



**Regional
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Authority**

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To: Paul Berks
From: Jordan Matyas
Date: April 30, 2014
Re: Additional comments and suggestions on IDOR proposed rules.

- 1) If the Department retains the section in the proposed rule titled “Guidance on the Application of the Composite of Selling Activities Test to Common Selling Operations,” the RTA suggests that the following paragraphs replace corresponding paragraphs found in the proposed rule:**

Proposed New Language for Over the Counter Sales

Over the counter sales. An over-the-counter sale occurs at the retailer’s place of business if a purchaser is present at the place of business, has no prior commitment to the retailer, agrees to purchase and makes payment for tangible personal property at the place of business, and then either (1) the purchaser immediately takes possession of the tangible personal property at the place of business; or (2) the retailer ships the property to the purchaser from the same place of business.

Proposed New Language for Vending Machines

Vending Machine Sales. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if (1) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device; (2) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and (3) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.

- 2) **If the Department retains the section in the proposed rule titled “Guidance on the Application of the Composite of Selling Activities Test to Common Selling Operations,” the RTA suggests that the following paragraphs be added to the proposed rule:**

Proposed Additional Guidance Paragraphs

Aircraft Fuel

A retailer is engaged in the business of selling aircraft fuel at the point of the delivery of fuel to the aircraft in which it is used, either into the fuel tanks of the aircraft or into a storage facility located at an airport from which the fuel is withdrawn for use in the aircraft. For the purposes of this paragraph, “fuel tank” means any receptacle attached to an aircraft from which fuel is supplied for the propulsion of the aircraft, and “airport” means any permanent location where aircraft take off and land.

Motor Fuel

A retailer is engaged in the business of selling motor vehicle fuel at the point of the delivery of fuel to the motor vehicle in which it is used, either into the fuel tanks of the motor vehicle or into a storage facility located at the motor vehicle’s regular storage location from which the fuel is withdrawn for use in the motor vehicle. For the purposes of this paragraph, “motor vehicle” excludes aircraft and farm equipment, “fuel tank” means any receptacle attached to a motor vehicle from which fuel is supplied for the propulsion of the motor vehicle, and “regular storage location” means any permanent location where a motor vehicle is regularly stored while not in use.

Farm Equipment Fuel

A retailer is engaged in the business of selling farm equipment fuel at the point of the delivery of fuel to the equipment in which it is used, either into the fuel tanks of the equipment or into a storage facility located at the farm on which the equipment is regularly stored and from which the fuel is withdrawn for use in the equipment. For the purposes of this section, “farm equipment” means any powered contrivance designed for farming, “fuel tank” means any receptacle attached to farm equipment from which fuel is supplied for the propulsion of the equipment, and “farm on which the equipment is regularly stored” means any farm where the farm equipment is regularly stored while not in use.