



Commission on the 21ST Century Economy

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MEMORANDUM

Date: March 2, 2009
To: Commissioner Becky Morgan
From: Jessica Mar, Commission on the 21st Century Economy Staff
Re: Sales Tax Exemptions on Utilities

Regarding your question about the taxation fuel, the sale of liquid petroleum gas is exempt from sales and use tax when the product is delivered into a tank of 30 gallons or more to a "qualified" residence for household use. For these purposes, a qualified residence is a primary home not served by gas mains or pipes. State sales tax applies to gas delivered to a secondary home.

Revenues and Taxation Code Section 6353 exempts from taxation the sale or transfer of gas, electricity, water (including steam), and geothermal brines or other heat sources delivered through mains, lines, or pipes. It also exempts water sold to an individual in bulk quantities (50 gallons or more) for household use, when the residence is not served by mains, lines, or pipes. In addition, the program exempts the transfer of steam, heat, or other energy produced by cogeneration technologies.

The applicable Revenue & Taxation Code section is provided below. If you have any further questions, please contact me.

6353. There are exempted from the taxes imposed by this part the gross receipts derived from the sales, furnishing, or service of and the storage, use, or other consumption in this state of, all of the following:

(a) Gas, electricity, and water, including steam and geothermal steam, brines, and heat, when delivered to consumers through mains, lines, or pipes.

(b) (1) Liquefied petroleum gas, delivered to a qualified residence by the seller, that is sold for household use in the qualified residence, or liquefied petroleum gas that is purchased for use by a qualified person to be used in producing and harvesting agricultural products; provided, in either case, the liquefied petroleum gas is delivered into a tank with a storage capacity for liquefied petroleum gas that is equal to or greater than 30 gallons. This subdivision may not be construed to provide any exemption from any tax levied by a city, county, or city and county pursuant to Section 7284.3, or any successor to that section.

(2) For purposes of this subdivision:

(A) "Qualified residence" means a primary residence, not serviced by gas mains and pipes.

(B) "Qualified person" means any person engaged in a line of business described in Codes 0111 to 0291, inclusive, of the Standard Industrial Classification Manual published by the United States Office of Management and Budget, 1987 Edition, and any other person that assists that person in the lines of business described in this paragraph in producing and harvesting agricultural products.

(c) Water, when sold to an individual in bulk quantities of 50 gallons or more, for general household use in his or her residence if the residence is located in an area not serviced by mains, lines or pipes.

(d) Exhaust steam, waste steam, heat, or resultant energy, produced in connection with cogeneration technology, as defined in Section 25134 of the Public Resources **Code**.

(e) The exemptions provided by subdivision (b) shall be effective starting September 1, 2001, unless the State Board of Equalization determines that implementation by that date is not feasible, in which case the board shall, on or before that date, report to the Legislature regarding the reasons why it must delay implementation, and shall thereafter implement these exemptions no later than October 1, 2001.