

Title 35 Mississippi State Tax Commission

Part IV Sales & Use

Sub Part 06 Utilities

Chapter 01 Electric Power, Light, Gas and Other Fuel Distributors

100 Levy

101 Pursuant to Miss. Code Ann. Section 27-65-19(1)(a), sales to consumers of electricity, natural gas, liquefied petroleum gas or other fuels and services related thereto by electric power associations, natural gas districts, municipalities, privately owned businesses or stock companies, or any other persons are taxable at the regular retail rate of sales tax, except as otherwise provided. These sales are exempt when sold for residential heating, lighting or other residential, noncommercial, nonagricultural use.

102 Pursuant to Miss. Code Ann. Section 27-65-19(1)(b), sales of electricity, natural gas, liquefied petroleum gas or other fuels to a manufacturer, custom processor, technology intensive enterprise as defined in Miss. Code Ann. Section 27-65-17(1)(f) or public service companies for industrial purposes are taxable at the ~~special~~reduced 1 ½% rate. However, the tax due on the sale of natural gas taxed under Miss. Code Ann. Section 27-65-19(1)(b) shall not exceed 10.5 cents per 1,000 cubic feet.

103 Pursuant to Miss. Code Ann. Section 27-65-19(1)(c)(i), sales of electricity, natural gas, liquefied petroleum gas or other fuels used in the production of agricultural or livestock products for market are subject to the reduced 1 ½% rate.

1042 (Reserved)

200 Residential Usage

201 In order to qualify for the residential exemption, the utilities must be sold to, billed to, and paid for by the homeowner or resident of the facility. Residential customers may include, but are not limited to, privately owned hunting and fishing camps, summer homes, cabins, or apartments.

202 Hunting or fishing camps that provide hunts and/or accommodations for a fee are not allowed the residential exemption and are subject to the regular retail rate of tax7%. Vacant apartments with utilities being billed to the apartment complex or manager are not eligible for the residential exemption. Private homes or residences owned by a business or corporation that are used for commercial purposes and that may be used to provide overnight stay on a temporary or transient basis are subject to the regular 7%-retail rate of tax. Such common establishments include bed & breakfast facilities.

203 Any apartment or home that may have mixed usage (residential/commercial) must be taxed at the higher 7%-regular retail rate unless there is a separate meter for the business

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(ex. ~~B~~business shop, poultry farm, commercial barn, repair garage, etc.). This provision does not include homes that also contain individuals who maintain a home office.

204 Charges billed to a homeowner's association for use in areas such as, but not limited to, street lighting, subdivision entrance lights, swimming pools, recreational facilities, and clubhouses are not residential usage and are taxable at the regular retail rate of tax.

2052 (Reserved)

300 Manufacturing, Industrial and Agricultural Usage

301 Manufacturers and custom processors may purchase utilities at the reduced ~~rate of a~~ 1 ½% rate when the utilities are used for industrial purposes at the plant site. ~~Sales to manufacturers, custom processors or public service companies for industrial purposes at the plant site are taxable at the special rate of 1 ½%. This includes that used to generate electricity, to operate power line substations and pipeline compressor or pumping stations.~~

302 The sales of fuel used in the production of electric power by a company primarily engaged in the business of producing, generating or distributing electric power for sale are exempt from tax pursuant to Miss. Code Ann. Section 27-65-107. ~~from and after July 1, 2003.~~

~~303~~ The ~~special~~reduced 1 ½% ~~industrial~~ rate shall also apply ~~on sales of utilities to agricultural use which includes utilities to a producer for use~~ directly in the production of poultry or poultry products, the production of livestock and livestock products, the production of plants or food by commercial horticulturists, the processing of milk and milk products, the processing of poultry and livestock feed and the irrigation of farm crops. ~~Any utilities used in the production of agricultural or livestock products for market are subject to the 1 ½% rate.~~ This does not include breeders of domesticated animals not sold for food or other farm related purposes.

303

304 Manufacturers holding a valid direct pay permit must provide their direct pay permit to its utility providers. The manufacturer will not be charged any tax by the utility provider and will be responsible for remitting the correct tax directly to the Tax Commission. This includes the reduced 1 ½ % rate for manufacturing activities and the regular retail rate for any non-manufacturing usage. The direct pay permit should be used for all utility purchases including electricity, gas, and water. Any business eligible for the reduced 1 ½ % rate of tax which does not hold a direct pay permit must contact the Tax Commission for a letter authorizing its eligibility to purchase its electricity and natural gas at the reduced rate. Utility companies must have their customers direct pay permit or

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authorization letter to sell electricity or natural gas for non-residential purposes at a rate less than the regular retail rate.

305 ~~Examples of businesses and fuel usage which may qualify for the~~ special reduced 1 ½% industrial or agricultural rate is applicable to certain businesses, such as a manufacturer, but is also applicable to certain specific uses, such as cotton ginning. include the The following provides some examples of the types of businesses or the types of special usage that qualify for the reduced rate. following:

1. Commercial Bakeries
2. Ship/Boat Builders
3. Soft drink Bottlers
4. Poultry Brooders, and incubators and hatcheries

5. Cabinet shops
6. Cold storage processors
67. Commercial horticulturists and greenhouses
78. Pipeline Compressor or pumping stations
89. Cotton compresses and gins
910. Creosoting and treating plants
101. Dairy barns
112. Electricity generating plants
123. Electric power sub-stations
134. Feed mixers and processors
145. Agricultural Fish farm irrigation
156. Garment plants
17. Hatcheries
168. Concrete and Hot mix asphalt plants
19. Irrigation
1720. Laundries and dry cleaners
21. Livestock productions
22. Marble works
1823. Custom Meat packers processors
1924. Milk processors
25. Naval stores
26. Pecan shellers
27. Planing mills
28. Poultry production
209. Printing shops
30. Ready mix concrete
2131. Saw Mills
2232. Steel fabricators

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~~306 The regular retail rate of tax applies to sales of utility services for all commercial and non-industrial use.~~

~~3067~~ (Reserved)

400 Natural and Byproduct Gases

401 Pursuant to Miss. Code Ann. Section 27-65-19(1)(c)(ii) sales of carbon dioxide, either naturally occurring or man-made, are subject to a reduced 1 ½% rate when purchased for use in a carbon dioxide enhanced oil recovery operation or for permanent storage in the ground.

402 Miss. Code Ann. Section 27-65-101(1)(n) provides that the value of natural gas lawfully injected into the earth for cycling, repressuring or lifting of oil, or lawfully vented or flared in connection with the production of oil is exempt from sales tax. However, the sale of a natural gas for non-industrial use, non-residential use, is taxable at the regular retail rate except as provided in Section 401.

403 (Reserved)

4500 Taxability of Other Income

4501 All receipts from customers which are not refundable or which are not investments in a marketable equity are considered to be gross income, taxable in the class in which they fall. Examples are:

1. Amortization charges
2. Connection or reconnection charges
3. Contributions to line extensions or relocations (aid to construction)
4. Forfeited membership deposits
5. Membership fees and deposits (non-refundable)
6. Penalties for late payments (forfeited discount)
7. Sales of electricity, gas and other fuel
8. Service calls on property of customer (meter test, etc.)

4502 Contributions to line extensions or relocations (aid to construction) made during construction of a residence when billed to the contractor are taxable at the regular retail rate. All charges billed to the homeowner are residential and exempt. Utilities billed to a contractor for temporary use during construction are taxable at the regular retail rate.

4503 Sales of appliances and services related to the installation or servicing of the appliances, as well as sales of any other merchandise to residential consumers are taxable at the regular retail rate of tax. This includes accommodation sales and sales to employees.

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~~Charges billed to a homeowner's association for use in areas such as, but not limited to, street lighting, subdivision entrance lights, swimming pools, recreational facilities, and clubhouses are taxable at the regular retail rate.~~

~~4504~~ (Reserved)

~~5600~~ Exemptions

~~5601~~ Sales of electricity, natural gas, liquefied petroleum gas or other fuels and services are not subject to sales tax when sold to a qualified exempt organization described in Mississippi statute. to the following are exempt:

- ~~1. Housing authorities~~
- ~~2. Muscular Dystrophy Association, Inc.~~
- ~~3. Non-profit water associations~~
- ~~4. Orphanages, old men's or ladies' homes, Y.W.C.A, Y.M.C.A., Boys' or Girls' Clubs operated by nonprofit organizations~~
- ~~5. Qualified non-profit hospitals~~
- ~~6. Qualified non-profit private schools~~
- ~~7. Salvation Army~~
- ~~8. State of Mississippi; its counties, municipalities, departments and institutions~~
- ~~9. U. S. Government; its departments and institutions~~
- ~~10. Chapter of the National Multiple Sclerosis Society~~
- ~~11. Chapters of the National Association of Junior Auxiliaries, Inc.~~
- ~~12. Qualified public or private non-profit museums of art~~
- ~~13. Qualified domestic violence shelters~~
- ~~14. Qualified alumni associations of state supported colleges or universities~~
- ~~15. Institute for Technology Development~~
- ~~16. Mississippi Technology Alliance~~

~~5602~~ (Reserved)

~~6700~~ Miscellaneous Information

~~6701~~ Consumers who purchase electric power directly from the Tennessee Valley Authority, are liable for use tax on the purchase price. The Use Tax Law applies the same rates as are levied under Sales Tax Law on similar transactions.

~~6702~~ Use or consumption by the producer, manufacturer or distributor of the product or service produced, manufactured, or purchased at wholesale is taxable at the appropriate rate, measured by the cost or value of the product or service.

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~~6703 Sales of appliances and services related to the installation or servicing thereof as well as sales of any other merchandise to residential consumers are taxable at the regular retail rate of tax. This includes accommodation sales and sales to employees.~~

~~6704 (Reserved)~~

700 Purchases

701 Purchases by utility companies are subject to tax as follows:

	Private or Public Utilities	Governmental Utilities	EPA's
Automobiles, trucks, etc (10,000 pounds or less gross weight)	5%	0%	3%
Automobiles, trucks, etc (over 10,000 pounds gross weight)	3%	0%	1%
Electricity or other fuel for use in operating the generating or distribution facility	1 ½%	0%	1 ½%
Manufacturing machinery and machine parts	1 ½%	0%	1%
Motor Fuel	0%	0%	0%
Office furniture and equipment	Regular retail rate	0%	1%
Other property for use in operating the generating or distribution system	Regular retail rate	0%	1%
Tangible personal property and services for resale in the regular course for business	0%	0%	0%
Telephone, lights and water	Regular retail rate	0%	Regular retail rate
Tools and equipment	Regular retail rate	0%	1%

702 Rental or lease by utility companies of tangible personal property is taxed at the same rates as sales of the same property.

703 Consumers who purchase electric power directly from the Tennessee Valley Authority are liable for use tax on the purchase price. The Use Tax Law applies the same rates as are levied under Sales Tax Law on similar transactions.

704 The use or consumption by the producer, manufacturer or distributor of the product or service produced, manufactured, or purchased at wholesale is taxable at the rate

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applicable to the use of the product. The tax due is measured by the cost or value of the product or service.

7053 (Reserved)

800 Filing Requirements

801 Distribution of Sales Tax by Cities (Form 72-300) must be completed as a supplement of the sales tax return by any person rendering utility services. The 2% tax discount does not apply to utility charges by utility service companies. Adequate records must be maintained to substantiate tax classification of sales and purchases.

802 (Reserved)