

ST 16-00005-GIL 02/01/2016 GROSS RECEIPTS

Gross receipts from sales of E15 (a blend of 85% gasoline and 15% ethanol) are subject to Retailers' Occupation Tax without deduction (unlike gasohol and majority blended ethanol fuel, for which deductions are authorized by statute). See 35 ILCS 120/2-10. (This is a GIL.)

February 1, 2016

Dear Xxxxx:

This letter is in response to your letter dated November 17, 2015, 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:

RE: Interpretation of Sales Tax Discount available for the sales of E15.

We are needing to get an authoritative opinion as to which deduction line to use on Form ST-1, Schedule A, Section 2, Specific fuels sales tax exemption, line 22-Gasohol or line 26-Majority blended ethanol fuel.

We will begin selling E15 ( a blend of 85% gasoline-15% ethanol) at retail in the coming months and need to be prepared to collect and report the appropriate sales tax as a result of selling E-85 through metered pumps at retail.

Thank you in advance for your prompt attention to this matter.

I may be reached by phone at XXX-XXX-XXXX, by e-mail or by mail at ADDRESS.

## **DEPARTMENT'S RESPONSE:**

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. The tax is measured by the seller's gross receipts from retail sales made in the course of such business. "Gross receipts" means the total selling price or the amount of such sales. The retailer must pay Retailers' Occupation Tax to the Department based upon its gross receipts, or actual amount received, from the sale of the tangible personal property.

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 35 ILCS 105/3; 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales tax" in Illinois. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for Retailers' Occupation Tax which they are required to and do pay to the Department with respect to the same sale. If the retailer does not collect the Use Tax from the purchaser for remittance to the Department, the purchaser is responsible for remitting the Use Tax directly to the Department. See 86 Ill. Adm. Code 150.130.

No deduction from gross receipts is authorized when calculating tax on sales of E15 fuel (a blend of 85% gasoline and 15% ethanol). The deductions you reference in your letter are for specific products other than E15. They are gasohol and majority blended ethanol fuel. "Gasohol" is defined as motor fuel that is a blend of denatured ethanol and gasoline that contains no more than 1.25% water by weight. The blend must contain 90% gasoline and 10% denatured ethanol. See 35 ILCS 105/3-40. "Majority blended ethanol fuel" is defined as motor fuel that contains not less than 70% and no more than 90% denatured ethanol and no less than 10% and no more than 30% gasoline. See 35 ILCS 105/3-44. The specific statutory deductions allowed for gasohol and majority blended ethanol fuel are found in Section 2-10 of the Retailers' Occupation Tax Act. See 35 ILCS 120/2-10. Unlike gasohol and majority blended ethanol fuel, there is no statutory deduction or exemption for E15. As a result, all of the gross receipts from sales of E15 are subject to tax, without deduction.

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,

Samuel J. Moore  
Associate Counsel

SJM:bkl