Josh Stein
Governor

July 21, 2026

McKinley Wooten, Jr.
Secretary

Notice: Due to the enactment of Session Law 2026-31, the guidance provided in this Private Letter Ruling is no longer applicable.

North Carolina Department of Revenue

Roy Cooper
Governor

Ronald G. Penny
Secretary

February 20, 2023

[redacted]

Re: Private Letter Ruling
North Carolina Motor Fuel Excise Tax

Dear [redacted]:

This letter is in response to your letter dated June 30, 2022, where you requested the North Carolina Department of Revenue ("Department") provide a private letter ruling on behalf of [redacted] ("Taxpayer").

Specifically, Taxpayer has requested the Department's advice regarding motor fuel transactions applicable under Article 36C under Chapter 105 of the North Carolina General Statutes. The advice concerns the imposition of the motor fuel tax, licensure and reporting requirements under Article 36C, and the applicability of motor fuel tax refunds.

The Department has completed its review of your request and issues this private letter ruling in accordance with N.C. Gen. Stat. §§ 105-264 and 105-264.2.[1] In making this ruling, the Department has considered the facts presented in the initial request for a private letter ruling as well as supplemental information provided to the Department.

Statement of Facts

Taxpayer provided an initial statement of facts in its letter to the Department requesting a private letter ruling. The following statement of facts were provided:

1. Taxpayer Information:
   a. [redacted]
   b. Taxpayer holds inventory at IRS-registered terminals, per the books and records of the terminal operator, located outside of North Carolina [redacted].
   c. Taxpayer is not currently registered for motor fuels tax purposes in North Carolina.
   d. Taxpayer is a Federal 637 "S" registrant.

[1] A private letter ruling, also known as a written determination, applies the tax law to a specific set of existing facts furnished by the Taxpayer. A written determination is applicable only to the individual taxpayer addressed and has no precedential value except to the Taxpayer to whom the determination is issued.

2. Pipeline Co.'s Existing Breakout Storage Tanks:
   a. Pipeline Co. owns and operates pipelines that connect IRS-registered terminals and refineries in various states, including North Carolina.
   b. Pipeline Co. has breakout storage tanks along certain areas of the pipeline, including in North Carolina.
      i. Breakout storage tanks are necessary and part of normal pipeline operations.
      ii. [redacted]
      iii. [redacted]
      iv. [redacted]

3. Taxpayer's Addition/Modification to Pipeline Co.'s Existing Breakout Storage Tank:
   a. Taxpayer will modify existing breakout storage tanks or construct a new breakout storage tank ("Involved Breakout Tankage") [redacted]
      i. [redacted]
      ii. [redacted]
      iii. [redacted]
   b. Taxpayer will add multiple [redacted] storage tanks ("[redacted] Storage Tanks") next to Pipeline Co.'s North Carolina existing breakout storage tanks within the fence line.
      i. [redacted]
      ii. [redacted]
      iii. [redacted]

4. Taxpayer Scenario #1 – [redacted] Transactions:
   a. Taxpayer will purchase [redacted] from third-party vendors within the pipeline for delivery into Involved Breakout Tankage.
   b. [redacted]
   c. Taxpayer will disburse the [redacted] created from [redacted] via Pipeline Co.'s pipeline.
   d. Taxpayer will export [redacted] via Pipeline's Co.'s pipeline [redacted]

5. Taxpayer Scenario #2- [redacted] Transactions:
   a. Taxpayer will purchase [redacted] imported via [redacted] from third-party vendor for delivery into [redacted] Storage Tanks.
      i. Title transfers to Taxpayer upon delivery to [redacted] Storage Tanks [redacted]
      ii. Vendor will invoice Taxpayer North Carolina motor fuels tax.
   b. Taxpayer will inject the tax-paid [redacted] from [redacted] Storage Tanks into [redacted] that is already within Pipeline Co.'s pipeline via a [redacted] system.

c. Taxpayer will (1) sell the [redacted] created by injection of tax-paid [redacted] within the pipeline or (2) export the [redacted] created by injection of tax-paid [redacted] from North Carolina.

Addendum to Statement of Facts

Based on the Department's review of the statement of facts provided by Taxpayer, the Department sought additional clarification. The following represents questions posed by the Department and answers provided by Taxpayer.

Question #1 from the Department

Under Statement of Facts, Taxpayer Scenario #1 (PLR Req., p. 2, ¶¶ 4.c.-d.), the "[t]axpayer will disburse the [redacted] created from the [redacted] via Pipeline Co.'s pipeline" and export [redacted] via Pipeline Co.'s pipeline from North Carolina. How will the motor fuel be dispersed and sold? In explaining how the motor fuel will be dispersed and sold, please include when ownership of the motor fuel is transferred and the location of the motor fuel when ownership is transferred?

Response #1 from Taxpayer

- Taxpayer will sell all motor fuel within the pipeline.
- Taxpayer will ship all [redacted] to Pipeline Co.'s North Carolina breakout tank farm, putting such components into Pipeline Co.'s storage tanks via piping connected to the pipeline
- Taxpayer will hold [redacted] (i.e., mixed [redacted]) in storage tanks until there is a contract for delivery to an IRS-registered terminal
- Taxpayer will inject [redacted] into Pipeline Co.'s pipeline via piping connected to the pipeline within Pipeline Co.'s published rules and regulations [redacted]
  - [redacted]
- Title will transfer from the Taxpayer to the Customer within the pipeline, prior to delivery into an IRS-registered terminal [redacted]
- If the destination IRS-registered terminal is outside of North Carolina, then the Taxpayer is the exporter from North Carolina via pipeline

Question #2 from the Department

Under Statement of Facts, Taxpayer Scenario #2 (PLR Req., p. 2, ¶ 5.c.), the "taxpayer will (1) sell the [redacted] created by injection of tax-paid [redacted] within the pipeline or export the [redacted] created by injection of tax-paid [redacted] from North Carolina. How will the motor fuel be dispersed and sold? In explaining how the motor fuel will be dispersed and sold, please include when ownership of the motor fuel is transferred and the location of the motor fuel when ownership is transferred.

Response #2 from Taxpayer

- Taxpayer will sell all motor fuel within the pipeline.
- Taxpayer will receive tax-paid [redacted] into Taxpayer's [redacted] storage tanks
- Taxpayer will hold [redacted] in Taxpayer's [redacted] storage tanks until there is a contract for delivery to an IRS-registered terminal
- Taxpayer will inject [redacted] into Pipeline Co.'s pipeline via piping connected to the pipeline [redacted]
- Title will transfer from the Taxpayer to the Customer within the pipeline, prior to delivery into an IRS-registered terminal [redacted] within or outside of North Carolina
  - [redacted]
- If the destination IRS-registered terminal is outside of North Carolina, then the Taxpayer is the exporter from North Carolina via pipeline
- [redacted]

Issues

Taxpayer has raised numerous but similar issues regarding its responsibilities under Taxpayer Scenario #1 and Taxpayer Scenario #2. Department has distilled the Taxpayer's issues as follows:

1. **Transactions within the Terminal Transfer System.** [redacted] Is Taxpayer required to remit motor fuel excise taxes, obtain a motor fuel license, or report these transactions to the Department? Alternatively, is Taxpayer able to obtain a motor fuel license for these transactions?

2. **Refunds for Exported Tax-Paid Motor Fuel.** [redacted] Is the Taxpayer is able to obtain a refund for tax-paid motor fuel sold within the terminal transfer system or exported from the terminal transfer system?

Department's Response

1. *Overview*

   Taxpayer is not required to remit motor fuel taxes, obtain a motor fuel license, or report any transactions to the Department for activities performed by Taxpayer under Taxpayer Scenario #1 or Taxpayer Scenario #2. Further, the activities performed by Taxpayer do not allow Taxpayer to obtain a motor fuel license for the transactions described by Taxpayer.

Tax Imposition - Transfers of Motor Fuel within the Terminal Transfer System

The North Carolina motor fuel excise tax is imposed, in part, on transfers within the terminal transfer system when a person is not registered in accordance with section 4101 of the Internal Revenue Code ("IRC") or licensed as required by the Department. Specifically, N.C. Gen. Stat. § 105-449.81(5) provides that the motor fuel excise tax is imposed on motor fuel that is "[t]ransferred within the terminal transfer system and is subject, upon transfer, to the federal excise tax imposed by section 4081 of the [IRC] or is transferred to a person who is not licensed [at a terminal][2] under this Article as a supplier."[3] Section 4081 of the IRC imposes an excise tax, in part, on taxable fuel[4] that is sold "to any person who is not registered under section 4101 [of the IRC]."[5]

[redacted][6] [redacted][7] [redacted][8] [redacted][9] [redacted][10]

Taxpayer's use of Involved Breakout Tankage and [redacted] Storage Tanks requires the Department to determine whether these storage facilities are within the terminal transfer system. The terminal transfer system is "[t]he motor fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals" whereby a pipeline "moves motor fuel, in bulk, through a pipe either from a refinery to a terminal or from a terminal to another terminal."[11] Generally, breakout tanks are storage facilities where fuel is temporarily stored for the purpose of reinjection into the pipeline.[12] Breakout tanks are commonplace within the pipeline system aiding in distributing motor fuel, in bulk, between terminals. Further, Taxpayer avers that the Pipeline Company has confirmed "the [existing] breakout storage tanks are part of the pipeline" and the terminal transfer system for federal excise tax purposes.[13]

As described by Taxpayer, Involved Breakout Tankage and [redacted] Storage Tanks are modifications to the existing breakout tanks or additions to breakout tanks that are functionally equivalent.[14]

[redacted][15]

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[2] A person must be a position holder at a terminal to be eligible to hold a supplier's license. *See* N.C. Gen. Stat. § 105-449.60(46) (2022). Therefore, for a transfer to be subject to the motor fuel excise tax under this clause for failure to have supplier's license, the transfer must occur at a terminal.

[3] N.C. Gen. Stat. § 105-449.81(5) (2022).

[4] Taxable fuel under section 4081 of the IRC includes the fuels described by Taxpayer. *See generally* 26 C.F.R. § 48.4081–1(c)(3).

[5] I.R.C. § 4081(a)(1)(iv) (2022). *See also* 26 C.F.R. § 48.4081-3.

[6] Taxpayer lists [redacted] as examples of product to be purchased. The North Carolina General Statutes [redacted] is a type of motor fuel. *See* N.C. Gen. Stat. § 105-449.60(31) (2022).

[7] Letter from Taxpayer Requesting Private Letter Ruling (June 30, 2022) [hereinafter PLR Req.], p. 2, ¶ 4.a.

[8] Addendum to Taxpayer's Letter Requesting Private Letter Ruling [hereinafter Addendum], Resp. #2

[9] PLR Req., p. 2, ¶ 4.a.; Addendum, Resp. #1-2

[10] PLR Req., p. 1, ¶ 1.d.

[11] N.C. Gen. Stat. §§ 105-449.60(38), (51) (2022)

[12] *See e.g.*, 49 CFR § 195.2

[13] PLR Req., p. 2, ¶ 2.b.iv.

[14] PLR Req., p. 2, ¶ 3.

[15] [redacted]. This is not considered a rack under federal regulations or North Carolina General Statutes where a rack is a device used to deliver motor fuel to means of transport outside the terminal transfer system. *See* 26 C.F.R. § 48.4081-1(b); N.C. Gen. Stat. §105-449.60(40) (2022).

[redacted][16] Based on these characteristics, the Department considers Involved Breakout Tankage and [redacted] Storage Tanks within the terminal transfer system.

Therefore, Taxpayer's purchase of motor fuel in the pipeline and subsequent delivery to Involved Breakout Tankage all occur within the terminal transfer system. During these transactions, Taxpayer will be registered under section 4101 of the IRC.[17] Since the Taxpayer is registered as otherwise required by section 4101 of the IRC when these transfers occur, the tax under section 4081 of the IRC is not imposed. Consequently, the motor fuel excise tax is similarly not imposed under N.C. Gen. Stat. § 105-449.81(5). Under Taxpayer Scenario #2, because Taxpayer will take ownership of tax-paid motor fuel upon delivery into Taxpayer's [redacted] Storage Tanks, a transfer within the terminal transfer system does not take place and therefore does not require analysis under N.C. Gen. Stat. § 105-449.81(5).

When Taxpayer subsequently injects motor fuel into the pipeline and sells the motor fuel to other persons for delivery to a North Carolina terminal or a terminal outside this State, the motor fuel excise tax is similarly not imposed. However, the Department must emphasize that for Taxpayer to avoid the imposition of the motor fuel excise tax, the Taxpayer must sell to persons registered in accordance with section 4101 of the IRC.

Tax Imposition - Blending Motor Fuel in the Terminal Transfer System

The North Carolina motor fuel excise tax is imposed on blenders in North Carolina. Specifically, N.C. Gen. Stat. § 105-449.81(4) imposes a tax on motor fuel that is blended in this State.[18] Blended fuel is "[a] mixture composed of gasoline or diesel fuel and another liquid, other than an additive, that can be used as a fuel in a highway vehicle." The tax under the subsection is imposed[19] on the "person who produces blended fuel outside the terminal transfer system."[20]

[redacted][21]

As determined above, both Involved Breakout Tankage and [redacted] Storage Tanks are within the terminal transfer system. Since, the tax is not imposed when a person blends motor fuel within the terminal transfer system, the tax under N.C. Gen. Stat. § 105-449.81(4) is not imposed on Taxpayer's activities under Taxpayer Scenario #1 or Taxpayer Scenario #2.

Required Licenses and Reporting Requirements under Article 36B

N.C. Gen. Stat. § 105-449.65 requires suppliers and exporters to become licensed before engaging in business in North Carolina.[22]

[16] PLR Req., p. 2, ¶¶ 4.d, 5.c.
[17] PLR Req., p. 2, ¶ 1.d.
[18] N.C. Gen. Stat. § 105-449.81(4) (2022).
[19] N.C. Gen. Stat. § 105-449.84(a) (2022).
[20] N.C. Gen. Stat. § 105-449.60(6) (2022).
[21] PLR Req., p. 2, ¶¶ 4.b, 5b.
[22] As described above, Taxpayer is not required to obtain a blender license. Further, Taxpayer's statement of facts do not implicate Taxpayer having to obtain a license as a distributor under N.C. Gen. Stat. § 105-449.65(10) because Taxpayer is not purchasing motor fuel from an elective or permissive supplier.

A supplier, in pertinent part,[23] is a position holder "who holds the inventory position on the motor fuel in a terminal."[24] A terminal is a "motor fuel storage and distribution facility" from which motor fuel may be removed at a rack.[25]

Under Taxpayer Scenario #1 and Taxpayer Scenario #2, Taxpayer will transfer or take possession of motor fuel within the terminal transfer system and hold the motor fuel in Involved Breakout Tankage and [redacted] Storage Tanks.[26] Taxpayer will either export motor fuel through the pipeline or sell motor fuel to another person in the pipeline before it reaches a North Carolina terminal.[27]

Here, Taxpayer will never become a position holder in North Carolina. Taxpayer cannot remove motor fuel from Involved Breakout Tankage or [redacted] Storage Tanks through a rack: the pipeline is the only means for removing the motor fuel from these breakout tanks.[28] Therefore, these storage facilities are not a terminal and Taxpayer will not be a position holder at these breakout tanks. [redacted] Therefore, Taxpayer does not meet the definition of a supplier and is thus not required to become licensed as a supplier.

Exporting motor fuel requires a person to be licensed as an exporter or as a distributor.[29] Under N.C. Gen. Stat. § 105-449.69(e), a person seeking a license to export motor fuel "must list on the application each state to which the applicant intends to export motor fuel received in this State by means of a transfer that is outside the terminal transfer system."[30]

As noted above, under Taxpayer Scenario #1 and Taxpayer Scenario #2, Taxpayer will export motor fuel through the pipeline to an out of state terminal through the terminal transfer system. Consistent with N.C. Gen. Stat. § 105-449.69, exporting motor fuel outside the terminal transfer system is an indispensable element to determine whether an export has occurred. Here, the terminal transfer system is the exclusive means of exporting motor fuel, and thus, an export will not occur for the purpose of licensure under Article 36C of the North Carolina General Statutes. Therefore, Taxpayer is not required to be licensed as an exporter.

Since taxpayer is not required to obtain a license for any activity under Taxpayer Scenario #1 or Taxpayer Scenario #2, and because all transactions are occurring within the terminal transfer system outside a terminal, Taxpayer is not required to report any transactions to the Department.

Optional Licenses under Article 36B

N.C. Gen. Stat. § 105-449.67 allows a person engaged in business as a distributor or permissive supplier to obtain a license.

A distributor may obtain a license for exporting motor fuel out of this State.[31] Under Taxpayer Scenario #1 and Taxpayer Scenario #2, Taxpayer will export motor fuel through the pipeline to an out of state terminal through the terminal transfer system. However, as explained above, this is not

[23] Note that a supplier can also be a person who receives motor fuel pursuant to a two-party exchange, a fuel alcohol provider, or biodiesel provider. These are not applicable under the statement of facts provided by Taxpayer. Specifically, the sales in the pipeline may not involve another supplier and do not involve delivery of the motor fuel at a rack a terminal for a customer.
[24] N.C. Gen. Stat. §§ 105-449.60(39),(46) (2022).
[25] N.C. Gen. Stat. § 105-449.60(51) (2022).
[26] PLR Req., p. 2, ¶¶ 4.a, 5.a; Addendum, Resp. #1-2.
[27] PLR Req., p. 2, ¶¶ 4.d, 5.c; Addendum, Resp. #1-2.
[28] PLR Req., p. 2, ¶¶ 3.a.iii, 3.b.i,; Addendum, Resp. #1-2.
[29] N.C. Gen. Stat. §§ 105-449.65(a)(5),(b)(3) (2022). *See also* 17 NCAC 12B .0102.
[30] N.C. Gen. Stat. § 105-449.69(e) (2022).
[31] N.C. Gen. Stat. § 105-449.60(13)a. (2022).

an export of motor fuel for the purpose of licensure under Article 36C of the North Carolina General Statutes. Therefore, taxpayer is not eligible to obtain a distributor's license for this activity.

A permissive supplier is "[a]n out-of-state supplier that elects, but is not required, to have a supplier's license under this Article."[32] Consistent with N.C. Gen. Stat. § 105-449.71(a) and N.C. Gen. Stat. § 105-449.83(b), a permissive supplier allows a person to remit tax when motor fuel is removed at a terminal in another state and has this State as its destination state.

Here, although Taxpayer is a position holder at an IRS registered terminal outside of North Carolina, Taxpayer'a proposed transactions will not import motor fuel from outside the terminal transfer system. Therefore, Taxpayer is not engaged in the business of a permissive supplier and is unable to obtain a license as a permissive supplier.[33]

2. *Overview*

Taxpayer may only obtain a refund for tax-paid motor fuel that is exported from North Carolina. For motor fuel destined for a North Carolina terminal, Taxpayer may sell motor fuel tax-paid to the purchaser.

Motor Fuel Exported from North Carolina

In accordance with N.C. Gen. Stat. § 105-449.105(a), "[a] person may obtain a monthly refund of tax paid by the person on exported fuel . . . ."[34]

Under Taxpayer Scenario #2, [redacted][35] [redacted][36] After the motor fuel is blended in the pipeline, some of the motor fuel will be exported to another terminal outside of North Carolina.[37]

After the motor fuel is exported through the terminal transfer system, Taxpayer becomes eligible to file a refund under N.C. Gen. Stat. § 105-449.105(a). Taxpayer may obtain a refund by filing Form NC-19, *Claim for Refund for Taxes* for exported motor fuel. When filing Form NC-19, Taxpayer must provide the Department the total gallons of tax-paid motor fuel injected into the pipeline and ultimately exported from North Carolina. To support the refund request, Department advises the Taxpayer to maintain the following records for at least three years from filing Form NC-19:

1. monthly beginning and ending physical inventory of tax-paid motor fuel held in the [redacted] Storage Tanks;
2. receipts, invoices, bills of lading, delivery tickets, or other documentation substantiating the purchase of tax-paid motor fuel delivered into the [redacted] Storage Tanks;
3. documentation to substantiate the total gallons of tax-paid motor fuel blended through injection into the pipeline (e.g., meter readings); and
4. delivery tickets or other documentation from the motor fuel transporter (i.e., the pipeline company) to substantiate the total gallons of motor fuel exported from North Carolina.

Motor Fuel Delivered to a North Carolina Terminal

There are no statutory provisions for obtaining a refund for excise tax transferred within the terminal transfer system.

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[32] N.C. Gen. Stat. § 105-449.60(36) (2022).
[33] *See* N.C. Gen. Stat. § 105-449.67 (2022).
[34] N.C. Gen. Stat. § 105-449.105(a) (2022).
[35] PLR Req., p. 2, ¶ 5.a; Addendum, Resp. #2.
[36] PLR Req., p. 2, ¶ 5.b; Addendum, Resp. #2.
[37] PLR Req., p. 2, ¶ 5.c; Addendum, Resp. #2.

Under Taxpayer Scenario #2, [redacted].[38] [redacted][39] After the motor fuel is blended, some of the motor fuel will be sold with a North Carolina terminal as its destination.[40]

Taxpayer is unable to file a refund claim for tax-paid motor fuel sold to persons within the terminal transfer system. Taxpayer may sell the motor fuel tax-paid to recover the motor fuel excise tax. The supplier who ultimately takes ownership of the tax-paid motor fuel at the terminal may obtain credit for tax-paid receipts when filing Form GAS-1202.

Advisement and Limitations

This ruling is based solely on the facts described in the statement of facts submitted to the Department for consideration of the transactions described. If the facts and circumstances described are not accurate or if there are other facts not previously disclosed that may result in the Department reaching a different conclusion, this ruling may not be relied upon. If a taxpayer relies on this letter ruling and the Department discovers, upon examination, that the facts situation of the taxpayer is different in any material aspect from the facts and circumstances given in this ruling, the letter ruling will not afford the taxpayer any protection from adverse tax consequences. A letter ruling is not equivalent to a Technical Advice Directive that generally affects a large number of taxpayers. A letter ruling has no binding effect on the Department with regard to any person other than the taxpayer who requested and received the ruling. It should be noted this document shall not be cited or relied upon as precedent and that a change in statute, regulation, or case law could void this ruling.

Respectfully submitted,

[redacted]
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[38] PLR Req., p. 2, ¶ 5.a; Addendum, Resp. #2.
[39] PLR Req., p. 2, ¶ 5.b; Addendum, Resp. #2.
[40] PLR Req., p. 2, ¶ 5.c; Addendum, Resp. #2.