



February 3, 2015

City of Chicago  
Rahm Emanuel, Mayor

Department of Law

Stephen R. Patton  
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Revenue Litigation Division  
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Re: Application of Gross Receipts Tax Under Chi. Muni. Ord. 3-40-040



I am writing in response to your letter of January 23, 2015 (copy attached), requesting guidance on behalf of [REDACTED] as to the proper treatment of sales of [REDACTED] as an alternative [REDACTED] for use within the City of Chicago ("City") limits under the Gas Occupation Tax, Section 3-40-040 of the Chicago Municipal Code (the "Code").

Based on the facts as represented in your letter, we agree with your conclusions, as drawn from the advice of the City's Department of Finance Audit Supervisor. Specifically, a customer purchasing [REDACTED] will pay the Gas Use Tax, Section 3-41-030 of the Code, on the number of therms purchased, which will be collected by the local utility. That same customer will pay the pass-on of the Gas Occupation Tax on the amount charged by the local utility for delivery of the gas.

This opinion is based on the law as of the date of this letter and the facts as represented in your letter.

Please let us know if you have questions or need anything further.

Very truly yours,

Weston Hanscom  
Deputy Corporation Counsel  
Revenue Litigation Division  
Department of Law  
312-744-9077

cc: Joel Flores, Department of Finance  
Kim Cook, Department of Law



[REDACTED]

January 23, 2015

RCVD  
1-28-15  
BC

City of Chicago  
Department of Finance  
Tax Audit Division  
333 S. State Street – Room 300  
Chicago, IL 60604

RE: Application of Gross Receipts Tax under Chi. Mun. Ord. 3-40-040

Dear Sir or Madam:

[REDACTED] requests guidance on the proper treatment of sales of natural gas by an Alternative Gas Supplier for use within the Chicago city limits, under Chi. Mun. Ord. 3-40-040. The code states "The City of Chicago imposes an 8.0% gross receipts tax on persons engaged in distributing, supplying, furnishing or selling gas for use within the city limits."

[REDACTED] has received certification from the Illinois Commerce Commission to serve as an Alternative Gas Supplier. [REDACTED] [REDACTED] [REDACTED] supplies natural gas to residential and small commercial customers located in the Peoples Gas and North Shore Gas ("the local utilities") service territories, through these local utilities' respective distribution systems. The natural gas is transported into Illinois through a pipeline. [REDACTED] obtains title of the natural gas from the respective local utility at the "City Gate." The local utilities bill the customers for the delivery of natural gas. [REDACTED] charges for the supply of natural gas are billed by the local utilities on [REDACTED] behalf. The local utilities charge the Chicago gas use tax, based on therms, to our shared customers.

[REDACTED] marketing strategy is a multi-level marketing concept. A separate entity, [REDACTED] incentivizes consultants to sign up electric and natural gas customers for service with [REDACTED]. These consultants operate with no specific direction or control from [REDACTED]. They are not employees of either entity. Neither [REDACTED] directly advertises for either consultants or customers anywhere in the State of Illinois.

A representative of our company spoke to a city audit supervisor for clarification on how the city's Gross Receipts Tax (also referred to as Occupation Tax) applies to [REDACTED]. They reported that in practice, a consumer purchasing gas from an alternative supplier would pay the occupation tax, but only on the delivery charges made by the local utility, as well as the gas use tax on the number of therms delivered.



[REDACTED]

Although the supervisor staff cannot officially bind the city tax department, their stance is that they likely would not seek the occupation tax from an alternative supplier, unless the supplier had nexus with the city, and the utility did not collect the gas use tax from the consumer.

The language in the code is not sufficient for us to determine whether [REDACTED] is liable for the Gross Receipts Tax. If the audit supervisor's statement is correct, then [REDACTED] would not be liable, as the local utilities do bill the gas use tax on our behalf and [REDACTED] does not have nexus in the city.

[REDACTED] is respectfully requesting a written response offering guidance on whether the [REDACTED] [REDACTED] in the City of Chicago are subject to the Gross Receipts Tax defined in Chi. Mun. Ord. 3-40-040.

Regards,

[REDACTED]