

This letter discusses sales of motor fuel to an exempt organization. See 86 Ill. Adm. Code 500.235 and 500.265. (This is a GIL.)

July 18, 2012

Dear:

This letter is in response to your letter received in this office on September 20, 2011, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Taxpayer needs a ruling on their exempt status on motor fuel and sales tax.

Taxpayer is applying for a credit card and they want to know what certificates they need to provide to the station for tax free fuel (if any exemption).

TOWNSHIP gets fuel (diesel) from their local gas station for their off road equipment (backhoe, loader, etc.). Attached is the form they were filling out for the credit card. They have been paying tax but they don't think they should be.

## **DEPARTMENT'S RESPONSE:**

### **SALES TAX**

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property at retail to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois.

When motor fuel is sold to purchasers for use or consumption and not for resale, a retail sale occurs. Sellers incur Retailers' Occupation Tax liability on such sales, absent a properly documented exemption. Sales made to a governmental body (Federal, State, local or foreign) are exempt from the Retailers' Occupation Tax. Such sales are not exempt from the Retailers' Occupation Tax unless a governmental body has an active exemption identification number ("E" number) issued by the Department. See 86 Ill. Adm. Code 130.2080 and 130.2007.

MOTOR FUEL TAX

The Motor Fuel Tax is imposed on the privilege of operating motor vehicles on public highways and recreational watercraft on waterways in Illinois. It is paid by distributors and suppliers, who collect the tax from their customers. Motor Fuel Tax is due when motor fuel is purchased. Generally, units of local government are not exempt from taxes imposed under the Motor fuel Tax law, except in limited cases (operation of a public transportation system). 35 ILCS 505/6 & 6a.

Other than distributors or suppliers, persons, including local governments, who lose motor fuel through any cause or use motor fuel upon which the Motor Fuel Tax has been paid for any purpose other than operating a motor vehicle upon the public highways or waters, may file a claim with the Department. See 86 Ill. Adm. Code 500.235. Distributors and suppliers also may file claims for credit. See 86 Ill. Adm. Code 500.265.

Beginning January 1, 2000, the State of Illinois implemented a dyed diesel fuel program. This program provides for tax-free purchases of dyed diesel fuel. Any special fuel sold or used for non-highway purposes must be dyed. Since the dyed diesel fuel is purchased tax-free, there is no need to apply for reimbursement of the tax. In some situations, it is not practicable for dyed diesel fuel to be used for off-road purposes. In that case, clear (undyed) diesel fuel may be purchased tax-paid for off-road use, but the purchaser must apply to the Department for a refund of the tax. Section 13 of the Motor Fuel Tax Law sets forth the situations in which the tax paid for clear diesel fuel may be reimbursed. The Department's regulations at 86 Ill. Adm. Code 500.235 explains how claims for credit or refund may be made.

It appears that the application attached to your letter is for a fleet card for the purchase of motor fuel. The use of fleet cards can sometimes complicate transactions for the exempt purchase of motor fuel, since tax is included in the pump price. This is especially so if the card issuer is not also the seller of motor fuel. We do not have information regarding how this fleet card system operates but believe that the documentation they are requesting regarding the sales tax is a copy of the township's "E" number.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Richard S. Wolters  
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