

Natural gas is taxed under the Gas Revenue Tax Act or Gas Use Tax Law. See 86 Ill. Adm. Code Parts 470 and 471. (This is a GIL.)

June 16, 2009

Dear Xxxxx:

This letter is in response to your letter dated January 28, 2009, 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](http://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 is in regards to BUSINESS. BUSINESS recently registered to do business in Illinois. We are a natural gas marketer. We purchase and take ownership of the natural gas from out-of-state wholesalers (outside Illinois). These wholesalers then transport the natural gas to the city gate, where the customer takes ownership. BUSINESS sells the natural gas (at the city gate) to a variety of end consumers, i.e. manufacturers, industrial companies, exempt orgs, schools, churches, city governments, etc.

In reading the Illinois sales tax law, we have come to the following conclusion. Natural gas sales are subject to the 'Gas Tax', where BUSINESS should charge either 5% on the taxable receipts or 2.4 cents per therm, whichever is lower. Because the natural gas sales are subject to the Gas Tax, the transaction is exempt from sales tax. We have come to this conclusion based off [sic] the attached document. However, we cannot find anything in the sales tax law to support this conclusion. Please provide a copy of the law, a specific law reference (web address), or issue a letter ruling stating whether or not our customers are exempt from sales tax if they are subject to the Gas Tax. Also in this letter ruling or law reference, please confirm that the natural gas sales are subject to the Gas Tax as explained above. This letter ruling or law reference will allow BUSINESS to ensure it is properly charging and collecting the appropriate taxes.

If you should have any questions, please contact me directly. Otherwise, the letter ruling can be sent back to my attention at the below address, e-mail, or fax number. Thank you for your cooperation.

**DEPARTMENT'S RESPONSE:**

The Gas Revenue Tax Act imposes a tax on persons engaged in the business of distributing, supplying, furnishing or selling gas to persons for use or consumption and not for resale at the rate of 2.4 cents per therm of all gas which is so distributed, supplied, furnished, sold or transported to or for each customer in the course of such business, or 5% of the gross receipts received from each customer from such business, whichever is the lower rate as applied to each customer for that customer's billing period. See 35 ILCS 615/2 and 86 Ill. Adm. Code 470.110.

The Gas Use Tax Law imposes a tax on the privilege of using in this State gas obtained in a purchase of out-of-state gas at the rate of 2.4 cents per therm or 5% of the purchase price for the billing period, whichever is the lower rate. See 35 ILCS 173/5-10 and 86 Ill. Adm. Code 471.105. "Purchase of out-of-State gas" means a transaction for the purchase of gas from any supplier in a manner that does not subject the seller of that gas to liability under the Gas Revenue Tax Act. 35 ILCS 173/5-5. A delivering supplier maintaining a place of business in this State is required to collect the Gas Use Tax unless the purchaser elects to register with the Department as a self-assessing purchaser and pay the directly to the Department. 35 ILCS 173/5-15.

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.

Very truly yours,

Richard S. Wolters  
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