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STATE TAX RATE ON UTILITY SALES TO MANUFACTURERS

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The manufacturer sales tax rate has become an issue as cities are updating their utility billing systems for the increased state sales tax. State law limits both state and local sales taxes on water, gas, electricity, and other energy sources used by manufacturers. Your city needs to ensure that your utility billing system reflects these different rates. If you have been overcharging your manufacturer utility customers, you may owe them a refund.

WATER

Tennessee Code Annotated (T.C.A.) 67-6-206(b)(1) provides for a lower state sales tax of one percent (1%) applied to sales of water used in manufacturing. *T.C.A.* 67-6-702(b) also limits the local sales tax rate on such water sales to one-half percent (0.5%). This combined one and one-half percent (1.5%) rate is in lieu of the combined state and local sales tax levied on residential water sales. Normal residential water sales are taxed at the seven percent (7%) state rate plus your local rate, which could be as high as nine and three-quarters percent (9.75%) with a maximum two and three-quarters percent (2.75%) local rate.

ENERGY

T.C.A. 67-6-206(b)(1) also provides that a “tax at the rate of one and one-half percent (1.5%) shall be imposed with respect to gas, electricity, fuel oil, coal, and other energy fuels when sold or used by manufacturers.” *T.C.A.* 67-6-704 exempts all energy sales from the local sales tax. This state-only sales tax is in lieu of the combined state and local sales tax levied on other taxable sales (seven percent state rate plus your local rate).

MANUFACTURER DEFINED

T.C.A. 67-6-206(b)(2) describes a manufacturer's principal business as fabricating or processing tangible personal property for sale.

EXEMPTIONS FROM SALES TAX

T.C.A. 67-6-206(b)(3) provides for a certificate issued by the Commissioner of Revenue that completely exempts water and energy used directly in the manufacturing process from sales tax. Typically, a manufacturer has to provide evidence of a separate meter for manufacturing process water or energy usage to obtain a certificate. The burden is on the manufacturer to apply for and obtain this certificate, and the manufacturer must provide a certified copy of the certificate to the city.

REFUNDS OF TAX OVERPAYMENTS

Any previous collections resulting in overpayment must be refunded to the taxpayer. The statute of limitations on sales tax refunds extends back three years.

T.C.A. 67-1-1802 describes the refund process.

The Department of Revenue has a form (RV-F1403301) that the city must complete and return with documentation showing that it has refunded the correct amount. The form is available on the state's Web site at www.state.tn.us/revenue/forms/general/index.htm.

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