

This letter discusses the requirements of refund claims for taxes paid on fuel which was used for nontaxable purposes. 86 Ill. Adm. Code 500.235. (This is a GIL.)

March 21, 2023

COMPANY
ADDRESS1

Dear Mr. XXX:

This letter is in response to your letter dated June 29, 2022, 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:

Attention IL Dept. of Revenue Legal Services,

I called the IL. Dept. of Revenue on 6-28-22 and talked to a lady about gas tax refunds. I explained what I have going on and she gave me the information to contact the legal dept.

I am a farmer in COUNTY, IL. and I have a 12,000 gal. propane tank that I get filled by the truckload. It holds about 10,000 gal. because we can't fill a tank over 80%. I pay state tax on the propane, but it is used exclusively for grain drying. There is a direct underground pipe to my dryer to dry corn mostly, sometimes beans. I have grain bins that the dryer fills of 140,000 bu. of storage.

I used to apply for a state gas tax refund when I had gas tractors etc. I haven't applied for it in quite a while because I went mostly to

NAME
Page 2
March 21, 2023

diesel. I talked to a farmer that said he applies for the gas refund for propane once a year, sends copies of the invoices & gets the refund. With you knowing my situation can I also apply for the gas tax refund on propane?

The address of the drying set-up is ADDRESS2

There is no one living there, all communication would go to me where I live:

COMPANY
ADDRESS1

If you need to send someone to see the set-up that would be fine. If you want me to send pictures I could also do that.

Thank-you for your time & consideration;

DEPARTMENT'S RESPONSE:

After reviewing your letter, it appears you are seeking information regarding a refund on tax paid for propane. 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). Propane is considered motor fuel. Generally, motor fuel tax is not charged on sales of propane for the use you described. If you paid sales tax on the purchase of propane, you would not be entitled to a refund. However, if you were charged motor fuel tax on the propane, you may claim a refund in limited circumstances.

Claims for refund are governed by Section 13 of the Motor Fuel Tax Law ("Law") and Section 500.235 of the Department's regulations. The Department will not approve claims unless they are sufficiently documented by verifiable proof. Section 500.235 details the information required to support a claim (a copy of which is included). 86 Ill. Adm. Code 500.235. Based on the information in your letter, you are requesting a refund for propane and this claim would be made as undyed diesel fuel.

Section 13 of the Motor Fuel Tax Law ("Law"), 35 ILCS 505/13, provides that any person other than a distributor or supplier who uses motor fuel (upon which the person has paid the amount required under Section 2 of the Law) for any purpose other than operating a motor vehicle upon the public highways or water shall be reimbursed and repaid the amount so paid. Claims for reimbursement must be made to the Department on forms provided by the Department, and must include documentation related to the purchase of the fuel, along with additional information deemed necessary by the Department regarding the specific purpose for which it was used. The specific information required of claimants is found at Section 500.235 of the Department's regulations. As Section 500.235 notes, the Department will approve claims only when they are based upon a showing that motor fuel was used for a nontaxable purpose and

NAME
Page 3
March 21, 2023

that the part for which refund is claimed can, as a practical matter, be calculated and itemized. Only claims that are supported by proof of the amount of motor fuel not used for a taxable purpose will be approved. See 86 Ill. Adm. Code 500.235 (i).

Claims for refunds of tax paid on the purchase of undyed diesel fuel are authorized in only limited circumstances. These situations are enumerated in Section 13 of the Law and are more fully detailed in Section 500.235 (j). These provisions, for instance, allow claims for undyed diesel fuel used by a commercial motor vehicle, as defined in Section 500.100, for any purpose other than operating the commercial motor vehicle on the public highways. These claims are authorized only for commercial motor vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways and are limited to the nonhighway portion of the fuel used.

Please note that a statute of limitations applies to claims filed with the Department. Section 13 of the Law provides that claims for full reimbursement for taxes paid on or after January 1, 2000, must be filed not later than 2 years after the date on which the tax was paid by the claimant.

The claim form used to file for refunds of motor fuel tax can be found on the Department's website at <https://tax.illinois.gov/forms/excise/rmft-11-a---illinois-motor-fuel-tax-refund-claim.html> and I have also enclosed a copy of the form. Propane would be calculated on Line 7 in Step 3.

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,

Kimberly Rossini
Associate Counsel

KAR:dlb
Enc.