



# MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 13

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## SALES OF FUEL AND UTILITIES (Coal, Oil, and Wood; Electricity; Gas, Water)

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This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. It contains general and specific information of interest as well as interpretations and determinations by Maine Revenue Services regarding issues commonly faced by your business. Portions of the Sales and Use Tax Law (Title 36 MRSA Part 3) referred to in this bulletin may be found in Attachment #1.

### 1. ELECTRICITY

**A. 750 KWH per Month Residential Exemption.** All charges by an electric utility for the first 750 kilowatt-hours (KWH) per month of electricity for residential use are exempt, including charges for transportation and delivery and fuel adjustment charges whether or not those charges are separately stated.

**i. Exempt Sales.** For the purposes of this exemption, residential means:

Homes, mobile homes, boarding homes and apartment houses (see subsection iii below);

Common meters in apartment houses for the purpose of lighting hallways, laundry rooms, etc.;

Seasonal dwellings (except a tourist camp or trailer camp as defined in Section 1752, subsections 19 and 20 of the Sales and Use Tax Law); and

Minimum residential billing with no usage of electricity.

See Sections 5 and 6 of this Bulletin for partial exemptions and other exempt sales.

**ii. Taxable Sales.** The residential use exemption does **not** apply to the following:

Hotels, tourist and trailer camps, and overnight cabins;

The commercial aspect of a "Bed and Breakfast";

Nursing homes (unless the nursing home is exempt from sale tax generally pursuant to Title 36, §1760(16)(B));

Mobile home parks;

Outside area lighting when separately metered or charged at a flat rate;

All commercial users except those listed in subparagraph i above.

**iii. Apartment Houses.** If two or more apartment units are billed on the same meter and the electric utility applies its tariff on a per-unit basis, each unit is allowed a 750 KWH per month exemption.

If two or more apartment units are billed on the same meter and the electric utility does not apply its tariff on a per-unit basis, only one 750 KWH allowance applies for all of the units collectively.

**iv. Water Heaters - Separately Metered.** A user of electricity who qualifies for exemption of the first 750 KWH per month and has an electric water heater on a separate meter is entitled to only one 750 KWH exemption per month. For example, if a user consumes 300 KWH for water heating and 600 KWH for other residential uses during a given month, sales tax applies to 150 KWH for that month (the amount by which the total usage exceeds 750 KWH).

**v. Billings Other Than Monthly.** In the case of bi-monthly and irregular billings, the following rules apply:

a. Bi-monthly - If the utility company bills once every two months, the first 1500 KWH for the two-month period are exempt.

b. Initial and Final Billings - If an initial or final billing is issued for a period of less than one month, the first 750 KWH on that bill are exempt. If the billing is for more than one month but less than two months, the first 1500 KWH for that period are exempt.

c. Other Frequency Billings - If a utility company regularly bills for periods other than monthly or bi-monthly, the exemption must be prorated. For example, a billing for a 45-day period would exempt the first 1,125 KWH.

d. Multiple Vendors – If more than one utility company bills a residential customer for portions of the same month, each utility company may exempt the first 750 KWH of electricity billed to the customer.

**B. Exemption for Certain Commercial Activities.** Electricity used by commercial farmers, commercial fishermen and commercial aquacultural businesses in their respective commercial activities or support operations may be purchased exempt from sales tax. This exemption is applied on a meter-by-meter basis. If a single meter is supplying electricity that will be used in both qualifying and non-qualifying activities, tax should be paid to the utility provider and the taxpayer should apply directly to Maine Revenue Services for a refund based on a pro-rata portion of the electricity used in the qualifying activity.

For purposes of this provision, the term “support activities” includes storage operations, maintenance operations, and related administrative activities, but does **not** include activities conducted by a separate business; wood harvesting and/or processing activities; construction activities; reselling products procured or produced by someone else; or unrelated administrative activities.

### C. **Billing, Collection and Remittance of Sales Tax**

Electricity in Maine is provided by two separate companies; an electricity supplier, and a transmission and distribution (“T&D”) company. The electricity supplier sells electricity to consumers in a competitive market. The T&D company delivers the electricity over transmission lines that it maintains and services.

**i. Sales by Competitive electricity providers.** Where electricity is purchased from a competitive electricity provider (“CEP”), the competitive provider is the retailer selling the electricity and is responsible for registering, collecting and remitting sales and use tax. Even though the CEP may contract with a T&D company to provide billing functions, the CEP is liable for any collections made on its behalf by T&D companies, as well as for any tax that was required to be collected and is subsequently determined to be due.

a. Direct billings. If a CEP bills its customers directly, it should calculate the tax and remit the tax directly to the State Tax Assessor.

b. Contracting with T&D to provide billing functions. If a CEP contracts with a T&D company to provide billing functions, the T&D company should calculate and collect the appropriate tax on the entire sale. Tax attributable to sales of electricity, along with detailed supporting documentation, should then be forwarded to the CEP who must then complete the sales and use tax return for each period. If upon audit it is determined that tax was erroneously not collected on taxable transactions, the CEP will be assessed for the additional tax and applicable interest and penalties.

**ii. Standard Offer Service.** Electricity is automatically provided by the Standard Offer Service when a customer chooses not to purchase from a competitive electricity provider. This electricity is provided by a number of producers making up the standard offer pool. The Standard Offer Service contract requires the T&D company to “calculate, bill, collect and remit” sales tax on sales of electricity through the standard offer service. The T&D company will be held liable for the sales taxes collected.

Tax attributable to the sales of electricity and the transmission and distribution of electricity should be reported on the sales and use tax return of the T&D company for each period. The T&D company will be held liable for any tax that was required to be collected and subsequently determined to be due. If upon audit it is determined that tax was erroneously not collected on taxable transactions, Maine Revenue Services will assess the T&D company for the additional tax and applicable interest and penalties.

**iii. Transmission and distribution of electricity.** Separate charges for the transmission and distribution of electricity are subject to sales and use tax. The same exemptions that exist for the sale of electricity also apply to T&D charges.

**iv. Changing suppliers during a billing period.** Customers may choose to terminate receiving electricity through the standard offer service and begin purchasing from a competitive electricity provider, or vice-versa. In either event, such a change may not always occur at the beginning of a billing period that would affect the application of the sales tax exemption for the first 750 KWH for residential customers. Each CEP may apply the 750 KWH exemption to each residential customer for the month or portion of the month for which it is billing. Similarly, each T&D can apply the 750 kWh exemption to each residential customer for the month or portion of the month for which they are billing.

## **2. GAS**

**A. Exempt Residential Sales.** Sales of gas are exempt from sales tax when bought for heating or cooking in buildings designed and used for both human habitation and sleeping. Exempt sales include sales to homes, mobile homes, boarding homes and apartment houses, and seasonal dwellings (except a tourist camp or trailer camp as defined in Section 1752, subsections 19 and 20 of the Sales and Use Tax Law).

See Sections 5 and 6 of this bulletin for partial exemptions and other exempt sales.

**B. Taxable Sales.** The following sales of gas are taxable:

Sales to hotels, tourist and trailer camps, and overnight cabins;

Sales to nursing homes (unless the nursing home is exempt from sales tax generally pursuant to 36 MRSA §1760(16)(B));

Sales to motor homes and travel trailers;

Sales to all commercial users except the exempt residential users listed in subsection A above;

Sales of gas for heating a residential pool and/or garage; and

Sales of gas in 30-lb. or smaller containers. A dealer may make tax-free sales of such containers only when:

(1) The customer states that the container is being purchased for use in a residential building, and the dealer is able to accept the customer's representation in good faith – that is, the dealer does not believe or have any reason to believe that the customer is not purchasing the container for residential use; and

(2) The dealer has recorded the sale in a running log of all such sales made by that dealer. The log must be available for the inspection and review of the State Tax Assessor upon audit.

- C. **Bottled Gas Return/Exchange Program.** Gas and/or propane can be purchased in a returnable container. When a customer returns an empty container and purchases a full container, the sale would be considered for gas only and sales tax would apply. When a customer purchases a full container without an empty exchange and is billed a single non-itemized charge, sales tax applies to that entire charge. If the value of the fuel and the value of the container are separately stated, sales tax only applies to the value of the fuel.

### 3. **COAL, OIL, WOOD & OTHER FUELS (EXCEPT GAS AND ELECTRICITY)**

- A. **Exempt Residential Sales.** Sales of coal, oil, wood and all fuels other than gas and electricity, are exempt when purchased for cooking and heating in buildings designed and used for human habitation and sleeping. This includes homes, mobile homes, apartment houses, boarding homes, nursing homes, overnight cabins, and hotels.

Kerosene or home heating oil that is prepackaged or dispensed from a tank for retail sale is exempt from sales tax when sold in containers with a capacity of 5 gallons or less, Effective August 1, 2008. A dealer may make tax-free sales of amounts in excess of 5 gallons if:

- (1) The customer states that the fuel is being purchased for residential use, and the dealer is able to accept the customer's representation in good faith – that is, the dealer does not believe or have any reason to believe that the customer is not purchasing the fuel for residential use; and
- (2) The dealer has accepted an affidavit or has recorded the sale in a running log of all such sales made by that dealer. The log must be available for the inspection and review of the State Tax Assessor upon audit.

See Sections 5 and 6 of this bulletin for partial exemptions and other exempt sales.

- B. **Taxable Sales.** The following sales of coal, oil, wood and all fuels other than gas and electricity are taxable:

Sales to commercial users other than the exempt residential users listed in subsection A above.

Sales of kerosene or home heating oil when dispersed from a retail tank into containers larger than 5 gallons. See subsection A above for exceptions.

Sales of fuel for heating a residential pool and/or garage.

### 4. **WATER**

- A. **Exempt Residential Sales.** Sales of water are exempt when purchased for use in buildings designed and used for human habitation and sleeping, with the exception of hotels. Exempt sales include deliveries to homes, mobile homes, apartment houses, boarding homes, and nursing homes. Sales of water to trailer parks for use by the park tenants are also exempt, as are sales to owners of seasonal dwellings (other than tourist

camps and trailer camps as defined in Section 1752, subsections 19 and 20 of the Sales and Use Tax Law).

See Sections 5 and 6 of this bulletin for partial exemptions and other exempt sales.

- B. Taxable Sales.** Sales of water are taxable when sold to hotels, tourist and trailer camps, overnight cabins, or to any commercial user other than the exempt residential users listed in subsection A above.
- C. Bottled Water.** All sales of bottled water sold from retail locations are subject to tax. The taxability of bottled water delivered by the seller will be governed by subsections A and B above.

## 5. PARTIAL EXEMPTIONS

- A. Coal, Oil and Wood; Gas; Water.** In situations where a portion of the use is taxable and a portion is exempt, the owner of the building should break down to the nearest 10% the taxable and nontaxable portions. The seller or utility, acting in good faith, may accept the estimate of the customer and should retain a copy of the letter or notification giving this breakdown.

Examples of dual uses are:

A hotel containing a restaurant;

An apartment building containing a store;

A residence with a heated pool and/or garage;

A residence, such as a “Bed and Breakfast”, with one or more rooms available for rental either year-round or on a seasonal basis.

- B. Electricity.** When electricity for both commercial and residential uses is sold on the same meter, it is considered to be for residential use if it is billed by the electric utility at residential rates, and the first 750 KWH per month are exempt. If it is billed by the electric utility at commercial rates, it is considered to be for commercial use and the exemption does not apply unless the use is primarily for one of the purposes listed in Section 1, subsection B. The tax may be prorated based on a square footage calculation. Tax applies to the percentage of the electric bill that is attributable to the commercial use of the building. The 750 KWH residential exemption applies to the percentage of the bill that applies to the residential use.

- C. Manufacturing.**

(1) Fuel and electricity. The Maine Sales and Use Tax Law does not totally exempt fuel or electricity sold for industrial purposes, except fuel oil or coal, the by-products from the burning of which become an ingredient or component part of tangible personal property for later sale. 95% of the sale price of fuel and electricity used at a manufacturing facility is exempt. The remaining 5% is subject to the general sales and use tax rate.

(2) Water. Sales of water to industrial users are exempt only if the water will become an ingredient or component part of tangible personal property produced for sale, or if the water is consumed or destroyed or loses its identity directly and primarily in the production of tangible personal property for later sale. The seller of water claimed exempt under one of these provisions should require the customer to furnish a blanket certificate of exemption in accordance with Rule 303.

**6. OTHER EXEMPT SALES**

- A. Government Agencies.** Sales made directly to the federal government, the State of Maine or any political subdivision of the State of Maine (such as counties, cities, towns or plantations), or to any agency or instrumentality of the above governments, are exempt from sales tax. No evidence of exemption is required other than the invoice of the seller indicating sale to the government or government agency. Sales to other states and their agencies and subdivisions are taxable.
- B. Exempt Organizations.** The Sales and Use Tax Law provides exemptions for various organizations, such as hospitals, schools, regularly organized churches or houses of religious worship, and certain other organizations. When selling to exempt organizations, the seller should require the customer to furnish a certificate of exemption in accordance with Rule 302.

**7. ADDITIONAL INFORMATION**

The information in this bulletin addresses some of the more common questions regarding the Sales and Use Tax Law faced by your business. It is not intended to be all-inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to the:

**MAINE REVENUE SERVICES  
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P.O. BOX 1065  
AUGUSTA, ME 04332-1065  
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**ATTACHMENT #1**  
**Excerpts from Maine Revised Statutes, Title 36**

**36 § 1752. Definitions.**

The following words, terms and phrases when used in chapters 211 to 225 have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

**4. Hotel.** "Hotel" means every building or other structure kept, used, maintained, advertised as or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests and tenants.

**5-C. Loaner vehicle.** "Loaner vehicle" means an automobile to be provide to a motor vehicle dealer's service customers for short-term use free of charge pursuant to the dealer's franchise, as defined in Title10, section 1171, subsection 6.

**6-A. Manufacturing facility.** "Manufacturing facility" means a site at which is located machinery and equipment used directly and primarily in either the production of tangible personal property intended to be sold or leased ultimately for final use or consumption or the production of tangible personal property pursuant to a contract with the Federal Government or any agency thereof. It includes the machinery and equipment and all machinery, equipment, structures and facilities located at the site and used in support of production or associated with the production. "Manufacturing facility" does not include a site at which a retailer is primarily engaged in making retail sales of tangible personal property not produced by the retailer.

**10. Retailer.** "Retailer" means any person who makes retail sales or who is required to register by section 1754-A or 1754-B or is registered under section 1756.

**11. Retail sale.** "Retail sale" means any sale of tangible personal property or a taxable service in the ordinary course of business.

A. "Retail sale" includes:

- (1) Conditional sales, installment lease sales and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later;
- (2) Sale of products for internal human consumption to a person for resale through vending machines when sold to a person more than 50% of whose gross receipts from the retail sale of tangible personal property are derived from sales through vending machines. The tax must be paid by the retailer to the State;
- (3) A sale in the ordinary course of business by a retailer to a purchaser who is not engaged in selling that kind of tangible personal property or taxable service in the ordinary course of repeated and successive transactions of like character; and



(4) The sale or liquidation of a business or the sale of substantially all of the assets of a business, to the extent that the seller purchased the assets of the business for resale, lease or rental in the ordinary course of business, except when:

- (a) The sale is to an affiliated entity and the transferee, or ultimate transferee in a series of transactions among affiliated entities, purchases the assets for resale, lease or rental in the ordinary course of business; or
- (b) The sale is to a person that purchases the assets for resale, lease or rental in the ordinary course of business or that purchases the assets for transfer to an affiliate, directly or through a series of transactions among affiliated entities, for resale, lease or rental by the affiliate in the ordinary course of business.

For purposes of this subparagraph, "affiliate" or "affiliated" includes both direct and indirect affiliates.

B. "Retail sale" does not include:

- (1) Any casual sale;
- (2) Any sale by a personal representative in the settlement of an estate, unless the sale is made through a retailer, or unless the sale is made in the continuation or operation of a business;
- (3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented on a short-term basis;
- (4) The sale, to a person engaged in the business of renting video media and video equipment, of video media or video equipment for rental;
- (5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more; or
- (6) The sale, to a person engaged in the business of providing cable or satellite television services, of associated equipment for rental or lease to subscribers in conjunction with a sale of extended cable or extended satellite television services;
- (7) The sale, to a person engaged in the business of renting furniture, or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105;
- (8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953;
- (9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;

(10) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in the form of tangible personal property, except resale as a casual sale;

(11) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except resale as a casual sale;

(12) The sale, to a retailer that is not required to register under section 1754-B, of tangible personal property for resale outside the State in the form of tangible personal property, except resale as a casual sale; or

(13) The sale, to a retailer that is not required to register under section 1754-B, of a taxable service for resale outside the State, except resale as a casual sale.

**14. Sale price.** "Sale price" means the total amount of a retail sale valued in money, whether received in money or otherwise.

A. "Sale price" includes:

- (1) Any consideration for services that are a part of a retail sale; and
- (2) All receipts, cash, credits and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses.

B. "Sale price" does not include:

- (1) Discounts allowed and taken on sales;
- (2) Allowances in cash or by credit made upon the return of merchandise or with respect to fabrication services pursuant to warranty;
- (3) The price of property returned by customers, when the full price is refunded either in cash or by credit;
- (4) The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated;
- (5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, restaurant or other eating establishment to its employees as wages;
- (6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;
- (7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier

or

the United States mail;

(8) The fee imposed by Title 10, section 1169, subsection 11;

(9) The fee imposed by section 4832, subsection 1; or

(10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B;

(11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival; or

(12) The premium on motor vehicle oil changes imposed by Title 10, section 1020, subsection 6.

**17-B. Taxable service.** "Taxable service" means the rental of living quarters in a hotel, rooming house, tourist or trailer camp; the transmission and distribution of electricity; the rental or lease of an automobile; the sale of an extended service contract on an automobile that entitles the purchaser to specific benefits in the service of the automobile for a specific duration; and the sale of prepaid calling service.

**19. Tourist camp.** "Tourist camp" means a place where tents or tent houses, or camp cottages or other structures are located and offered to the public or any segment thereof for human habitation.

**20. Trailer camp.** "Trailer camp" means a place with or without service facilities where space is offered to the public for tenting or for the parking and accommodation of camper trailers, motor homes or truck campers used for living quarters. The rental price includes all service charges paid to the lessor.

### **36 § 1760. Exemptions**

No tax on sales, storage or use shall be collected upon or in connection with:

**9. Coal, oil and wood.** Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in buildings designed and used for both human habitation and sleeping. Kerosene or home heating oil that is prepackaged or dispensed from a tank for retail sale in containers with a capacity of 5 gallons or less is presumed to meet the requirements of this subsection.

**9-B. Residential electricity.** Sale and delivery of the first 750 kilowatt hours of residential electricity per month. For purposes of this subsection, "residential electricity" means electricity furnished to buildings designed and used for both human habitation and sleeping, with the exception of hotels. Where residential electricity is furnished through one meter to more than one residential unit and where the transmission and distribution utility applies its tariff on a per unit basis, the furnishing of electricity is considered a separate sale for each unit to which the tariff applies. For purposes of this subsection, "delivery" means transmission and distribution;

**9-C. Residential gas.** Sales of gas when bought for cooking and heating in buildings designed and used for both human habitation and sleeping, with the exception of hotels.

**9-D. Fuel and electricity used at a manufacturing facility.** Ninety-five percent of the sale price of all fuel and electricity purchased for use at a manufacturing facility. For purposes of this subsection, "sale price" includes, in the case of electricity, any charge for transmission and distribution.

**9-G. Fuel oil or coal.** Fuel oil or coal, the by-products from the burning of which become an ingredient or component part of tangible personal property for later sale.

**12. Containers.** Sale of returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

**12-A. Packaging materials.** Sales of containers, boxes, crates, bags, cores, twines, tapes, bindings, wrappings, labels and other packing, packaging and shipping materials to:

A. Persons engaged in the business of packing, packaging, shipping and transporting tangible personal property; or

B. Persons for use in packing, packaging or shipping tangible personal property sold by them or on which they have performed the service of cleaning, pressing, dyeing, washing, repairing or reconditioning in their regular course of business that are transferred to the possession of the purchaser of that tangible personal property;

**39. Residential water.** Sales of water purchased for use in buildings designed and used for both human habitation and sleeping, with the exception of hotels.

**Sec. 16. 36 MRSA §1763** is amended to read:

### **§ 1763. Presumptions**

The burden of proving that a transaction was not taxable is on the person charged with tax liability. The presumption that a sale was not for resale may be overcome during an audit or upon reconsideration if the seller proves that the purchaser was the holder of a currently valid resale certificate as provided in section 1754-B at the time of the sale or proves through other means that the property purchased was purchased for resale by the purchaser in the ordinary course of business. Notwithstanding section 1752, subsection 11, paragraph B, if the seller satisfies the seller's burden of proof, the sale is not considered a retail sale.

### **36 §1811. Sales Tax**

A tax is imposed on the value of all tangible personal property and taxable services sold at retail in this State. The rate of tax is 7% on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43; 7% on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp; 10% on the value of rental for a period of less than one year of an automobile, including a loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; 7% on the value of prepared food; and 5% on the value of all other tangible personal property and taxable services. Value is measured by the sale price, except as otherwise provided. The value of rental for a period of less than one year of an automobile is the total rental charged to the lessee and includes, but is not limited to,

maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges on the rental agreement to recover the owner's estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State. All fees must be disclosed when an estimated quote is provided to the lessee.

The tax imposed upon the sale and distribution of gas, water or electricity by any public utility, the rates for which sale and distribution are established by the Public Utilities Commission, must be added to the rates so established.

Rental or lease of an automobile for one year or more must be taxed at the time of the lease or rental transaction at 5% of the following: the total monthly lease payment multiplied by the number of payments in the lease or rental, the amount of equity involved in any trade-in and the value of any cash down payment. Collection and remittance of the tax is the responsibility of the person that negotiates the lease transaction with the lessee.