



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

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GOVERNOR

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LETTER RULING 2013-4

LR 2013-4. Taxability of Butane and Propane as Gasoline under the Motor Fuel Tax Act.

You ask whether butane or propane constitute “gasoline” (either directly or as a gasoline “blendstock”) subject to the \$0.19 per gallon tax imposed under section 8 of the Motor Fuel Tax Act (the “Act”), MCL 207.1008. This Letter Ruling presumes that neither the butane nor the propane has been mixed or blended with motor fuel such that it is taxable under section 20 of the Act, MCL 207.1020. This Letter Ruling does not address the taxability of butane or propane as “liquefied petroleum gas” under sections 151 to 155 of the Act, MCL 207.1151 to MCL 207.1155.

Neither Butane nor Propane is Taxable as “Gasoline” under the Act

Both butane and propane exist in a gaseous state at normal atmospheric pressure (i.e., 14.7 psi) until cooled to below negative 31 degrees Fahrenheit and negative 44 degrees Fahrenheit, respectively. Only at pressures in excess of 14.7 psi can butane or propane exist in a liquid state at higher temperatures. The Act imposes the tax on gasoline on a “per gallon” basis, which is a unit of liquid measure, and neither butane nor propane qualifies as a “liquid” as that term is defined in the Act. Moreover, the Act does not provide for conversion of a substance in a gaseous state into a “gallon” for taxation purposes. Therefore, butane and propane are not taxable as “gasoline” under the Act.

Because a “blendstock” under the Act is not taxed independently from the gasoline for which it is sold for blending, and neither butane nor propane constitutes gasoline, butane and propane are not blendstocks for purposes of section 3(f) of the Act. Accordingly, there is no need for a seller of either butane or propane to obtain from the purchaser of the butane or propane the “certification ... for federal purposes” described in section 3(f) of the Act because the butane and propane are already exempt from the tax imposed under section 8 of the Act.

For the reasons described above, butane and propane are not subject to the \$0.19 per gallon tax imposed under section 8 of the Act on “gasoline.” If, however, either butane or propane is mixed or otherwise blended with a “motor fuel” as defined under the Act, the butane or propane would be subject to the tax imposed under section 20 of the Act.

Reporting Requirements for Receipts and Disbursements of Butane and Propane

In your correspondence, you indicate that you are licensed as a supplier and as a terminal operator under the Act. Therefore, you are subject to the monthly reporting requirements under section 70(2) of the Act and the monthly and annual reporting requirements under section 83 of the Act relating to your supplier and terminal operator licenses, respectively. Even though butane and propane are not subject to the tax imposed on gasoline under section 8 of the Act, butane and propane may be (or become) taxable under sections 20 and/or 152 of the Act. Therefore, certain reporting of receipts and disbursements of butane and propane are required by the Department, as noted below.

Licensed Suppliers

Section 70(2)(d) of the Act authorizes the Department to require licensed suppliers to include in monthly reporting “[a]ny other information that the [D]epartment determines is reasonably required to determine tax liability” under the Act. Pursuant to that authority, the Department requires that licensed suppliers report (for informational purposes and not for reporting taxes under section 8 of the Act) all receipts and disbursements in Michigan of butane (product code 055) and propane (product code 054) on their Michigan Fuel Supplier Return using the schedule(s) that appropriately report(s) the receipt and/or disbursement activity.

Terminal Operators

Section 83(3) of the Act authorizes the Department to require licensed terminal operators (or licensed suppliers operating terminals) to include in monthly reporting of operations for each terminal operated in Michigan “[a]ny information the [D]epartment considers reasonably necessary to determine the terminal operator’s tax liability” under the Act. In addition, section 83(4) of the Act authorizes the Department to require persons operating terminals in Michigan to include in their annual report of operations for each terminal operated in Michigan “[a]ny other information the [D]epartment considers reasonably necessary to determine the tax liability of the terminal operator” under the Act. Pursuant to that authority, the Department requires that licensed terminal operators include in these reports all receipts in Michigan of butane (product code 054) and propane (product code 054) on a schedule 15A (Gallons Received) and all disbursements in Michigan of these products on a schedule 15B (Gallons Disbursed) on their Michigan Terminal Operator Reports.

If you have further questions regarding the Michigan Motor Fuel Tax Act, please contact the Department of Treasury Special Taxes Division at (517) 636-4600. Further information is also available at: www.michigan.gov/taxes.

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