

ST 12-0047-GIL 08/20/2012 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 35 ILCS 630/1 *et seq.* (This is a GIL.)

August 20, 2012

Dear:

This letter is in response to your letter dated August 2, 2012, 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:

Our company, COMPANY, develops billing software for telecommunications carriers. COMPANY assists its customers in ensuring that their tax databases are up-to-date and that all taxes are properly applied to subscriber bills.

We are contacting the Illinois Department of Revenue (“Department”) to respectfully request a General Information Letter (“GIL”). We would like to know if Illinois telecommunications excise taxes would apply to subscriber line charges (“SLCs”) and primary interexchange carrier charges (“PICCs”) that appear on a subscriber’s phone bill. Both charges would be separate line items on the subscriber’s bill. I have provided a description of both charges below:

- SLCs are usually billed to the subscriber by the local exchange telecommunications carrier. This charge serves as additional compensation to the telecommunications carrier for the costs of using the local network, specifically that portion of local network costs associated with interstate service.
- The PCCC fee represents part of the cost local telephone companies recover from other telecommunications carriers for using the local network to originate and terminate interstate long distance telephone calls.

Our company requests anonymity should your response be made public. Please do not hesitate to contact us should you have any questions regarding our inquiry. You may call us X or via email at XX.

**DEPARTMENT'S RESPONSE:**

The Illinois Telecommunications Excise Tax Act imposes a tax on the act or privilege of originating or receiving intrastate or interstate telecommunications by persons in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers by such persons. 35 ILCS 630/3 and 4. The Simplified Municipal Telecommunications Tax Act allows municipalities to impose a tax on the act or privilege of originating in such municipality or receiving in such municipality intrastate or interstate telecommunications by persons in Illinois at a rate not to exceed 6% for municipalities with a population of less than 500,000, and at a rate not to exceed 7% for municipalities with a population of 500,000 or more, of the gross charges for such telecommunications purchased at retail from retailers by such persons. 35 ILCS 636/5-10 and 5-15.

"Telecommunications," in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll and wide area telephone service; private line services; channel services; telegraph services; teletypewriter; computer exchange services; cellular mobile telecommunications service; specialized mobile radio; stationary two way radio; paging service; or any other form of mobile and portable one-way or two-way communications; or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber-optics, laser, microwave, radio, satellite or similar facilities. "Telecommunications" do not include "value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission." See 35 ILCS 630/2(a) and 2(c). If telecommunications retailers provide these services, the charges for each service must be disaggregated and separately stated from telecommunications charges in the books and records of the retailers. If these charges are not thus disaggregated, the entire charge is taxable as a sale of telecommunications.

"Gross charges" 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 materials used, labor or service costs or any other expense whatsoever. "Gross charges" do not include "charges for the storage of data or information for subsequent retrieval or the processing of data or information intended to change its form or content." See 86 Ill. Adm. Code 495.100(c).

If a person who originates or receives telecommunications in this State claims to be a reseller of such telecommunications, the person is required to apply to the Department for a resale number. The applicant must state facts which show the Department why the applicant is not liable for tax on his purchases. The act or privilege of originating or receiving telecommunications in this State cannot be made tax free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with a sale to such person. 35 ILCS 630/8.

If a person originating or receiving telecommunications in this State elects not to apply for a resale number, the act or privilege of originating or receiving telecommunications in this State by such person cannot be made tax free. If a reseller is purchasing telecommunications services from a retailer and has not provided the retailer with an active resale number, the retailer is responsible for collecting the tax from the reseller for calls originating or terminating in this State.

*Newton's Telecom Dictionary*, 23<sup>rd</sup> Edition, defines the "SLC," or subscriber line charge, as "[a] charge on the monthly bill of a phone subscriber in the United States, which produces revenues for the local exchange company. The money collected from subscriber line charge is used to compensate the local exchange company for a part of the cost of installation and maintenance of the telephone wire, poles and other facilities that link your home to the telephone network." Based on the description of the SLC contained in your letter and the definition in *Newton's*, the SLC is billed to customers by local exchange companies to recover the local exchange companies' cost of providing telecommunications services to customers. This charge is included in "gross charges" and subject to Telecommunications Excise Tax.

*Newton's* defines the "PICC," or primary interexchange carrier charge, as a "flat-rate charge which applies to presubscribed IXCs [interexchange carriers] connecting to the end user through LEC [local exchange company] facilities. ...While the LEC bills the end user directly for the SLC, it bills the IXC for the PICC." Based on the description of the PICC contained in your letter and the definition in *Newton's*, the PICC is billed to interexchange carriers by the local exchange companies to recover the local exchange companies' cost of providing telecommunications services to interexchange carriers, who are free to recover the cost from their customers. This charge is included in "gross charges" and subject to Telecommunications Excise Tax, unless an interexchange carrier provides a resale certificate for the telecommunications services purchased for resale from the local exchange company.

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  
Associate Counsel