

A licensed distributor of motor fuel in Illinois may make tax free sales of motor fuel when the sale is made to the federal government or its instrumentalities. See 35 ILCS 505/6 and 86 Ill. Adm. Code 500.210(c). (This is a GIL.)

December 10, 2020

Dear Xxxx:

This letter is in response to your letter, in which you requested information. We apologize for the delay in responding. 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:

This letter is to request a private letter ruling in regard to state excise taxes for fuel sold to the federal U.S. Government during Feb-March 2018, in which we paid COMPANY, AMOUNT of IL excise tax, however sold the fuel to the federal government for use via the FEDERAL ENTITY or military branches exempt of these taxes.

In October, 2017 we began the process to be a licensed wholesale fuel distributor in the state of IL. Due to processing delays we did not obtain it until March 6, 2018. During the interim, we sold AMOUNT gallons of gasoline and special fuel tax-free to the federal government. We were told that since we were not licensed at the time, they could not be reported on schedules B and SB, but rather we will need to request a ruling for this matter for a refund to be issued. I’ve enclosed our supplier invoices for the fuel showing tax paid, as well as our customer invoices excluding those taxes, totaling AMOUNT.

DEPARTMENT’S RESPONSE:

Section 3 of the Motor Fuel Tax Law provides that no person shall act as a distributor of motor fuel within this State without first securing a license to act as a distributor of motor fuel from the Department. See 35 ILCS 505/3 and 86 Ill. Adm. Code 500.201(a). A licensed distributor of motor fuel in Illinois may make tax free sales of motor fuel when the sale is made to the federal government or its instrumentalities. See 35 ILCS 505/6 and 86 Ill. Adm. Code 500.210(c). There is no basis, however, under the Motor Fuel Tax Law for a person who is not licensed as a distributor or supplier to make tax free sales of motor fuel. Based on the information provided, at the time you made sales of motor fuel to the federal government, you were not licensed as a motor fuel distributor or supplier under the Motor Fuel Tax Law. As a result, any sales of motor fuel to the federal government made during a period when you were not licensed as a distributor or supplier are not eligible for the exemption from motor fuel tax.

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,

Samuel J. Moore
Associate Counsel

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