



October 7, 2003 (Reissued October 8, 2008)
Pennsylvania Sales and Use Tax
No. SUT-03-052
Inclusion of Gross Receipts Tax
and PUC Fee in Purchase Price

ISSUE

Whether separately stated utilities gross receipts tax and PUC fees charges made in conjunction with the sale of taxable electricity are included in the taxable purchase price for Pennsylvania Sales and Use Tax purposes.

CONCLUSION

Separately stated gross receipts tax and PUC fees charges made in conjunction with the sale of taxable electricity are included in the taxable purchase price.

FACTS

Taxpayer sells electricity in Pennsylvania to commercial and industrial businesses as an electric generation supplier. In addition to the charge for the electricity, the Taxpayer separately states the following taxes and fees on its customer invoice:

1. Utilities Gross Receipts Tax
2. Public Utilities Commission Fees
3. Sales Tax

DISCUSSION

Section 201(g)(1) of the Tax Reform Code of 1971, 72 P.S. § 7201(g)(1), defines "purchase price" in part, as follows:

The total value of anything paid or delivered, or promised to be paid or delivered, whether it be money or otherwise, in complete performance of a sale at retail or purchase at retail, as herein defined, without any deduction on account of the cost or value of the property sold, cost or value of transportation, cost or value of labor or service, interest or discount paid or allowed after the sale is consummated, any other taxes imposed by the Commonwealth of Pennsylvania or any other expense except that there shall be excluded any gratuity or separately stated deposit charge for returnable containers.

Regulation Section 33.2, 61 Pa. Code § 33.2, interpreting the above-cited statutory provision, provides in pertinent part, as follows:

(a) Taxable portion of purchase price. Amounts included in the taxable portion of the purchase price include:

- (1) *Property or service.* The charge for the property or service.
- (2) *Delivery costs.* The charge for handling, delivery or other transportation services, including mailing costs.

- (3) *Labor and installation services.* The charge for labor, service or alteration.
- (4) Taxes. The charge for taxes imposed by the Commonwealth.
- (5) *Restocking.* The charges for restocking in connection with the return of merchandise.
- (6) Amounts representing costs to vendor. Charges, whether or not separately stated, representing reimbursement to the vendor for expenses paid by the vendor, such as manufacturer's excise tax, gross receipts tax, fuel adjustment charges, mercantile tax, insurance, meals, lodging, mileage or similar expenses.
- (7) Miscellaneous. Other charges which are not exempt from tax. (Emphasis added.)

Both the statute and the regulation define "purchase price" very broadly. Assuming the sale of the electricity is subject to tax, the taxable purchase price includes the charges for both the utilities gross receipts tax and the PUC fees for sales and use tax purposes.