



COLORADO

Department of Revenue

Taxation Division

Office of Tax Policy
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GIL-13-019

May 28, 2013

XXXXXXXXXXXXXXXXXX
Attn: XXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Re: Sale of Domestic Jet Fuel for Commercial International Flights

Dear XXXXXXXXXX,

You submitted on behalf of XXXXXXXXXXXXX (“Company”) a request for guidance to determine the applicability of Colorado taxes on the sale of domestic jet fuel to a commercial airline who uses the domestic jet fuel strictly for international flights.

The Colorado Department of Revenue (“Department”) issues general information letters and private letter rulings. A general information letter provides a general overview of the relevant tax issues and is not binding on the Department. A private letter ruling provides a specific determination for a specific set of facts, is binding on the Department but not on the taxpayer, and requires payment of a fee. For more information about general information letters and private letter rulings, please see Department regulation 24-35-103.5 at www.colorado.gov/revenue/tax > Tax Library > Rulings.

The Department initially treats your request as one of a general information letter. If you would like the Department to issue a private letter ruling on the issues you raise, you can resubmit a request and fee in compliance with regulation 24-35-103.5. It is important to remember that general information letters, such as this one, are general discussions of tax law and are not a determination of the tax consequence of any particular action or inaction.

Issue

Can the sale of domestic jet fuel used strictly for commercial international flights have similar tax treatment of bonded jet fuel that is fully exempt from all taxes?

Background

The available supply of bonded jet fuel is becoming scarce and very difficult to find in a steady supply and volume. Therefore, Company asserts that it would be beneficial to the petroleum industry, airline industry and the public to supply domestic jet fuel that is exempt from tax to the airline industry for use in international flights.

Discussion

Colorado exempts from its fuel excise tax specially blended kerosene and other fuel products if they are exempt from federal aviation fuel taxes and used in aircraft operated by scheduled air carriers or commuter airline operators.¹ In general, blended kerosene fuel and aviation gasoline are exempt from the federal excise tax on fuel if the fuel is used for foreign trade. However, there are several federal requirements that such carriers and operators must meet in order to qualify for the federal exemption, such as requirements governing the use of bonded fuel from secured facilities. We are not in a position at this time to know whether the federal government will exempt from federal excise taxes non-bonded fuels used for international flights. Airlines who pay state excise tax and believe that the transactions were exempt from state fuel excise tax may apply to the Department for a refund. If the fuel is exempt from Colorado excise tax, then it is subject to sales taxes.

Miscellaneous

This letter represents the good faith opinion of Department personnel who are knowledgeable on state taxes issues. However, the Department does not make a specific determination here on any of the issues raised and the Department is not bound by this general information letter.

The Department administers state and state-administered local sales and use taxes. This letter does not address sales and use taxes administered by home-rule cities and home-rule counties. You may wish to consult with local governments which administer their own sales or use taxes about the applicability of those taxes. Visit our web site at www.colorado.gov/revenue/tax for more information about state and local sales taxes.

Enclosed is a redacted version of this letter. Pursuant to statute and regulation, this redacted letter will be made public within 60 days of the date of this letter. Please let me know in writing within that 60 day period whether you have any suggestions or concerns about this redacted letter.

Sincerely,

Office of Tax Policy
Colorado Department of Revenue

¹ §39-27-101(12), C.R.S.