

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)(ii), sales of electricity, current, power, steam, coal, natural gas, liquefied petroleum gas or other fuel sold to a producer of oil and gas for use directly in enhanced oil recovery using carbon dioxide and/or the permanent sequestration of carbon dioxide in a geological formation is taxable at the reduced 1 ½% rate.

103 (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 tax. 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 retail rate of tax. Such common establishments include bed & breakfast facilities.

203 Apartments rented to non-transient customers where utilities are sold to, billed to and paid for by the apartment owner are eligible for the residential exemption as long as the utilities are separately metered between residential and commercial use.

204 Any apartment or home that has mixed usage (residential/commercial) must be taxed at the regular retail rate unless there is a separate meter for the business (ex. business shop, poultry farm, commercial barn, repair garage, etc.). This provision does not include homes that also contain a home office.

205 Charges billed to an apartment owner or homeowner's association for commercial use in common areas such as, but not limited to, street lighting, subdivision entrance lights,

swimming pools, recreational facilities, leasing offices, clubhouses and irrigation sprinkler systems are not residential usage and are taxable at the regular retail rate of tax.

206 (Reserved)

300 Exemptions

301 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.

302 Pursuant to Miss. Code Ann. Section 27-65-19(1)(a)(ii), sales of electricity, current, power, natural gas, liquefied petroleum gas or other fuel for heating, lighting, or other use, and sales of potable water to a church exempt from federal income taxation under 26 USCS Section 501(c)(3) shall be excluded from taxable gross income of the business if the exempt sales are utilized on property that is primarily used for religious or educational purposes. Any church purchasing the above utilities may sign an affidavit attesting to the fact that they are exempt from federal taxation and that they qualify to be exempt from sales tax. Utility providers can accept this affidavit or the 501(c)(3) certificate from the Internal Revenue Service as evidence that the church qualifies for the exemption.

303 Pursuant to Miss. Code Ann. Section 27-65-107(f), sales of fuel to a manufacturer, custom processor, public service company or technology intensive enterprise meeting the criteria established by the Mississippi Development Authority provided for in Section 27-65-17(1)(f) when used for industrial purposes are exempt from the tax levy.

303.01 A manufacturer 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 but will be responsible for remitting the correct retail rate of tax for any non-industrial usage directly to the Department of Revenue on their Use Tax return. The direct pay permit should be used for all utility purchases including electricity, gas, and water. Any business eligible for the exemption that does not hold a direct pay permit must complete the Affidavit for Utility Exemption found on the Department's website and provide a copy to the utility company. Utility companies must keep their customers direct pay permit or affidavit as documentation in order to sell fuel for non-residential purposes exempt.

303.02 The exemption is applicable to certain businesses, such as a manufacturer, but is also applicable to certain specific uses, such as cotton ginning. The following provides some examples of the types of businesses or the types of special usage that qualify for the exemption.

1. Commercial Bakeries
2. Shipbuilders
3. Soft drink bottlers
4. Poultry brooders, incubators and hatcheries
5. Cold storage processors

6. Commercial horticulturists and greenhouses
 7. Pipeline compressor or pumping stations
 8. Cotton compresses and gins
 9. Creosoting and treating plants
 10. Dairy barns
 11. Electricity generating plants
 12. Electric power sub-stations
 13. Feed mixers and processors
 14. Agricultural irrigation
 15. Garment plants
 16. Concrete and asphalt plants
 17. Laundries and dry cleaners
 18. Custom meat processors
 19. Milk processors
 20. Printing shops
 21. Saw Mills
 22. Steel fabricators
- 304 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(e).
- 305 Pursuant to Miss. Code Ann. Sections 27-65-107(g) and (h) the exemption also applies to agricultural use which includes the sale of fuels to or used directly in:
1. Commercial fishermen
 2. Shrimper or oystermen
 3. The production of poultry or poultry products
 4. The production of livestock and livestock products
 5. The production of domesticated fish and domesticated fish products
 6. The production of marine aquaculture products
 7. The production of plants or food by commercial horticulturists
 8. The processing of milk and milk products
 9. The processing of poultry and livestock feed
 10. The irrigation of farm crops.
- 306 (Reserved)
- 400 Natural and Byproduct Gases
- 401 Pursuant to Miss. Code Ann. Section 27-65-19(1)(b)(i) 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)

500 Taxability of Other Income

501 All receipts from customers which are not refundable or which are not investments in a marketable equity are considered to be gross income, taxable at the appropriate rate applicable to the customer. Examples are:

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

502 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.

503 Sales of appliances and 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.

504 (Reserved)

600 Purchases

601 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	0%	0%	0%

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%

- 602 Rental or lease by utility companies of tangible personal property is taxed at the same rates as sales of the same property.
- 603 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.
- 604 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 applicable to the use of the product. The tax due is measured by the cost or value of the product or service.
- 605 (Reserved)
- 700 Filing Requirements
- 701 Any person rendering taxable utility services must complete the Distribution of Sales Tax by Cities Schedule as part of the sales tax return filing. 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.
- 702 (Reserved)