



COLORADO

Department of Revenue

Taxation Division

Office of Tax Policy
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Denver, CO 80217-0087

DOR_TaxPolicy@state.co.us

GIL-15-020

July 20, 2015

XXXXXXXXXXXXXXXXXX
Attn: XXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Re: Propane Reporting

Dear XXXXXXXXXXXX,

You submitted on behalf of XXXXXXXXXXXXXXXXXXXX (“Company”) a request for guidance to determine how Company should report its purchases and sales of liquefied petroleum gas (“LPG”) on gross gallons when its suppliers do not provide it with the information needed to calculate such amount.

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 but 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 treats this request as one for a general information letter. It is important to remember that general information letters, such as this one, are general discussions of tax law and are not binding on the department. If a taxpayer would like the Department to issue a private letter ruling on the issue raised here, the retailer can resubmit a request and fee in compliance with Department Regulation 24-35-103.5.

Issue

How should Company report its purchases and sales of LPGs on gross gallons when its suppliers do not provide Company with the information needed to calculate such amount?

Background

Company buys and sells LPG in Colorado. From 2001-December 2013, Company was reporting LPG purchases and sales on a truckload basis and remitting \$10.00 per truckload. Beginning in January 2014, Company began reporting its purchases and sales to the State of Colorado in net gallons. Company believes it was compliant with section 39-27-105(1), C.R.S. Net gallon reporting is the industry standard reporting method for LPG businesses.

Company was contacted by the Department in December 2014 about discrepancies on two specific invoices for the period of January 31, 2014. Pursuant to the December 2014 letter, Company was advised that it should have been reporting in gross gallons rather than net gallons. The Department requested that we restate our Colorado Distributor Return in gross gallons. Company states that for the period in question (December 2014 to January 2015), the net gallons reported on Company's Colorado Distributor Returns were greater than the actual gross gallons. Thus, for the period in review, Company paid Colorado more money than would be required had Company reported in gross gallons.

Restating and amending the Colorado Distributors Returns will have an enormous burden on our resources. The biggest challenge Company faces is that one of Company's largest suppliers does not provide information on their Bill of Ladings that would allow Company to calculate the gross gallons. Thus, Company is unable to calculate the volume acquired by this supplier in gross gallons. Additionally, other suppliers provide temperature but not specific gravity. The lack of this information prevents Company from having the ability to accurately calculate the amounts in gross gallons. In order to report these volumes in gross gallons, Company will have to estimate the specific gravity, which will not result in accurate reporting.

Therefore, Company would like guidance on how to proceed regarding retroactive gross gallon reporting. Company can only report gross gallons for purchases made from supplies who supply company with the information to calculate the gross gallons, but are unsure what to do with respect to the volumes we acquire from supplies that do not provide the information that will allow Company to calculate gross gallons. As a consequence, Company is in a position that will allow it to comply with the statute only with regard to some of its purchases. Company has contacted the suppliers in question and they have stated that they are unable to provide the information needed on their Bill of Lading.

Discussion

Colorado imposes an excise tax on LPG that is taxed at a rate per gross gallon¹ that will change annually from January 1, 2014 through 2019. However, the Colorado General Assembly enacted in the 2015 session House Bill 15-1228 that, among other things, changes the reporting requirements of LPG to a net gallon² basis. Although House Bill 15-1228 will not become effective until January 1, 2016, the General Assembly has signaled that it wishes industry to report gallons on a net gallon basis rather than a gross gallon basis. As such, the Department will likely accept Company's Colorado Distributor Returns for January 1, 2014 to present as originally filed on a net gallons basis and will likely not ask that Company resubmit their returns in gross gallons. However, until January 1, 2016, those gallons that are able to be reported on a gross gallon basis, should be reported as such rather than a net gallon basis.

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

¹ "Gross gallons" as applied to fuel and petroleum products means units of two hundred thirty-one cubic inches measured at storage or metered temperature. § 8-20-201(3), C.R.S.

² "Net gallons" as applied to fuel and petroleum products means units of two hundred thirty-one cubic inches measured at standard temperature. § 8-20-201(5), C.R.S.

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