, training, return processing, review, account maintenance, etc.

The current forms BOE-666, *Employee's Summary Time Report For Month Of*, and

BOE-666 HQ, *Headquarters Employee's Time Report* on eBOE include the prepaid MTS codes. On the BOE-666 for field offices, the prepaid MTS codes are available under the "Write-In Codes" drop down list at the bottom of the form. The following is the list of the Prepaid MTS Surcharge Program time codes:

Code	Audit/Compliance	Code Function
9301	Audit	Supervision
9302	Audit	Review
9303	Audit	Direct Field
9304	Audit	Selection
9305	Audit	Worksheet
9306	Audit	Petitions & Refunds
9307	Audit	Training
9308	Audit	Direct Support
9309	Audit	Audit Refunds
9318	Audit	Indirect Support
9319	Audit	Investigation
9401	Compliance	Supervision
9402	Compliance	Registration
9403	Compliance	Account Maintenance
9404	Compliance	Collections
9405	Compliance	Return Processing
9406	Compliance	Compliance Support
9407	Compliance	Training
9408	Compliance	Advisory
9409	Compliance	Enforcement
9419	Compliance	Investigation
9425	Compliance	Security Deposits
9426	Compliance	Registration Investigations
9427	Compliance	Cashiering
9428	Compliance	Desk Review
9429	Compliance	Relief Activities

IX. OBSOLESCENCE

This operations memorandum will become obsolete when the information contained herein is incorporated into Chapters 2, 5, 6, and 7 of the Compliance Policy and Procedures Manual.

A handwritten signature in blue ink that reads "Trista Gonzalez". The signature is written in a cursive, flowing style.

Trista Gonzalez, Chief
Tax Policy Division
Business Tax and Fee Department