

No person shall act as a distributor of motor fuel, supplier of special fuel, or receiver of fuel in Illinois without first applying for and obtaining a license from the Department. See 86 Ill. Adm. Code 500.201. (This is a GIL.)

February 8, 2022

Dear NAME:

This letter is in response to your letter 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:

I received this address from NAME from the Illinois department of revenue motor fuel division and she told me you could answer a question I have about selling corn oil as an off road use only motor fuel.

I have found through some testing I have done that corn oil improves the performance of diesel powered farm tractors. I would like to know if there are any permits or licenses that I would need to obtain from the state of Illinois to sell to farmers to compete in competition at tractor pulls at county and state fairs. I can buy the corn oil locally from a fuel dealer in my area and resell it as an off road use only performance fuel. I won't be selling a large volume, probably less than 2000 gallon

annually. Also would I be required to collect any type of motor fuel tax from the farmers, I would be selling it as an off road use only product.

Thank you for your help

DEPARTMENT'S RESPONSE:

Motor Fuel Tax is imposed "on the privilege of operating motor vehicles upon the public highways, including toll roads, and recreational-type watercraft upon the waters of this State." 86 Ill. Adm. Code 500.200(a). "Motor fuel" means all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, the propulsion of motor vehicles. Among other things, "motor fuel" includes "special fuel." "Special fuel" means all volatile and inflammable liquids capable of being used for the generation of power in an internal combustion engine except that it does not include gasoline as defined in Section 5(A) of the Law, or combustible gases as defined in Section 5(B) of the Law. Special fuel includes diesel fuel. See, 86 Ill. Adm. Code 500.100. "Diesel fuel" means any product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark. See, 86 Ill. Adm. Code 500.100. Finally, "blending" means, in relevant part, the mixing together by any process whatsoever, of any one or more products with other products, and regardless of the original character of the products so blended, provided the resultant product so obtained is suitable or practicable for use as a motor fuel. See, 86 Ill. Adm. Code 500.100.

The purchase and resale of an item, such as corn oil, that is not suitable or practicable for the propulsion of motor vehicles is not the purchase or resale of motor fuel. If, however, corn oil or any other product is blended or otherwise combined with diesel fuel or any other fuel and the resulting product is suitable or practicable for the propulsion of motor vehicles, then that product is motor fuel and is subject to the provisions of the Motor Fuel Tax Law. No person shall act as a distributor [of motor fuel], supplier [of special fuel], or receiver [of fuel] in Illinois without first applying for and obtaining a license from the Department. See 86 Ill. Adm. Code 500.201. Any person who knowingly acts as a distributor of motor fuel or supplier of special fuel, or receiver of fuel without having a license so to do . . . shall be guilty of a Class 3 felony. Each day any person knowingly acts as a distributor of motor fuel, supplier of special fuel, or receiver of fuel without having a license so to do or after such a license has been revoked, constitutes a separate offense. See 35 ILCS 505/15(1). In addition, please note that under Section 3 of the Motor Fuel Tax Law, a motor fuel blender must obtain a license as a motor fuel distributor as well as a blender's permit. 35 ILCS 505/3. Any person who acts as a blender in violation of Section 3 of this Act [. . .] is guilty of a Class 4 felony.

Please note that, in addition to any considerations under the Motor Fuel Tax law, persons engaged in the business of selling tangible personal property in Illinois are

BUSINESS

Page 3

February 4, 2022

subject to the registration, reporting, and tax payment requirements of the Retailers' Occupation Tax Act. See 86 Ill. Adm. Code 130.101 et seq.

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

SJM:rkn