

ST 15-0008-GIL 01/12/2015 ELECTRICITY EXCISE TAX: The purchase price on which a self assessing purchaser must pay tax under the Electricity Excise Tax Law includes charges for electricity, transmission or any other service related to the sale or delivery of the electricity. See 35 ILCS 640/2-4(a) and 86 Ill. Adm. Code 511.110(c). (This is a GIL.)

January 12, 2015

Dear Xxxx:

This letter is in response to your letter dated December 16, 2014, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings (“PLRs”) are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department’s regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter (“GIL”) is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

This letter seeks clarification on the enclosed response from the Illinois Department of Revenue, dated April 3, 2014, in regards to becoming a self assessing purchaser of electricity. More specifically, if a customer elects to become a self assessing purchaser of electricity and is taking supply of electricity from a Third Party Retail Electric Supplier (i.e. not SUPPLIER), should the Retail Electric Suppliers bills be included in the purchase price?

DEPARTMENT’S RESPONSE:

The Electricity Excise Tax Law ("Law") (35 ILCS 640/1 *et seq.*) imposes a tax upon the privilege of using in this State electricity purchased for use or consumption and not for resale. 35 ILCS 640/2-4. Electricity Excise Tax is imposed on self-assessing purchasers at the rate of 5.1% of the self-assessing purchaser’s purchase price for all electricity distributed, supplied, furnished, sold, transmitted and delivered to the self-assessing purchaser in a month. 35 ILCS 640/2-4(a).

(d) "Purchase price" means the consideration paid for the distribution, supply, furnishing, sale, transmission or delivery of electricity to a person for non-residential use or consumption (and for both residential and non-residential use or consumption in the case of electricity purchased from a municipal system or electric cooperative described in subsection (b) of Section 2-4) and not for resale, and for all services directly related to the production, transmission or distribution of electricity distributed, supplied, furnished, sold, transmitted or delivered for non-residential use or consumption, and includes transition charges imposed in accordance with Article XVI of the Public Utilities Act and instrument funding charges imposed in accordance with Article XVIII of the Public Utilities Act, as well as cash, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service costs, or any other expense whatsoever." 35 ILCS 640/2-3(d).

The definition of "purchase price" is very broad. The return requires a self-assessing purchaser to report the "aggregate" purchase price. Generally, unless specifically excluded in the definition of "purchase price," all consideration or payments made by the self-assessing purchaser to the supplier of the electricity and to the transporter, if the transporter is different from the supplier, for the distribution, supply, furnishing, sale, transmission and delivery of such electricity, and made to them for any services directly related to the production, transmission or distribution of electricity distributed, supplied, furnished, sold, transmitted or delivered for non-residential use or consumption, are taxed at the 5.1% rate. Moreover, "purchase price" must be determined without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service costs, or any other expense whatsoever.

The price of electricity that a self-assessing purchaser buys from any electric supplier is included in the aggregate purchase price on which a self-assessing purchaser pays tax.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Richard S. Wolters
Associate Counsel

RSW:kd