

This letter concerns home blenders who blend bio-diesel fuel for their own use. See 35 ILCS 105.310 and 35 ILCS 505/1 et seq. (This is a GIL.)

April 4, 2007

Dear Xxxxx:

This letter is in response to your letter dated November 11, 2006, 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.ILTAX.com](http://www.ILTAX.com) 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:

I am in need of information regarding a small business venture I wish to begin. I first need to insure I follow any state laws regarding my venture.

I would like to recycle used vegetable oil (cooking oil) and convert it into a bio-diesel. This process involves the filtering and adding of certain other additives so it is compatible with diesel engines. The vegetable oil remains at 87%, additives make up the other 13%. They include portions of Kerosene, Unleaded Gas, Cetane, (these thin the oil and boost the combustion capability). There are also several other minor additives to assist in removing water and maintaining a good viable product. This formula has been used in Europe for many years and has also been working here in the United States as well.

My Question is:

Can I create a Cooperative of members who would assist in the collection of used vegetable oil and sell to only members? And what tax liability if any would there be for our product.

This would be considered a very small business and would not have more than 20 or 25 members.

Thank you for your time.

## DEPARTMENT'S RESPONSE

Currently there has been a lot of interest on the part of Illinois residents in producing their own blended bio-diesel fuel. Blenders need to be aware that a motor fuel tax is imposed on the privilege of operating motor vehicles upon the public highways and recreational-type watercraft upon the waters of this State. 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. A leaking underground storage tank tax of three-tenths of a cent per gallon is imposed upon the privilege of being a receiver in this State of fuel for sale or use. Also, all receivers of fuel are subject to an environmental impact fee of \$60 per 7,500 gallons of fuel (\$.008 per gallon), or an equivalent amount per fraction thereof, that is sold or used in Illinois.

Because there has been this interest in home-blending fuel, legislation has been proposed in the General Assembly to make provisions for home blenders who blend bio-diesel fuel for their own use. See Senate bill 267 available on the Department's website. (Get onto the Department's site and click on "Laws/Regs/Rulings." On the next screen, click on "Illinois General Assembly." When you get to the Illinois General Assembly website, click on "Bills and Resolutions." This should put you on the screen with all the Senate and House bills.) These provisions are intended to ease licensing and bonding requirements and make it easier for home-blenders to remit the tax due when they blend bio-diesel fuel for their own use. If such a blender holds himself out as a retailer of the motor fuel he blends, then he will be required to register and pay taxes as already provided for under the Motor Fuel Tax Law and the sales tax acts.

Any home-blender that sells motor fuel must be aware that 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 Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. See 86 Ill. Adm. Code 150.101. The State rate for these sales taxes is 6.25% of the selling price of the tangible personal property.

In addition to the State-imposed taxes, the municipality, county, or other taxing district where the fuel is sold may impose a local tax. The rate of tax imposed will depend on the location where the sale occurs and may include State-imposed taxes, locally imposed taxes administered by the State, and locally imposed taxes administered by the unit of local government where the sale occurs.

The Illinois Environmental Protection Agency, the Illinois Department of Agriculture, and the State Fire Marshal may have other requirements for bio-diesel blenders.

If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote  
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