

**TAX TIPS FOR
PUBLIC UTILITY TAXES
ELECTRICITY, NATURAL GAS TRANSMISSION COMPANIES,
TELEPHONE AND TELEGRAPH COMMUNICATION SERVICES,
CABLE TELEVISION COMMUNICATION SERVICES
DOING BUSINESS IN DELAWARE**

Things You Should Know

Definitions, 30, *Del. C., Ch 55*

A public utility includes the following commodities and services: **electricity** distributed for any heat, light or power use; **gas** (except liquefied gas) piped from a distribution center to the consumer or user; **intrastate telephone** and **telegraph communication services**; and **cable television communication services**. All of these commodities and services are included whether distributed directly by the distributor or to the consumer within this State or distributed through an intermediary. **Gas or electric** is a public utility whether distributed to a consumer or user within this State by a distributor, either directly or through an intermediary or by a transmission company.

"Distributor" includes any company, corporation, municipality, partnership, firm, association, cooperative or any person or group of persons which supplies any public utility for sale to ultimate consumers or users within this State, whether, in the case of gas, the gas is supplied through a distributor's own or a transmission company's facilities.

"Transmission Company" includes any company, corporation, municipality, partnership, firm, association, cooperative or any person or group of persons owning, leasing or controlling property or fixtures to property within this State used for the transmission, transportation or distribution of gas or electric.

"Gas" means natural gas which is further defined as a naturally occurring gaseous mixture of hydrocarbons and non-hydrocarbons, the principal constituent of the gaseous mixture being methane.

Gross Receipts

Gross receipts includes total consideration received by the distributor for commodities or services sold, distributed, produced or supplied within this State to ultimate consumers or users. Consideration for goods sold or services rendered includes cash, checks, credit cards, gift certificates, travelers checks, money orders, barter, trade-ins, manufacturer's coupons and rebates and any other consideration of any kind.

Tax on the Sale of Public Utilities

Telephone and Telegraph Commodities

A tax at the rate of 5.0% is imposed upon all intrastate telephone and telegraph commodities and services distributed within this State by the distributor. The tax is based on the sales price or tariff charge paid for such commodities and services. Interstate telephone and telegraph commodities and services are exempt. The tax is imposed on the consumer or user of such commodities and services.

Gas, Electric and Cable Television

A tax (see table below) is imposed upon the distributor of gas, electric and cable television commodities and services sold, distributed, produced or supplied within this State to the ultimate

consumer. The tax is imposed on the distributor, and the distributor is permitted to pass the tax on to the consumer of such commodities and services.

Tax Rates

- Intrastate telephone & telegraph commodities - 5.0% of the sale price or tariff charge
- Distributor of gas, electricity - 4.25% of the gross receipts or tariff charges
- Distributor of electricity and gas to persons - 2.0% of the gross receipts or tariff charges engaged in manufacturing, food processing, agribusiness processing or the hatching of chickens in conjunction with either food processing or the hatching of chickens.
- Cable television communications - 2.125% of the gross receipts or tariff charges
- Use tax on consumption of gas - 4.25% (2.0% if used in manufacturing)

Exemptions

- Sales of gas and electric purchased for resale.
- Sales of appliances and other equipment provided such sales are included in the gross receipts as a wholesaler or retailer.
- Commodities and services furnished to this State, the United States, or to any of their instrumentalities, agencies (including public school districts, Delaware State University, and Delaware Technical and Community College), or political subdivisions; Delaware Transportation Authority and Delaware Housing Authority; University of Delaware; and Delaware Solid Waste Authority.
- Consumption of gas, electric, telegraph and telephone commodities by residential consumers and users.
- Consumption of gas and electric for a period of 36 months by a debtor in possession in a reorganization proceeding under Chapter 11 of the United States Bankruptcy Court.
- Consumption of electricity used in electrolytic or electroarc thermal or air separation or automobile manufacturing. "Automobile manufacturing" means the assembly of automobiles and excludes the administrative operations of an assembly plant and the manufacture of component parts of an automobile outside an automobile assembly plant. Effect 1/1/2000, gas consumed in automobile manufacturing is exempt from the public utility tax.

Due Dates of Returns

The public utility taxes collected by the distributor for any calendar month are payable on the 20th day of the month following the collection of such taxes.

Gas or Electric Transmission Companies, Use Tax on Gas or Electric Consumption

Whenever gas or electric is delivered within this State by a transmission company who is not a distributor within this State, the tax imposed by Chapter 55, 30 Del. C., shall be on the use of the gas and paid by the consumer or user at the same rate as if the gas were delivered by an in-state distributor. The tax is required to be paid by the consumer or user of the gas or electric if the gas or electric is received from a distributor who does not report and remit the tax and the tax would have been imposed by this Chapter had the gas or electric been delivered from an in-state distributor to a consumer or user within this State.

Whenever gas or electric is delivered by a distributor who does not report and remit the tax on such gas or electric and the tax would have been imposed if delivered by an in-state distributor to a consumer or user within this State, the consumer or user shall pay the tax due required by this Chapter to the Division of Revenue within twenty (20) days after the end of the calendar month in which the consumer or user first receives a statement from the out of state distributor setting forth the amount charged for such gas or electric purchased during the preceding calendar month.

Form 5502(b)(3) [available on the internet] must be completed by the transmission company to report to the Division of Revenue all deliveries of gas through the transmission company's line from the out of state distributor to the consumer or user within this State. Form 5502(b)(3) is required to be filed with the Division of Revenue by the 15th day of each month with respect to gas transmitted from the out of state distributor to the consumer or user within this State for the immediately preceding month. The transmission company must include with the consumer's monthly billing notification of the requirement for the consumer or user to pay Public Utility Tax directly to the Delaware Division of Revenue on gas purchased from an out of state distributor.

Regulatory and Local Requirements

The Business License Issued by the Division of Revenue is not a regulatory license and the issuance of such license does not attest to the qualifications of the applicant to perform the activity described on such license. To register with the Division of Revenue and obtain a business license, please complete a Combined Registration Application, available on the Internet, and mail to the Division of Revenue with the appropriate fee. Many local jurisdictions have requirements for a business license and may have restrictions concerning the locations of conducting the referenced business activity. Please check with the local government office in the town, city or county in which you will conduct your business.

The State of Delaware also has a Division of Professional Regulations. Many occupations and some types of equipment have regulatory requirements. Please contact the Division of Professional Regulation for more information.

General

If you have any questions, please contact one of the following offices

<i>Wilmington</i>	<i>Dover</i>	<i>Georgetown</i>
Division of Revenue Carvel State Office Building 820 North French Street Wilmington DE 19801 (302) 577-8205	Division of Revenue Thomas Collins Building 540 South DuPont Highway Suite 2 Dover DE 19901 (302) 744-1085	Division of Revenue Suite 2 422 North DuPont Highway Georgetown DE 19947 (302) 856-5358

or Cheryl Taylor at: cheryl.taylor@state.de.us (302) 577-8667