

Residential Utilities

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Sales Tax
Fact Sheet

Sales of electricity, gas, water or steam in Minnesota are normally taxable. However, there are exemptions for residential water and most residential heating fuels.

What's New in 2013

A law passed in 2013 clarifies that payments made to electric utilities and cooperatives as a "contribution in aid of construction" are not taxable.

Residential customers

Residential customers, for the purpose of heating fuels and residential water exemptions, include:

- apartments
- condominiums
- correctional facilities
- duplexes
- fraternity or sorority houses
- garages-residential (attached or unattached)
- intermediate care facilities
- lake cabins
- mobile homes
- nursing homes
- rooming houses
- single family homes
- town houses

Utilities supplied for residential heating **during construction** of a residence are not taxable.

Residential use **does not** include use in travel trailers, motor homes or other recreational vehicles.

Residential heating fuels

Natural gas or electricity sold for residential use is not taxable for the billing months of November, December, January, February, March and April when sold to metered customers who use it as their primary source of residential heat. If more than one type of heat is used, natural gas or electricity is not taxable if it is the *primary source* of heat. Primary source of residential heat is the source that supplies more heat than any other source for the largest period of time during the heating season.

If the primary source of residential heat is either natural gas or electricity, and there is only one meter for that

utility, then all gas or electricity measured through that meter is not taxable during the winter heating months.

If a customer is on a *budget plan* with the utility that supplies the primary heating fuel, monthly payments will not change during the heating season. Sales tax is based on when the actual consumption takes place, not when the customer pays the utility. The utility company knows that tax is not charged during the heating season when determining the amount of the monthly budget payment.

All fuel oil, coal, wood, steam, hot water, propane gas and LP gas delivered to a residence is assumed to be for residential use and is not taxable on a year-round basis. These fuels are taxable when delivered to a non-residence. Heating fuels picked up by a customer are taxable unless the customer gives a written statement that the fuel is for residential heating.

Firewood for recreational or commercial use is taxable. Examples include firewood used for camping, picnics, heating commercial buildings, or cooking at restaurants.

Artificial fireplace logs are taxable.

Fuel used to heat **fish houses** is taxable.

Commercial and residential use

Some buildings have both residential quarters and commercial operations. If there is one meter for the entire building for electricity, natural gas or water, square footage is used to determine if the residential exemption applies:

- The residential exemption applies if more than 50 percent of the square footage of the building is residential.
- The utilities are taxable if 50 percent or more of the square footage of the building is used for commercial operations.

The following examples illustrate how to compute the residential/commercial percentage.

Example 1. A two-story building with a basement has one natural gas meter for the entire building. The primary source

of heat is natural gas. There is a restaurant on the first floor. The second floor is the owner's residence. The basement is not used as part of the commercial operation. Since about one third (one of three floors) of the square footage is used for commercial purposes, the exemption applies.

Example 2. A home and four cabins at a resort are heated by LP gas from one LP gas tank. The four cabins are rented out six months of the year. In determining the square footage of commercial use, the seasonal use must also be considered. Assume the home is 1,600 square feet. The four rental units are 750 square feet each. Four cabins x 750 square feet x 1/2 year = 1,500 square feet for commercial use. Since 1,600 square feet is for residential use, the heating fuel is exempt.

Example 3. An apartment building is heated with electricity. The owner is responsible for heating the entire building including all common areas. Apartment buildings and condominium units are considered to be residential. Therefore, electricity used as the primary source of heat for these buildings is not taxable during the heating season. Common areas such as hallways and laundry rooms are considered part of the residence, and electricity to heat them follows the same rules as the residence.

In situations where a building houses both residential quarters and commercial operations, the utility may request from the purchaser a fully completed Form ST3, Certificate of Exemption, claiming the residential heating fuel exemption.

Water and sewer

Water for residential use is not taxable. Water for non-residential use is taxable. Charges for sewer services are never taxable.

Determining taxable sales price

All charges associated with furnishing utilities are part of the sales price and are taxable, except fees for the safe drinking water testing program mandated by federal law. Following are examples of associated charges that are taxable even if minimal or no services are consumed:

- demand charges
- fixed or basic monthly charges
- franchise fees
- fuel clause adjustments
- minimum charges
- reconnection fees
- service charges
- service connection charges
- standby fees
- surcharges

If the utility service is not taxable, the associated charges are also not taxable.

It was clarified during the 2013 legislative session that a payment made to electric utilities and cooperatives as a

contribution in aid of construction is a contract for improvement to real property and not a taxable sale. Electric utilities and cooperatives that invoice for contributions in aid of construction should clearly identify and separately state the charge. Do not combine it with any charges associated with furnishing the utility, such as the fee for connecting the utility from the customer's property to the infrastructure, which is a taxable sale.

Credits or dividends cannot be subtracted from the amount subject to sales tax if they are determined after the sale occurs. If the credit is determined before the sale, it is not taxable. The following examples illustrate the taxability of some credits:

Example 1. An electric company and a homeowner enter into an interruptible service agreement. The homeowner agrees to allow the electric company to cycle their air conditioning on and off during peak demand periods. In exchange, the electric company gives the homeowner a credit on each bill during a specified period. This credit is a constant percentage of the bill and is given regardless of whether or not the power was actually cycled. This credit is determined before the sale and should be subtracted from the sales price before sales tax is calculated.

Example 2. The bylaws of a utility cooperative define any excess revenue over its operating costs and other expenses as capital contributions paid by its patrons. If, at the end of a year, the co-op determines there was any excess, it is allocated to the patrons' capital accounts. In this case, the credit is not determined until after the sale. Therefore, tax is calculated on the entire sales price before the credit is subtracted.

Sales to governments

Sales of residential utilities as well as all other sales to the federal government are never taxable. Sales of *residential* utilities to state and local government agencies follow the guidelines listed in this fact sheet.

Sales on Indian reservations

Utilities sold to *individuals* on the Mille Lacs, Prairie Island, Red Lake, Shakopee, Upper Sioux and Lower Sioux Indian reservations are not taxable at any time. Utilities sold to *individuals* on the Boise Forte, Fond du Lac, Grand Portage, Leech Lake and White Earth Indian reservations are taxable unless the exemptions described in this fact sheet apply. Utilities sold to *tribal governments* or businesses owned by tribal governments are not taxable at any time.

Sales to nonprofit organizations

If the exemptions described in this fact sheet don't apply, qualifying nonprofit organizations must give you an exemption certificate to make purchases without paying tax.

Local sales and use taxes

If you are located or working in an area with a local tax, local sales or use tax may also be due. Local taxes are listed and explained in detail in Fact Sheet 164, Local Sales and Use Taxes.

References:

M. S. 297A.61, Subd. 3

M. S. 297A.61, Subd. 4

M. S. 297A.67, Subd. 15. Residential heating fuels

Rule 8130.1100, Utilities and Residential Heating Fuels

Revenue Notice 94-23, Residential Electricity

Other fact sheets you may need:

Sales to Governments, #142

Use Tax for Businesses, #146

Local Sales and Use Taxes, #164