

This letter responds to a survey regarding the Telecommunications Excise Tax, Telecommunications Infrastructure Maintenance Fee Act, and the Simplified Municipal Telecommunications Tax. See 86 Ill. Adm. Code 495, 35 ILCS 635/1, and 35 ILCS 636/5-1 et seq. (This is a GIL.)

November 24, 2004

Dear Xxxxx:

This letter is in response to your facsimile transmission dated May 5, 2004. The nature of your letter and the information you have provided require that we respond with 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 on the Department's Internet website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I am a tax researcher with COMPANY. We provide information to Telecom Service Providers to help them determine how to tax their customers.

We need to resolve some questions about 1) the Illinois Retailers' Occupation Tax 2) the Illinois Telecommunications Excise Tax and 3) Illinois Telecommunications Infrastructure Maintenance Fee. I am including the questions in this fax. We need them to be answered separately for each tax.

Can you let me know whom I should speak to to get the information for each tax? I would be glad to email the questions to make it easier for you to respond.

Your help is greatly appreciated.

Illinois Retailers' Occupation Tax

Please answer the following questions so that we can include accurate, up-to-date information about the taxes in your jurisdiction in our database, in order to help our customers assess taxes properly. Please type or print legibly and email or fax back the survey below to me.

Your help is greatly appreciated.

.....

Your Name:

Title:

Question #1

What type of revenue is subject to the Illinois Retailers' Occupation Tax? (Examples: All revenue from a regulated company; all revenue from a telephony provider; revenue from regulated services; revenue from communications services; local basic service revenue.)

Important: please provide the source of the above information:

Question #2:

Are any miscellaneous charges on a customer's bill for telecommunications taxable? Please answer Yes or No.

Yes _____

No _____

If yes, please answer below specifically which miscellaneous charges are taxable, including:

Fees for unpublished numbers: Yes _____ No _____

Directory advertisement listings: Yes _____ No _____

Charges for local number portability: Yes _____ No _____

Please list any other miscellaneous charges that are subject to tax below:

Please also provide the source(s) of the above information.

Question #3:

Are any miscellaneous revenues listed in the imposition statute or related sources?

Yes _____

No _____

If Yes, please state whether taxable or nontaxable:

Please provide the source of the above information.

Question #4:

Is cable TV advertising taxable? Yes / No

Cable TV ads:

Yes, they are taxable. _____

No, they are not taxable. _____

Please provide the source of the above information:

Thank you.

Illinois Telecommunications Excise Tax

Please answer the following questions so that we can include accurate, up-to-date information about the taxes in your jurisdiction in our database, in order to help our customers assess taxes properly. Please type or print legibly and email or fax back the survey below to me.

Your help is greatly appreciated.

.....
Your Name:

Title:

Question #1

What type of revenue is subject to the Illinois Telecommunications Excise Tax Retailers' Occupation Tax? (Examples: All revenue from a regulated company; all revenue from a telephony provider; revenue from regulated services; revenue from communications services; local basic service revenue.)

Important: please provide the source of the above information:

Question #2:

Are any miscellaneous charges on a customer's bill for telecommunications taxable? Please answer Yes or No.

Yes _____

No _____

If yes, please answer below specifically which miscellaneous charges are taxable, including:

Fees for unpublished numbers: Yes _____ No _____

Directory advertisement listings: Yes _____ No _____

Charges for local number portability: Yes _____ No _____

Please list any other miscellaneous charges that are subject to tax below:

Please also provide the source(s) of the above information.

Question #3:

Are any miscellaneous revenues listed in the imposition statute or related sources?

Yes _____

No _____

If Yes, please state whether taxable or nontaxable:

Please provide the source of the above information.

Question #4:

Is cable TV advertising taxable? Yes / No

Cable TV ads:

Yes, they are taxable. _____

No, they are not taxable. _____

Please provide the source of the above information:

Thank you.

Illinois Telecommunications Infrastructure Maintenance Fee

Please answer the following questions so that we can include accurate, up-to-date information about the taxes in your jurisdiction in our database, in order to help our customers assess taxes properly. Please type or print legibly and email or fax back the survey below to me.

Your help is greatly appreciated.

.....

Your Name:

Title:

Question #1

What type of revenue is subject to the Illinois Telecommunications Infrastructure Maintenance Fee? (Examples: All revenue from a regulated company; all revenue from

a telephony provider; revenue from regulated services; revenue from communications services; local basic service revenue.)

Important: please provide the source of the above information:

Question #2:

Are any miscellaneous charges on a customer's bill for telecommunications taxable?
Please answer Yes or No.

Yes _____

No _____

If yes, please answer below specifically which miscellaneous charges are taxable, including:

Fees for unpublished numbers: Yes _____ No _____

Directory advertisement listings: Yes _____ No _____

Charges for local number portability: Yes _____ No _____

Please list any other miscellaneous charges that are subject to tax below:

Please also provide the source(s) of the above information.

Question #3:

Are any miscellaneous revenues listed in the imposition statute or related sources?

Yes _____

No _____

If Yes, please state whether taxable or nontaxable:

Please provide the source of the above information.

Question #4:

Is cable TV advertising taxable? Yes / No

Cable TV ads:

Yes, they are taxable. _____

No, they are not taxable. _____

Please provide the source of the above information:

Thank you.

DEPARTMENT'S RESPONSE:

We are unable to complete your survey in the form and manner requested, however, we hope the following general information will be helpful.

Illinois Retailers' Occupation and Use Taxes

The Illinois sales and use tax system is unique because it codifies four separate taxes: The Retailers' Occupation Tax, (86 Ill. Adm. Code 130.101 et al.), the Use Tax, (86 Ill. Adm. Code 150.101 et al.), the Service Occupation Tax, (86 Ill. Adm. Code 140.101 et al.), and the Service Use Tax, (86 Ill. Adm. Code 160.101 et al.).

The Retailers' Occupation Tax is what is commonly referred to in other locales as "sales" tax. However, the Retailers' Occupation Tax is not a sales tax, but rather an occupation tax. The Retailers' Occupation Tax is imposed on persons engaged in the business of selling tangible personal property at retail. The complement of the Retailers' Occupation Tax is the Use Tax, which is a tax imposed upon the privilege of using, in Illinois, tangible personal property purchased anywhere at retail. The current State tax rate is 6.25% plus any local taxes if applicable.

The Service Occupation Tax is also an occupation tax, and has a complementary tax known as the Service Use Tax. These service taxes are applicable to tangible personal property transferred by a serviceman as an incident to the service provided, as opposed to property being sold and purchased at retail. The tax is not on the service itself, but on the property being transferred.

Illinois Telecommunications Excise Tax

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. The tax imposed under the Act must be collected from the taxpayer by a retailer maintaining a place of business in this State and remitted to the Department. See 35 ILCS 630/5.

Pursuant to Section 495.100(a), "gross charge" means the amount paid for the act or privilege or 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.

For additional information regarding amounts which may or may not be included in "gross charges" please refer to 86 Ill. Adm. Code 495.100(a) through 495.100(n). For example, 495.100(e) explains that the term "gross charges" does not include revenue received from yellow page advertisements.

Effective January 1, 2003, the manner in which local telecommunications taxes are collected has changed. See 35 ILCS 635, Telecommunications Infrastructure Maintenance Fee Act and 35 ILCS 636, Simplified Municipal Telecommunications Tax Act. Beginning on January 1, 2003, the Department began collecting most municipal telecommunications taxes. The change in the law did not affect municipal telecommunication taxes imposed by the City of Chicago.

Illinois Telecommunications Infrastructure Maintenance Fee

Section 15 of the Telecommunications Municipal Infrastructure Maintenance Fee Act imposes a State infrastructure maintenance fee upon telecommunications retailers, as that term is defined in 35 ILCS 635/10, equal to 0.5% of all gross charges charged by the telecommunications retailer to service addresses in this State for telecommunications, other than wireless telecommunications, originating or received in this State. See 35 ILCS 635/15(b). Section 10 of the Act provides a definition of what constitutes taxable gross charges. See 35 ILCS 635/10.

Illinois Simplified Municipal Telecommunications Tax

The Department began collecting the Simplified Municipal Telecommunications Tax (other than for the City of Chicago) beginning with bills issued on and after January 1, 2003. See 35 ILCS 636/5-1 et seq. Prior to this tax, the individual municipalities administered the various municipal telecommunications related taxes. The Simplified Municipal Telecommunications Tax allows municipalities to impose simplified municipal telecommunications taxes on the same tax base as the State Telecommunications Excise Tax.

The only exclusions from these taxes are listed in the definition of a "sale at retail" in Section 2 of the Telecommunications Excise Tax Act, 35 ILCS 630/2 and Section 5-7 of the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/5-7.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com 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,

Edwin E. Boggess
Associate Counsel

EEB:msk