

This letter has been rescinded by Letter ST 06-0183-GIL. (This is a GIL.)

December 19, 2003

Dear Xxxxx:

This letter is in response to your letter dated April 15, 2003, 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 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:

At the suggestion of one of your agents, I am writing in the hopes that you, or perhaps someone in your legal department, can help me clarify a few questions that I have about how Illinois's Motor Fuels Tax applies (or doesn't apply) to pure or denatured ethanol.

My question is this: The statutory definition of 'motor fuel' includes all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles. It seems obvious to me that denatured ethanol, before it is blended with what would be considered by the average person to be gasoline, could be considered a liquid blended or compounded for the purpose of operating motor vehicles. I could find nothing in the statutes or the regulations, nor could your agents point me to anything, that conclusively excludes pure or denatured ethanol from the statutory definition of 'motor fuel.'

My concern is that a large producer of ethanol in Illinois is seemingly at the mercy of the government should the Commissioner decide to interpret the definition of motor fuel to include ethanol. The producer would have nothing to point the court to in order to prove that the tax is not applicable to ethanol.

Any information that you could provide regarding this matter would be most helpful and sincerely appreciated.

Denatured ethanol, like other alcohol, is a volatile and inflammable liquid suitable or practicable for operating motor vehicles in its original or blended form. As a result, the Motor Fuel Tax is applicable to denatured alcohol. See 35 ILCS 505/1.1. When your client sells denatured ethanol in Illinois, it incurs Motor Fuel Tax unless the purchaser has a valid, unrevoked license as a motor fuel distributor or supplier.

I hope this information is helpful. If you require additional information, please visit our website at 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
Associate Counsel

MPM:msk