

ST 18-0003-GIL 02/09/2018 GROSS RECEIPTS

The sale of cable and satellite programming services to subscribers is not a sale of tangible personal property and is not subject to the Retailers' Occupation Tax, Service Occupation Tax or Telecommunications Excise Tax. See 86 Ill. Adm. Code 130.101; 86 Ill. Adm. Code 140.101; 35 ILCS 630/3 and 630/4. (This is a GIL.)

February 9, 2018

Dear Mr. Xxxxx:

This letter is in response to your letter received January 11, 2018, 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 have enclosed a copy of my TV bill from COMPANY.
Please note item # 2 is called FEE.

I have been informed by COMPANY that the fee is in fact a tax by the state or local community.

Under the law in Illinois taxes are to be called tax and a fee is to be called a fee.

I am directing your office to enforce our laws and advise COMPANY they must list a tax as such a tax, and not a fee. By not doing so the taxpayer does not know to keep a record of such taxes for deduction purposes.

Your assistance in this matter will be greatly appreciated.

DEPARTMENT'S RESPONSE:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase. The retailers are then allowed to reduce the amount of Use Tax they must remit by the amount of Retailers' Occupation Tax liability which they are required to and do pay to the Department with respect to the same sales. See 86 Ill. Adm. Code 150.130.

Retailers' Occupation Tax and Use Tax do not apply to sales of service. Under the Service Occupation Tax Act, businesses providing services (*i.e.*, servicemen) are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.101.

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. 35 ILCS 630/3 and 630/4.

Retailers' Occupation Tax and Use Tax do not apply to the gross receipts received from the sale of cable television services or satellite television programming services because they are not sales of tangible personal property. Service Occupation Tax Act also does not apply because no tangible personal property is transferred incident to sales of these programming services. The Telecommunications Excise Tax Act does not apply to sales of satellite television programming either.

The FEE is not a fee imposed or administered by the State of Illinois, nor is the fee collected on behalf of the State. I suggest you contact your provider or visit the provider's website to obtain an explanation of the nature and purpose of the fee.

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

RSW:bkl