

This letter rescinds General Information Letter ST 08-0001. State-imposed USF and TRS charges on consumers' bills are not includable in gross charges. Charges on consumers' bills to pass on to consumers telecommunications carriers' Federal USF costs are includable in gross charges. See 86 Ill. Adm. Code 495.100(I). (This is a GIL.)

April 9, 2008

Dear Xxxxx:

This General Information Letter is being sent to you to rescind the General Information Letter that was sent to you on January 3, 2008 (ST 08-0001 GIL). A General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In our previous letter, we discussed the whether certain charges collected by telecommunications carriers from consumers are taxable under the Telecommunications Excise Tax Act. For ease of reference, I have included your original inquiry as follows:

This letter serves as a formal request for letter ruling regarding the calculation of certain aspects of the Communications Services Tax ('CST') for the State of Illinois.

Specifically, we would like confirmation on whether the Universal Service Fund ('USF') Fees as well as the Telecommunication Relay Service ('TRS') Charges should be included in the base calculations of the Illinois State CST. As we understand it, the current stance of your office is that both the USF and TRS should be included in CST calculations on the basis that neither the USF, nor the TRS are specifically exempted from the applicable ordinance.

We will calendar this matter for further review on August 13, 2007, at which time we will have expected to hear from you regarding this request. Thank you for your time, attention, and professional courtesy in this matter. Please contact me with any questions. I look forward to hearing from you.

The Department provided the following response:

The Telecommunications Excise Tax Act (35 ILCS 630/1 et seq.) ("Act") imposes a tax upon the act or privilege of originating or receiving interstate or intrastate telecommunications by a person in Illinois at the rate of 7% of the gross charges for telecommunications purchased at retail from a retailer. This tax must be collected from persons by "retailers maintaining a place of business in Illinois." 35 ILCS 630/5.

Taxes imposed on consumers for community 911 service, lifeline service or other services required by regulatory authorities or government are not includable in gross

charges. 86 Ill. Adm. Code 495.100(l). It appears that USF and TRS charges constitute types of taxes imposed on consumers for services imposed by regulatory authorities or government and are not includable in gross charges for purposes of the Telecommunications Excise Tax.

## **DEPARTMENT'S RESPONSE:**

Upon further review of the issue raised in your letter, we are rescinding the response previously issued to you dated January 3, 2008 (ST 08-0001 GIL) because it failed to reference that our answer was directed only at State-imposed USF and TRS charges.

The Telecommunications Excise Tax Act (35 ILCS 630/1 et seq.) ("Act") imposes a tax upon the act or privilege of originating or receiving interstate or intrastate telecommunications by a person in Illinois at the rate of 7% of the gross charges for telecommunications purchased at retail from a retailer. This tax must be collected from persons by "retailers maintaining a place of business in Illinois." 35 ILCS 630/5.

Taxes imposed on consumers for community 911 service or other services required by regulatory authorities or government are not includable in gross charges. 86 Ill. Adm. Code 495.100(l). State-imposed USF and TRS charges constitute types of charges imposed on consumers for services that are not includable in gross charges for purposes of the Telecommunications Excise Tax Act. The relevant statutes and regulatory decisions implementing the State USF and State TRS require telecommunications carriers to impose these charges on consumers. Based on our research, State lifeline and Link-Up programs are funded by voluntary contributions, and any charges on consumers' bills to recover consumers' monthly voluntary contributions are not includable in gross charges for purposes of the Telecommunications Excise Tax.

It is our understanding that charges for funding federal USF programs, including lifeline and Link-Up, and TRS are imposed on telecommunications carriers by the Federal government and Federal regulatory authorities, not on consumers. Any charges placed on consumers' bills to pass on telecommunications carriers' Federal USF costs are includable in gross charges for purposes of the Telecommunications Excise Tax. It is our further understanding that telecommunications carriers are prohibited by Federal regulatory authorities from passing on to consumers their TRS costs by use of a specific charge or item on consumers' bills. Therefore, any portion of the charges for telecommunications services imposed on consumers that recovers a telecommunications carrier's TRS costs are includable in gross charges for purposes of the Telecommunications Excise Tax.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Richard S. Wolters  
Associate Counsel

RSW:msk