

This letter concerns the furnishing of financial information by the Department to municipalities pursuant to 35 ILCS 630/15. (This is a GIL.)

December 31, 2007

Dear Xxxxx:

This letter is in response to your letter dated May 23, 2007, 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 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 office has audited telecom tax collections from CLECs on behalf of municipalities in the State of Illinois. We have successfully collected taxes from non filing re-sellers on behalf of our clients. Our problem is that we can only collect taxes up until the year 2003 when the State undertook the collection of those taxes on behalf of the Municipalities. Our earlier inquiries to attempt to gather information from 2003 to date by IDOR have not been successful due to the lack of manpower to audit the many carriers that remit or should be remitting the municipal taxes.

We would like to obtain authority from the State to permit the municipality to request copies of the RT-2 form that each carrier should be filing with the State together with the payment of the taxes due the municipality. These are usually CLECs that do not know they are CLECs such as hotels, hospitals, Universities and others that sell telecom services to their clients as part of their general business. IDOR does provide an annual list to each municipality identifying each remitting carrier but IDOR is not able to go back to 2003 to provide the list for that year forward, only a current, updated list (as of August 2006) so we would not be able to tell what years, if any, the entity paid a telecom tax prior to 2006.

Are you able to provide the municipalities with a remedy? If the State would authorize the municipalities to require a carrier selling within the municipality to provide, on request, a copy of the RT-2 form filed, it would solve the problem.

Please advise what action can be taken to correct the problem.

DEPARTMENT'S RESPONSE:

Pursuant to the Simplified Municipal Telecommunications Tax Act, a municipality may impose a tax on the privilege of originating and receiving telecommunications, and on retailers engaged in the business of transmitting such telecommunications. 35 ILCS 636/5-5. Section 5-65 of the Simplified Municipal Telecommunications Tax Act incorporates by reference section 15 of the Telecommunications Excise Tax Act, which contains confidentiality provisions prohibiting the Department from releasing information received from returns filed under the Act except for official purposes. 35 ILCS 630/15. The furnishing of financial information by the Department to a municipality that has imposed a tax under the Simplified Municipal Telecommunications Tax Act, upon request of the chief executive officer of the municipality, is an official purpose. Municipalities may enter into information exchange agreements with the Department to obtain confidential information. The information provided under those agreements must be kept confidential by those municipalities. Municipalities wishing to enter into such agreements should contact the Department's Audit Division.

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. 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,

Richard S. Wolters
Associate Counsel

RSW:msk