

ST 13-0045-GIL 08/23/2013 MOTOR FUEL TAX

Motor Fuel Tax is imposed “on the privilege of operating motor vehicles upon the public highways, including toll roads, and recreational-type watercraft upon the waters of this State.” 86 Ill. Adm. Code 500.200(a). This letter discusses taxes applicable to a specific type of dual-fuel vehicle. (This is a GIL.)

August 23, 2013

Dear Xxxxx:

This letter is in response to your letter received in the Legal Services Office March 26, 2013, 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 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:

Our firm provides propane fuel conversion systems for vehicles. Specifically, converted vehicles can run on a mixture of 20% propane and 80% diesel – lowering both fuel costs and emissions.

In one application of the technology, a propane delivery firm (with a bobtail fleet) wishes to utilize our system and draw the propane fuel directly from the tank on their truck chasis [sic]. We have communicated with INDIVIDUAL of the Il Dept. of Rev – division of Alcohol, Tobacco and Fuel. He suggested our communication with you.

Specifically, our customer base would like clarification on options for calculating their propane fuel usage for purposes of paying their motor fuels tax. It appears that two options currently exist for such calculation.

- A. Determine overall mileage, and pay motor fuel tax based on the set ratio ex. 20% propane burn and 80% diesel burn.
or,
- B. As the bobtail is a propane delivery vehicle, calculate the propane dispensed by the delivery vehicle. Remainder would be the amount consumed by the fuel conversion system.

Our customer base hopes to use one (or more) of the above options for their motor fuel calculation. We would request your communication on the acceptable calculation method(s) for propane use on bobtail vehicles. And look forward to the same. Should you have any questions or require further clarification, please feel free to contact us directly.

Thank you.

DEPARTMENT'S RESPONSE:

Motor Fuel Tax

Motor Fuel Tax is imposed "on the privilege of operating motor vehicles upon the public highways, including toll roads, and recreational-type watercraft upon the waters of this State." 86 Ill. Adm. Code 500.200(a). "Motor fuel" means all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, the propulsion of motor vehicles. Among other things, "motor fuel" includes "special fuel." "Special fuel" means all volatile and inflammable liquids capable of being used for the generation of power in an internal combustion engine except that it does not include gasoline as defined in Section 5(A) of the Law, or combustible gases as defined in Section 5(B) of the Law. "Special fuel" includes "diesel fuel." See, 86 Ill. Adm. Code 500.100.

The State tax on motor fuel is 19 cents per gallon for all motor fuel except diesel and 21.5 cents per gallon on diesel. (See 86 Ill. Adm. Code 500.200.) Propane is considered motor fuel that is taxed at 19 cents per gallon as noted above.

Propane purchased for off-highway use is not subject to the Motor Fuel Tax because, as pointed out above, the tax is imposed on the privilege of operating motor vehicles upon public highways. If, however, some of the propane that was purchased for off-highway use is ultimately used to propel vehicles upon public highways, that propane would be subject to Motor Fuel Tax. The amount of the propane taken from the propane tank of the vehicle and used to propel that motor vehicle upon public highways would need to be reported on the Department's form RMFT-71, Liquefied Petroleum Gas Tax Return, and payment of the motor fuel tax remitted to the Department not later than the 20th day of the month succeeding the month in which the propane was so used. See 35 ILCS 505/7. Generally, the best method by which to calculate the amount of propane withdrawn from a vehicle's propane tank and used to propel the vehicle upon public highways would be to determine the overall gallons consumed, and pay motor fuel tax based on the set ratio (e.g., 20% propane burn and 80% diesel burn).

Use Tax

The Use Tax is a tax imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. "Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property. The Use Tax is paid to Illinois retailers registered to collect Use Tax. If the Use Tax is not paid to an Illinois registered retailer, the purchaser must self-assess the Use Tax at the rate of 6.25% and remit it to the Department. Therefore, when a taxpayer uses some of the propane it purchased for resale to propel its vehicles upon public highways, it is the user of that propane and incurs a Use Tax liability on its cost price of that propane used in that manner. The taxpayer would need to self-assess the Use Tax and remit it to the Department. It can do this on its monthly sales tax return. Generally, because the price of propane may fluctuate throughout any given month, the taxpayer would calculate its Use Tax liability based on the average monthly price paid for the propane it uses to propel its vehicle.

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

Very truly yours,

Debra M. Boggess
Associate Counsel

DMB:lms
cc: Brian Spelman
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