

ST 17-0013-GIL 05/30/2017 MUNICIPALITIES

The corporate authorities of any municipality may tax persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of a municipality of 500,000 or fewer population, and not for resale, at a rate not to exceed 5% of the gross receipts therefrom. 65 ILCS 5/8-11-2.

May 30, 2017

Dear XXXX:

This letter is in response to your letter received February 21, 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 am requesting clarification on some excise taxes and what the CITY needs to do as far as imposing them.

According to 35 ILCS 615/2) (from Ch. 120, par. 467.17) It states a municipality can impose a 5% gas use tax. Is this for customers who purchase gas from the city and then distribute it? Or does this allow the city to impose a tax on the gas customers living in CITY?

Would a gas occupation tax be the same thing as above? Section 8-11-2 of Illinois Municipal code (65 ILCS 5/8-11-2). Would a municipality be allowed to impose this on the residents of CITY or would this tax be for a customer who purchases gas from the city then distributes it?

Last question pertains to 65 ILCS 5/8-11-3) (from Ch.24, par. 8-11-3) and the tax on cigarettes. Would the CITY be allowed to impose a .01¢ on cigarettes sold by retailers in the CITY? If so how would be enact that?

DEPARTMENT'S RESPONSE:

Gas Revenue Tax Act

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, 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 tax is imposed by the State and the funds deposited into the State Treasury. The Act does not authorize units of local government authority to impose a tax on persons engaged in the business of distributing, supplying, furnishing or selling gas to persons for use or consumption.

Illinois Municipal Code

The corporate authorities of any municipality may tax persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of a municipality of 500,000 or fewer population, and not for resale, at a rate not to exceed 5% of the gross receipts therefrom. 65 ILCS 5/8-11-2. The tax is imposed on the persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption, not the consumer of the gas. Persons engaged in such businesses are not prohibited by the Act from seeking reimbursement of the tax from their customers; however, customers' invoices should properly identify any amounts being recovered from the customers as reimbursements of the tax, not a tax.

Section 8-11-3 of the Municipal Code permits the corporate authorities of any municipality to tax persons engaged in the business of selling cigarettes at retail, at a rate of not exceeding one cent per package of 20 cigarettes and may provide for the administration, enforcement and collection of such tax. Variations and limitations may apply as described in Section 8-11-3.

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