

ENERGY FUELS FOR RESIDENTIAL USE

Notice #07-17

Sales and Use Tax

December 2007



Highlights

- *Energy fuels sold over the counter are taxable.*
- *Propane in a container of 100 lbs. or more is exempt when purchased for residential use.*
- *Kerosene is exempt when purchased at a pump for residential use.*
- *Documentation is required to support exempt sales.*
- *All energy fuels are exempt from local sales tax.*

INTRODUCTION

This notice is intended to provide taxpayers and the general public with information concerning a recent change in the Tennessee sales and use tax statute pertaining to over-the-counter sales of energy fuels.

Public Chapter 602, Section 39 (2007) clarifies that energy fuels sold over the counter at the location of the seller are subject to state sales and use tax. However, propane is exempt if sold over-the-counter directly to the consumer for residential use in a container with a capacity of one hundred pounds (100 lbs.) or more.

DISCUSSION

Tenn. Code Ann. § 67-6-334 exempts energy fuel delivered to the home for residential use. This includes utilities such as electricity, natural gas, or other energy fuels furnished directly to private residences or the delivery of energy fuel into a large container permanently located at the residence.

In response to questions regarding the taxability of over-the-counter sales of propane, the General Assembly has amended § 67-6-334. Except as discussed below, all energy fuels sold over the counter at the location of the seller are subject to state sales and use tax. This includes, but is not limited to, propane, kerosene, and other energy fuels.

Propane in a large container (100 lbs. or more) is exempt from sales and use tax when sold over-the-counter to the consumer for residential use. In addition, sales of fuel generally dispensed directly to consumers on a self-service basis through pumps that have meters for registering the total sales price and amount sold are not considered over-the-counter sales and continue to be exempt. Therefore, kerosene that is sold in such a manner to the consumer for residential use is exempt from sales and use tax.

The retailer must obtain documentation from the purchaser to support these exemptions. Documentation must include the customer's name and address, the amount of the sale, and a statement signed by the customer that the purchase is for residential use. For propane sales, documentation must also include the container size.

All energy fuels are exempt from local sales tax. Energy fuels sold to businesses remain subject to tax at the full state rate (except for special provisions for manufacturers, farmers, nursery operators, and aviation fuel).



References:

- T.C.A. § 67-6-334
- T.C.A. § 67-6-523
- T.C.A. § 67-6-704

The information provided here is current as of the date of publication but may change as a result of new statutes, regulations, or court decisions. While this notice is intended to be comprehensive, events and situations unanticipated by this notice may occur. In such cases you should contact the department or your tax professional for further guidance.