

Revenue Ruling No. 22-004
December 6, 2022
Sales Tax

Sales of Electricity at Charging Stations for Electric Vehicles

Purpose

The purpose of this ruling is to provide for the state sales tax treatment of electricity sold to drivers of electric vehicles at charging stations in Louisiana.

Law

Louisiana state sales and use tax is imposed in LA R.S. 47:302, 321, 321.1 and 331.1. Sales and use tax is imposed on the sales at retail, the use, the consumption, the distribution, and the storage for use or consumption in this state. Sales and use tax applies to retail sales as well as the use, lease or rental of tangible personal property.

LA R.S. 47:301(16)(a) defines “tangible personal property” as personal property which may be seen, weighed, measured, felt or touched, or is in any other manner perceptible to the senses. LA R.S. 47:301(10)(a)(i) defines a “retail sale” as a sale to a consumer or to any other person for any purpose other than for resale as tangible personal property. LAC 61.I.4301 identifies utilities such as electricity as one of many examples of tangible personal property.¹

Article VII, Section 2.2(B)(2) of the 1974 Louisiana Constitution excludes the sale of utilities, such as electricity, from state sales and use tax when the electricity is furnished to single, private residences. Additionally, LA R.S. 47:305(D)(1)(d) exempts sales of electric power, energy, any materials or energy sources used to fuel the generation of electric power for resale or used by an industrial manufacturing plant for self-consumption or cogeneration. This statute, typically, exempts these sales of electricity from state taxation.

LA R.S. 47:321(P)(110), 321.1(I)(110) and 331(V)(110) include the exemption of business utilities found in LA R.S. 47:305(D)(1)(d) on the exclusive list of exemptions and exclusions that are in operation from July 1, 2018, until June 30, 2025. This exemption is not included in the exclusive list found in LA R.S. 47:302(PP), resulting in the business purchase or use of electricity being subject to sales and use tax at the rate of 2%.

Sales price is defined in LA R.S. 47:301(13)(a) as the total amount, including cash, credit, property, or services, that is received or paid for the sale of tangible personal property. Any part of the sales price that is related to costs incurred by the vendor to bring the product to

¹ LAC 61:I:4301 *Tangible Personal Property*(a)(iii)

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market or make the product available to customers becomes part of the tax base and is subject to sales tax even if a separate charge is made on the invoice.

Facts and Analysis

Electric vehicles are powered by an electric motor instead of the traditional internal combustion engine, commonly powered by gasoline. The electric motor is powered by a large traction battery pack that must be charged by being plugged into a wall outlet or charging equipment.

The increased use of electric vehicles has created a demand for more charging stations, where drivers of electric vehicles have the ability to recharge their cars in the same manner that owners of traditional cars fill up at the gas station. When electric vehicle drivers charge their vehicles, the amount of electricity used is measured by the length of time of the charge (typically per minute), or by the amount of electricity used which is measured in units of kilowatts per hour (kWh). Retailers normally charge a specific cost per minute or kilowatt-hour.

Tax Treatment of Sales of Electricity at Charging Stations

Louisiana statutes and regulations consider electricity tangible personal property capable of being sold at retail and subject to sales and use tax. Consumers purchasing electricity at charging stations are responsible for paying sales tax on these purchases.

The sale of electricity is not subject to sales tax when the electricity is being furnished to a single, private residence. Business purchases of electricity are taxed at a lower rate of 2% instead of the full state sales tax rate of 4.45%. Electricity purchased at a charging station is not being purchased for residential use, nor is it being purchased as a business utility. For these reasons, the constitutional exclusion and statutory exemption regarding sales of electricity do not apply.

Electricity at charging stations is being sold to a final consumer for personal use, similar to any other retail sale of tangible personal property. The method of measurement, either in units of time or in units of electricity does not change the taxability of the transaction.

Idle Time Fees

In some instances, an owner of a car charging station may charge an additional fee for “idle time.” Idle time is when an electric vehicle has been fully charged but is still plugged in to the charging station. Station owners may charge a fee such as forty cents per minute after a ten-minute grace period in order to encourage vehicle owners to remove vehicles once their charging is complete and free the space for another customer.

Charges for idle time have no connection to the sale of the electricity and are not subject to sales tax. Sales price consists of the total amount paid for the sale of tangible personal property and includes the cost of everything required to bring the product to market. The charge for idle time does not help produce the electricity and is completely avoidable if the

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customer disconnects their vehicle from the charging station promptly after charging. Additional fees for things such as “idle time” should be separately stated and not included in the calculation of sales tax.

Ruling

Sales of electricity to consumers charging their cars at charging stations are subject to state sales tax. The electricity is tangible personal property being sold at retail. The owner of the charging station may purchase electricity without paying tax as a sale for resale. Additional fees for idle time are not subject to state sales tax, if separately stated.

Questions concerning this publication may be submitted by email to Policy.Publications@la.gov.

Kevin J. Richard, CPA
Secretary

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