



This Week in State Tax (TWIST)

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Illinois: Department Addresses Tax Treatment when Mobile App Used to Purchase Fuel

The Illinois Department of Revenue recently issued two General Information Letters or GILs (ST-23-0036-GIL; ST-23-0037-GIL) addressing the tax treatment of sales of motor fuel made via a mobile app. The Company requesting guidance operated a mobile app that allowed truck drivers (operators) to purchase fuel at reduced prices from specified fueling stations. To purchase fuel at a participating stop, the app was used to obtain a numeric code, which would then be shown to the clerk to verify that the operator had the app. Once the fuel was pumped, the app charged the debit or credit card on file, and the operator could either obtain an emailed receipt or paper receipt from the stop. The Company requested guidance as to whether it was responsible for remitting Retailer's Occupation Tax (sales tax) or motor fuels tax. The Company suggested that it was not a marketplace facilitator because it merely provided a service to fuel stops by advertising their fuel. The fuel stations, the Company asserted, sold the motor fuel to operators, and collected, reported, and remitted all applicable sales tax. The Company was paid commissions by the fuel stops when operators used the app to purchase fuel from the stop. The Department observed that recently it has encountered several arrangements in which companies are providing new services to established businesses using apps downloaded on mobile devices of consumers seeking, for example, hotel rooms, vacation rentals, and parking spaces. Because these new arrangements are unique, the Department requires a complete and thorough explanation of the contractual relationship between the parties. Based on the information presented, the Department could not determine the nature of the relationship between the fuel stop and the company. Without reviewing the contracts between the Company and the fuel stops, the Department concluded that it could not address the matter in a GIL. Rather, the Company should consider requesting a private letter ruling. With respect to motor fuels tax, the taxpayer asserted that because it was not a "receiver," "distributor," or "supplier" of fuel, it should not be required to collect motor fuel tax or obtain a motor fuel tax license. Again, the Department declined to address the issue in a GIL and determined it needed to review the applicable contracts. Please contact Drew Olson with questions.

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