ST 18-0013-GIL 04/05/2018 PREPAID SALES TAX

This letter describes the manner in which prepaid sales tax on motor fuel is collected and remitted. See 86 Ill. Adm. Code 130.551. (This is a GIL.)

April 5, 2018

Dear Xxxxx:

This letter is in response to your letter dated March 15, 2018, in which you requested 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:

> We are inquiring on the requirement of Pre-Paid Sales Tax and if we are required to be collecting and remitting tax to the State of Illinois.
>
> We are currently a Qualified Distributor in the State of Indiana and conduct business in the State of Illinois at least a few times during any particular week. We are currently registered with the State of Illinois and file monthly Sales Tax and Motor Fuel Tax returns.
>
> Our numbers are as follows:
> Federal ID#: #######
> Illinois Receiver License: #####
> Illinois Distributor License: ####
> Illinois Business Authorization: #####
>
> We have called and asked but have been unable to get a definite answer on whether or not we are collecting and remitting all the proper taxes and/or fees. We are filing the gallons of pre-packaged race fuel that we import into Illinois to our customers (Race Shops, Speed Shops, Hi Performance Shops) for resale.
>
> Our main concern at the moment is the pre-packaged race fuel. By pre-packaged, we mean that the fuel is exported into Illinois already pre-packaged in 5 gallon, 15 gallon, 30 gallon and 54 gallon sealed cans/drums. We sell this fuel to the race shops and they in turn sell them to their customers. Now the question is coming around, what about

Pre-Paid Sales Tax? Are we required to collect and remit that too along with the Motor Fuel Tax returns that we already file? Please advise.

Thank you for your time in this matter.

DEPARTMENT'S RESPONSE:

Provisions regarding prepayment of sales tax on motor fuel are contained in Section 2d of the Retailers' Occupation Tax Act (35 ILCS 120/2d), which provides, in part, that

> "[a]ny person engaged in the business of selling motor fuel at retail, as defined in the Motor Fuel Tax Law, and who is not a licensed distributor or supplier, as defined in the Motor Fuel Tax Law, shall prepay to his or her distributor, supplier, or other reseller of motor fuel a portion of the tax imposed under this Act if the distributor, supplier, or other reseller of motor fuel is registered under Section 2a or Section 2c of this Act."

The Department's regulations at 86 Ill. Adm. Code 130.551 explain these provisions in greater detail. As noted in the Department's rules, licensed distributors are required to collect the prepaid sales tax on motor fuel they deliver to persons who are engaged in the business of selling motor fuel at retail and who are not licensed as distributors or suppliers under the Motor Fuel Tax Law.

Based on the foregoing, and the fact that you are filing sales tax returns with the Department, you are responsible for collecting prepaid sales tax on sales of pre-packaged race fuel.

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,

Richard S. Wolters
Associate Counsel

RSW:bkl