

The purchase price on which a self assessing purchaser must pay tax under the Electricity Excise Tax Law includes charges for transmission or any other service related to the sale or delivery of the electricity. See 35 ILCS 640/2-4(a) and 86 Ill. Adm. Code 511.110(c). (This is a GIL.)

December 17, 2008

Dear Xxxx:

This letter is in response to your e-mail dated August 19, 2008, 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:

I have a client that is trying to figure out if they are better off reregistering for self-assessing the state's electric excise tax or just letting their electricity provider bill them directly for the tax.

The question arises as to what charges on the invoice constitute charges for (as the statute requires) '...electricity distributed, supplied, furnished, sold, transmitted, or delivered.' (For instance there are separate *transmittal* charges on the bill, but is this the same as a charge for electricity that is transmitted?)

The exact items on an electrical bill (for an industrial concern) which I am questioning are as follows:

- UCAP Requirement - (This is a situation in which the company has purchased the electricity from ABC, but it is transmitted over XYZ lines.) This particular charge on the invoice is for the ABC power sent over XYZ lines (not a charge for the power itself from ABC, just a charge for transmitting such power); my question is if this charge is subject to the 5.1% self assessment tax.
- Distribution Facilities Charge - This is a charge for distribution of the power from XYZ lines to the power intake of the industrial customer; again, my question is if this particular charge is included in the self-assessed base subject to the 5.1% rate?

## DEPARTMENT'S RESPONSE:

We cannot provide you with a specific answer to your question in the context of a General Information Letter and without reviewing the contractual arrangement between the parties. However, the general information provided below may assist you in answering your questions.

Electricity Excise Tax is imposed on self-assessing purchasers at the rate of 5.1% of the self-assessing purchaser's purchase price for all electricity distributed, supplied, furnished, sold, transmitted and delivered to the self-assessing purchaser in a month. See subsection (a) of Section 2-4 the Electricity Excise Tax Law. The definition of "purchase price" under the Electricity Excise Tax Law is set out in subsection (d) of Section 2-3, 35 ILCS 640/2-3(d), as follows:

(d) "Purchase price" means the consideration paid for the distribution, supply, furnishing, sale, transmission or delivery of electricity to a person for non-residential use or consumption (and for both residential and non-residential use or consumption in the case of electricity purchased from a municipal system or electric cooperative described in subsection (b) of Section 2-4) and not for resale, and for all services directly related to the production, transmission or distribution of electricity distributed, supplied, furnished, sold, transmitted or delivered for non-residential use or consumption, and includes transition charges imposed in accordance with Article XVI of the Public Utilities Act and instrument funding charges imposed in accordance with Article XVIII of the Public Utilities Act, as well as cash, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service costs, or any other expense whatsoever. However, "purchase price" shall not include consideration paid for:

- (i) any charge for a dishonored check;
- (ii) any finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;
- (iii) any charge for reconnection of service or for replacement or relocation of facilities;
- (iv) any advance or contribution in aid of construction;
- (v) repair, inspection or servicing of equipment located on customer premises;
- (vi) leasing or rental of equipment, the leasing or rental of which is not necessary to furnishing, supplying or selling electricity;
- (vii) any purchase by a purchaser if the supplier is prohibited by federal or State constitution, treaty, convention, statute or court decision from recovering the related tax liability from such purchaser; and
- (viii) any amounts added to purchasers' bills because of charges made pursuant to the tax imposed by this Law.

In case credit is extended, the amount thereof shall be included only as and when payments are made.

"Purchase price" shall not include consideration received from business enterprises certified under Section 9-222.1 or 9-222.1A of the Public Utilities Act, as amended, to the extent of such exemption and during the period of time specified by the Department of Commerce and Economic Opportunity.

Nonresidential taxpayers under the Electricity Excise Tax Law may elect to become self-assessing purchasers on their electricity accounts. 35 ILCS 640/2-10. Upon proper application and payment of a non-refundable \$200 biennial fee, the self-assessing purchasers are issued certificates

of registration that permit those persons to whom they are issued to pay the tax incurred under the Electricity Excise Tax Law directly to the Department for a period of 2 years. The State tax rate for a self-assessing purchaser is 5.1% of the self-assessing purchaser's purchase price for all electricity distributed, supplied, furnished, sold, transmitted and delivered to the self-assessing purchaser in a month. See 35 ILCS 640/2-4(a) and 86 Ill. Adm. Code 511.110(c).

The purchase price on which a self assessing purchaser must pay tax under the Electricity Excise Tax Law includes charges such as transmitting the electricity over the lines as well as charges for distributing the electricity to the self assessing purchaser. We cannot provide you with information about the specific "transmittal" charges you reference without further information. However, in general, if the charge is for transmission or any other service related to the sale or delivery of the electricity, that charge would be included as part of the purchase price subject to tax.

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.

Sincerely,

Samuel J. Moore  
Associate Counsel

SJM:msk