

ST 17-0025-GIL 06/28/2017 TELECOMMUNICATIONS EXCISE TAX

Equipment rental charges are excludable from the telecommunication excise tax if they are disaggregated and separately stated from other charges in the books and records of the retailer. See 86 Ill. Adm. Code 495.100(b). (This is a GIL.)

June 28, 2017

Dear Xxxxx:

This letter is in response to your letter dated May 31, 2017, in which you requested 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:

I’m writing to ask you to provide clarification of a definition of Gross Charges given in the Telecommunication Excise Tax Act (35ILCS 630/) pertinent to the treatment of telecommunication equipment.

Sec. 2 (a) states, “ ‘Gross charge’ means the amount paid for the act or privilege of originating or receiving telecommunications in this State and for all services and equipment provided in connection therewith by a retailer”.

Then on the page 2 – in the same Sec. 2 (a) the act states “‘However’ ‘gross charges’ shall not include any of the following:

(4) Charges for the customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges”.

We are going to provide our customers – in addition to VoIP service – with telecommunications equipment that we will rent or lease to them. Does this section mean that if we separate the charges for the rent or lease from the charges for the VOIP

service, then we do not have to charge our customers Illinois telecommunication tax for equipment rental or lease?

Please provide clarification and guidance in interpreting these seemingly contradictory statements regarding treatment of equipment.

DEPARTMENT'S RESPONSE:

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495.

Pursuant to Section 495.100(a), "gross charge" means the amount paid for the act or privilege of originating or receiving telecommunications in this State and for all services and equipment provided in connection therewith by a retailer, valued in money, whether paid in money or otherwise, including cash credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of material used, labor or service cost or any other expense whatsoever.

Gross charges, however, do not include charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges (Section 2(a)(4) of the Act). To be exempt from Telecommunications Excise Tax, the charges for customer equipment must be disaggregated and separately identified from other charges in the books and records of the retailer. See Section 495.100(b). The Company will incur Use Tax liability (paid to suppliers, or if suppliers are not registered to collect and remit the tax, then the Company must self-assess and remit the tax to the Department) based on the cost price of the tangible personal property purchased for rental or lease to its customers. See 86 Ill. Adm. Code 150.305(e).

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:bkl