

DEPARTMENT OF STATE REVENUE
Revenue Ruling #2009-18 ST
January 1, 2010

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ISSUES

Indiana Sales Tax on Motor Fuel – Terminal Sales of Gasoline

A company ("Taxpayer") is seeking an opinion as to whether it must charge and collect prepayment of Indiana Sales Tax on Motor Fuel for the terminal sale of gasoline, absent its customer possessing a qualified distributor permit or applicable exemption.

Authority: [IC 6-2.5-7-9](#).

STATEMENT OF FACTS

Taxpayer provides the following facts regarding its request for a revenue ruling. Taxpayer, which is a licensed qualified distributor of gasoline in Indiana, as well as a terminal operator, requests guidance as to whether it must charge and collect prepayment of Indiana Sales Tax on Motor Fuel for the terminal sales of gasoline, absent its customer possessing a qualified distributor permit or applicable exemption. In particular, Taxpayer's correspondence provides:

[Taxpayer] sold... unleaded regular gasoline [in Indiana] to [Customer]. [Taxpayer], which is licensed in Indiana as a qualified distributor, approached [Customer] for their Indiana qualified distributor permit, or to pay the Indiana prepayment of the State Gross Retail Tax on Motor Fuel. [Customer] claims they were advised by the State of Indiana they do not need a qualified distributor permit for tax free activity within a terminal.

DISCUSSION

In general, [IC 6-2.5-7-9\(a\)](#) provides:

Except as provided in section 13 of this chapter, at the time of purchase or shipment of gasoline from a refiner or terminal operator, a distributor who is not a qualified distributor shall prepay to the refiner or terminal operator the state gross retail tax in an amount determined under subsection (d).

[IC 6-2.5-7-1\(n\)](#) defines "distributor" to mean "a person who is the first purchaser of gasoline from a refiner, a terminal operator, or supplier, regardless of the location of the purchase." The definition of "distributor" does not exclude refiners or terminal operators.

[IC 6-2.5-7-1\(q\)](#) defines "qualified distributor" to mean a distributor who:

- (1) is a licensed distributor under [IC 6-6-1.1](#); and
- (2) holds an unrevoked permit issued under section 7 of this chapter.

[IC 6-2.5-7-1\(p\)](#) defines "purchase or shipment" to mean a sale or delivery, within or without the terminal, of gasoline excluding:

- (1) an exchange transaction between refiners, terminal operators, or a refiner and terminal operator; or
- (2) a delivery by pipeline, ship, or barge to a refiner or terminal operator.

[IC 6-2.5-7-1\(r\)](#) defines "refiner" to mean "a person who manufactures or produces gasoline by any process involving substantially more than the blending of gasoline."

[IC 6-2.5-7-1\(s\)](#) defines "terminal operator" to mean a person that:

- (1) stores gasoline in tanks and equipment used in receiving and storing gasoline from interstate or intrastate pipelines pending wholesale bulk reshipment; or
- (2) stores gasoline at a boat terminal transfer that is a dock or tank, or equipment contiguous to a dock or tank, including equipment used in the unloading of gasoline from a ship or barge and used in transferring the gasoline to a tank pending wholesale bulk reshipment.

RULING

Unless a customer possesses a qualified distributor's license from the Department and an uncanceled permit issued by the Department to collect prepayments of sales tax from retail merchants, Taxpayer must charge, collect, and remit prepayment of Indiana sales tax on terminal sales of gasoline to a customer at the time of purchase or shipment.

Based on the information provided to the Department, Customer's business activities related to its transactions with Taxpayer consist solely of receiving and storing gasoline from interstate or intrastate pipelines pending wholesale bulk reshipment within the terminal. Accordingly, it appears that Customer qualifies as a terminal operator pursuant to [IC 6-2.5-7-1\(s\)](#). As such, Taxpayer's sales of gasoline to Customer do not qualify as purchases or shipments within the meaning of [IC 6-2.5-7-1\(p\)](#). Consequently, Taxpayer's sales of gasoline to Customer are not subject to the prepayment requirement found at [IC 6-2.5-7-9\(a\)](#).

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and

circumstances as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

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