

Utilities Sales Tax Rates and Taxability

Welcome to Utilities Sales Tax Rates and Taxability

This bulletin provides important information about the April 2024 release of Utilities Sales Tax Rates and Taxability. Please review this bulletin carefully. If you have any questions, additional information is available on CCH [Support Online](#).

Updates to Current Utilities Database – System Changes Effective April 2024

Changes to the Tax-on-Tax Rules Associated with the Connecticut Gross Receipts Tax

UPDATE #1

Among the taxes covered in our Utilities database is the Connecticut Gross Receipts Tax levied upon energy providers (as captured by Tax Types 28/71, 28/72, 28/88 & 28/89).

To quote the statutory provisions that establish this tax:

“(1) Prior to July 1, 2022, each (A) municipality, or department or agency thereof, or district manufacturing, selling or distributing gas to be used for light, heat or power, (B) company the principal business of which is manufacturing, selling or distributing gas or steam to be used for light, heat or power, including each foreign electric company, as defined in section 16-246f, that holds property in this state, and (C) company required to register pursuant to section 16-258a, shall pay a quarterly tax upon gross earnings from such operations in this state.

(2) On and after July 1, 2022, each company described under subparagraphs (B) and (C) of subdivision (1) of this subsection shall pay a quarterly tax upon gross earnings from such operations in this state.

(3) Gross earnings after July 1, 2022, from such operations under subparagraph (B) of said subdivision, shall include, as determined by the Commissioner of Revenue Services,

(A) all income included in operating revenue accounts in the uniform systems of accounts prescribed by the Public Utilities Regulatory Authority for operations within the taxable quarter and, with respect to each such company,

(B) all income identified in such uniform systems of accounts as income from merchandising, jobbing and contract work,

(C) all revenues identified in such uniform systems of accounts as income from nonutility operations,

(D) all revenues identified in such uniform systems of accounts as nonoperating retail income, and

(E) receipts from the sale of residuals and other byproducts obtained in connection with the production of gas, electricity or steam.”¹

Prior to this month’s release, our database reflected that the Connecticut Gross Receipts Tax was not included within its own revenue base for purposes of the calculation of tax-on-tax.

¹ Connecticut General Statutes § 12-264(a).

However, pursuant to a quality assurance review of governing sources of law, it is now our fresh understanding that it is indeed the policy of the Connecticut Department of Revenue Services to require that a recovery charge for the Connecticut Gross Receipts Tax be added back into the revenue base of that same tax (i.e., by reason of analogy).

To quote a relevant excerpt from a Notice published by the Connecticut Department of Revenue Services which illustrates this rule:

“Gross earnings tax.

The legal incidence of the gross earnings tax is on satellite companies, not their subscribers. While a satellite company is not prohibited from passing the economic burden of the tax on to its subscribers, a satellite company may not misrepresent on whom the law imposes the tax. Should a satellite company choose to pass the economic burden of the gross earnings tax to its subscribers (and to identify the burden as such), "reimbursement for gross earnings tax" will be acceptable to DRS as not misrepresenting on whom the law imposes the tax.

However, any separately identified charge for the gross earnings tax is includible in a satellite company's gross earnings for gross earnings tax purposes.

Example: A satellite company bills a subscriber \$40.00 for monthly satellite television services and adds a separately identified charge of \$2.00 as reimbursement for gross earnings tax. The amount of the satellite company's gross earnings for gross earnings tax purposes is \$42.00.”²

Please note that although the tax that was the subject of this Special Notice (i.e., the Gross Earnings Tax imposed upon Satellite Companies) is not the exact same tax as the Connecticut Gross Receipts Tax levied upon energy providers, our tax team firmly believes that there is enough similarity between the two taxes [insofar as (A) both taxes are imposed upon the provider rather than the consumer & (B) both taxes are measured by a provider's gross receipts] that the same tax-on-tax rule would apply.

Accordingly, effective with the upcoming April 2024 product release, we are modifying our database to reflect that the Connecticut Gross Receipts Tax levied upon energy providers (as captured by Tax Types 28/71, 28/72, 28/88 & 28/89) is included within its own revenue base for purposes of the calculation of tax-on-tax.

UPDATE #2

In addition, prior to this month's release, our Utilities database did not reflect that the Connecticut Gross Receipts Tax was included within the revenue base of Connecticut Sales Tax.

However, pursuant to a quality assurance review of the same Connecticut DRS Special Notice referenced above, it is now our fresh understanding that it is indeed the tax policy of the Connecticut DRS to require that a recovery charge for the Connecticut Gross Receipts Tax be included within the revenue base of Connecticut Sales Tax (i.e., by reason of analogy).

To quote the relevant excerpt from the Notice which illustrates this rule:

“Expenses of a satellite company (such as the gross earnings tax) that are passed to subscribers are part of the sales price of the services on which sales tax must be collected by the satellite company.

Example: A satellite company bills a subscriber \$40.00 for monthly satellite television services; and adds a separately identified charge of \$2.10 as reimbursement for gross earnings tax. The satellite company must also collect and bill the 6% sales tax on \$42.10 from the subscriber (\$42.10 multiplied by 6% = \$2.53).

Therefore, the total bill to the subscriber is \$44.63 (\$42.10 + \$2.53).”

² Connecticut Department of Revenue Services Special Notice 2003(15) (2003 Conn. Tax LEXIS 43) [Released October 15, 2003].

Accordingly, effective with the upcoming April 2024 product release, we are modifying our database to reflect that the Connecticut Gross Receipts Tax levied upon energy providers (as captured by Tax Types 28/71, 28/72, 28/88 & 28/89) is included within the revenue base of Connecticut Sales Tax (as captured by Tax Types 01/01 & 01/89).

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