

STATE OF DELAWARE
DEPARTMENT OF FINANCE

DIVISION OF REVENUE
DIRECTOR'S RULING 71-14

December 15, 1971

SUBJECT: Public Utilities Tax

A number of persons have raised questions as to our interpretation of Chapter 55, Title 30, Delaware Code concerning Public Utilities Tax as to whom the tax is imposed on, who collects the tax and whether the tax can be passed on to the consumer.

It is our interpretation that Section 5503 (b) clearly intends that the tax is imposed on the distributor, that it is not a tax imposed on the consumer. Distributor is defined in Section 5501 (3) as the one who "first produces, distributes or supplies----- within this State." Accordingly, the person who first either produces the service or commodity or distributes or supplies it, if not produced in Delaware, is the person on whom the tax is imposed. This interpretation is supported by language in other sections, for example, Section 5502 (b).

It is our understanding that the producer is not passing on a tax to the consumer. Rather a rate adjustment because of increased costs is passed on to the consumer. (See Section 5502 (c)).


J. H. Kennedy
Director of Revenue

jvm

CONCURRED:


E. J. Wilson
Deputy Attorney General