

A person that operates an EV charging station selling electricity at retail to consumers is the last supplier engaged in delivering electricity is the delivering supplier for purposes of the Law. Such persons must register with the Department and collect and remit the Electricity Excise Tax to the Department based on kilowatt-hours used or consumed by customers. 35 ILCS 640. (This is a GIL.)

October 10, 2023

NAME
COMPANY
ADDRESS

Dear NAME:

This letter is in response to your email dated September 27, 2023, 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 NAME, President/CEO of the COMPANY. I saw in a 2021 GIL ([ST-21-0040](#)), that it is the Department's position that a person that operates an electric vehicle charging station selling electricity must register with the Department and collect and remit the Electricity Excise Tax. Since the electric cooperative would typically collect and remit the Electricity Excise Tax for power received from the electric cooperative, I want to make sure that electric cooperatives are handling this tax appropriately.

1. Since an EV charging station must collect and remit the Electricity Excise Tax, please confirm that an electric cooperative should not collect and remit the tax. Otherwise, the tax would apparently be collected twice.
2. In the event that the EV charging station does not collect and remit the Electricity Excise Tax, are there any consequences

for the electric cooperative that provided the electricity to the EV charging station?

3. Assuming that only the EV charging station should collect and remit the Electricity Excise Tax—and not the electric cooperative—is there anything the electric cooperative must inquire about, verify, and/or keep for records? For example:
 - a. Must the electric cooperative receive a Certificate of Resale (CRT-61) from the EV charging station?
 - b. Must the electric cooperative check IDOR's "Verify a Registered Business" website that the EV charging station is active for the electricity excise tax?
4. Does it matter if the EV charging station charges based on the amount of time the EV is there, not amount of kWh?

Thank you very much for your time and response,

DEPARTMENT'S RESPONSE:

The Electricity Excise Tax Law imposes a tax on the privilege of using in this State electricity purchased for use or consumption. 35 ILCS 640/2-4; 86 Ill. Adm. Code 511.110. The tax must be collected from the purchaser, other than a self-assessing purchaser, by any delivering supplier maintaining a place of business in this State. 86 Ill. Adm. Code 511.200. "'Delivering supplier' means any person engaged in the business of delivering electricity to persons for use or consumption and not for resale who, in any case where more than one person participates in the delivery of electricity to a specific purchaser, is the last of the suppliers engaged in delivering the electricity prior to its receipt by the purchaser." 86 Ill. Adm. Code 511.100.

All sales to a purchaser are presumed subject to tax collection unless the Department notifies the delivering supplier that the purchaser has been registered as a self-assessing purchaser. Delivering suppliers shall collect the tax from purchasers by adding the tax to the amount of the purchase price received from the purchaser for delivering electricity for or to the purchaser. Where a delivering supplier does not collect the tax from a purchaser, other than a self-assessing purchaser, such purchaser shall pay the tax directly to the Department. 35 ILCS 640/2-7; 86 Ill. Adm. Code 511.200.

A company selling electricity to a person operating an electric vehicle (EV) charging station is making a sale for resale and is not responsible for collecting and

remitting the tax. A person that operates an EV charging station selling electricity at retail to consumers is the last supplier engaged in delivering electricity is the delivering supplier for purposes of the Law. Such persons must register with the Department and collect and remit the Electricity Excise Tax to the Department based on kilowatt-hours used or consumed by customers. See ST 21-0400-GIL (Sept. 17, 2021).

To document that a sale to a purchaser is a sale for resale, a company is obligated by Illinois to obtain a valid Certificate of Resale from the purchaser. A Certificate of Resale is a statement signed by the purchaser that the property purchased is purchased for purposes of resale. In addition to the statement that the property is being purchased for resale, a Certificate of Resale must contain:

- 1) the seller's name and address;
- 2) the purchaser's name and address;
- 3) a description of the items being purchased for resale;
- 4) the purchaser's signature, or the signature of an authorized employee or agent of the purchaser, and date of signing; and
- 5) the purchaser's registration number.

Retailers generally are not required to verify that their purchasers resell the product and may accept a Form CRT-61, Certificate of Resale or a Certificate of Resale that complies with the foregoing requirements. However, sellers do have an obligation to exercise good faith when accepting Certificates of Resale from purchasers.

The registration number issued by the Department is a mechanism that enables a seller to ascertain that the customer is properly registered with the Department. This mechanism ensures that tax due on sales to consumers will be subsequently paid. If a seller fails to ensure that the purchaser is properly registered with the Department, the Department can look to the seller for the tax. See *Tri-American Oil Company v Department of Revenue*, 102 Ill. 2d 234, 238 (1984).

If a seller has a question about the validity of a registration number that is submitted to it on a Certificate of Resale, it can inquire about the number by using "Verify a Registered Business" on the Department's website. It has been held proper for the Department to disallow a Certificate of Resale that contains inaccurate information in the form of an inactive or discontinued registration number. See *Rock Island Tobacco v Department of Revenue*, 87 Ill. App. 3d 476, 478 (1980).

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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