

**Revenue Ruling
No. 13 - 001
January 29, 2013
Inspection and Supervision Fees**

Public Utility Cooperatives – Inspection and Supervision Fees

The purpose of this Revenue Ruling is to determine the composition of gross receipts for the purpose of calculating the Inspection and Supervision Fees that are assessed on electrical cooperatives. In addition, this Revenue Ruling will seek to determine whether the standard statute of limitations applies to any additional liabilities that might result from a misinterpretation of the definition of gross receipts on the part of electrical cooperatives.

It has recently come to the Department of Revenue's attention that several Louisiana electrical cooperatives might have under paid their Inspection and Supervision Fees. This under payment may have come about due to the misinterpretation of the definition of gross receipts by the electrical cooperatives.

Composition of Gross Receipts for Inspection and Supervision Fee Purposes

According to La. R.S. 45:1177(A)(1),

“Each ... public utility doing business in Louisiana and subject to control and jurisdiction of the commission shall pay to the state a fee for the inspection, control, and supervision of the business service and rates of such ... public utility, in addition to any and all property, franchise, license, and other taxes, and fees and charges now or hereafter fixed, assessed, or charged by law against such ... public utility. The amount of the fees shall be measured by the gross receipts of each public utility from its Louisiana intrastate business ...”

The statute does not per se define gross receipts. However, La. R.S. 45:1179 provides further guidance by stating,

“The collector of revenue shall supervise and enforce the collection of the inspection and supervision fee under the provisions of R.S. 45:1177 and 45:1178 and in assessing the annual fee, the sworn annual statements filed with the commission shall be used to ascertain the amount of the gross revenues upon which the fee is to be computed.”

Finally, while not specifically on point, La. R.S. 47:1003(11)(a) provides some guidance in that it defines “gross receipts” for purposes of the tax on transportation and communications utilities to mean “the total amount of billings for services rendered and all receipts from business beginning and ending within the state ...”

Keeping the above statutes in mind, allows us to come to the conclusion that for public utilities, gross receipts can be defined as the total intrastate revenues received by the public utility.

A Revenue Ruling is issued under the authority of LAC 61III.101 (C). A Revenue Ruling is written to provide guidance to the public and to Department of Revenue employees. It is a written statement issued to apply principles of law to a specific set of facts. A Revenue Ruling does not have the force and effect of law and is not binding on the public. It is a statement of the department's position and is binding on the department until superseded or modified by a subsequent change in statute, regulation, declaratory ruling, or court decision.

Upon further examination of La. R.S. 45:1177(A)(1), it can be seen that no distinction is made for non-jurisdictional business of the public utility. As such, all intrastate revenues of the public utility should properly be included in the calculation of inspection and supervision fees.

Applicability of the Standard Statute of Limitations

According to the Louisiana Constitution, Article 7, Section 16, “Taxes, except real property taxes, and licenses shall prescribe in three years after the thirty first day of December in the year in which they are due, but prescription may be interrupted or suspended as provided by law.”

Conclusion

The statutes shown above concerning gross receipts can be seen as being entirely consistent as they all require gross receipts to essentially encompass all gross revenues of the public utility from its Louisiana intrastate business. It is clear that in the statutes shown above the terms “gross receipts” and “gross revenues” are being used interchangeably. As such, the use of “gross revenues” as the basis for calculating inspection and supervision fees for electrical cooperatives is appropriate.

The absence of any reference to a different treatment for inspection and supervision fees in regards to the standard statute of limitations found in the Louisiana Constitution suggests that such fees should not receive any special treatment. As such, the three year prescriptive period found in Article 7, Section 16 of the Louisiana Constitution would apply to inspection and supervision fees, in keeping with other state taxes and fees.

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