



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

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Sales Tax Rate on Utility Sales

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Sales Tax Rate on Utility Sales

Reference Number: MTAS-1175

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. **The streamlined sales tax act is scheduled to take effect on July 1, 2017. If not extended again by our legislature, these rates and exemptions will change.**

Water

Tennessee Code Annotated (T.C.A.) § 67-6-206(b)(1) provides for a lower state sales tax of 1 percent 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 0.33 percent whenever the local tax does not exceed 1 percent and at the rate of 0.5 percent whenever the rate of local tax exceeds 1 percent. This combined 1.5 percent maximum 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 7 percent state rate plus your local rate, which could result in 9.75 percent with a maximum 2.75 percent local rate.

Energy

T.C.A. § 67-6-206(b)(1) also provides that a “tax at the rate of 1.5 percent 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 the 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-F0102401) [1] that the city must complete and return with documentation showing that it has refunded the correct amount.

Links:

[1] <https://www.tn.gov/revenue/taxpayer-education/existing-businesses/request-a-refund.html>

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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