

**Revenue Information Bulletin
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Sales Tax**

State Sales Tax on Food for Home Consumption, Residential Electricity, Water, and Natural Gas to Be Reduced January 1, 2003, and Eliminated July 1, 2003

The state sales tax rate on food for home consumption, and on electricity, natural gas, and water sold to consumers for residential use will be reduced from 3.9 percent to 2 percent, effective January 1, 2003, and will be completely eliminated on July 1, 2003. These rate reductions result from voters' approval on November 5, 2002, of Amendment No. 2, which added Article VII, Section 2.2 to the Constitution of Louisiana.

The constitutional change does not affect the state sales taxation of electricity, natural gas, and water sold for non-residential use. Electricity, natural gas, and water for non-residential use will continue to be taxable at 3.9 percent through June 30, 2003. On July 1, 2003, the rate of state sales tax on non-residential electricity, natural gas, and water will be reduced to 3.8 percent, as provided by Act No. 22 of the 2002 Regular Session of the Louisiana Legislature.

This constitutional amendment also provides that the 2 percent state sales tax rate maximum as of January 1, 2003, and the state sales tax exemption as of July 1, 2003, that applies to sales of food for home consumption, and residential electricity, water, and natural gas also applies to prescription drugs. However, since prescription drugs are already exempt from the state sales tax by Revised Statute 47:305(D)(1)(j), and this statutory exemption has been sheltered from suspension by Act No. 22, the constitutional rate limitation does not require any procedural changes in the collection or payment of the state sales tax on sales of prescription drugs.

Amendment No. 2 does not prohibit the levy of sales taxes on prescription drugs or food for home consumption by political subdivisions of the state, other than by political subdivisions, such as the Louisiana Tourism Promotion District, whose boundaries are coterminous with the boundaries of the state. This means that the tax on prescription drugs and food for home consumption levied by parishes, municipalities, school boards, and other local political bodies will continue to be collected despite the constitutional change.

Food Sold for Preparation and Consumption in the Home

The state sales tax rate reduction on and subsequent complete state sales tax exemption of food for home consumption is explained in more detail in Revenue Ruling No. 03-002 that can be viewed from the department's web site at <http://www.rev.state.la.us/forms/lawspolicies/RR03002.pdf>.

Water, Natural Gas and Electricity; Tax Rate Transition Procedures

Utility companies must remit the state sales tax on the sales tax return for the month in which they invoice their customers. For example, if a customer's utility meter is read on January 5th, and an invoice is rendered to the customer on January 6th, the state sales tax on that invoice is payable to the department with the utility's January sales tax return which is due on or before February 20.

Utility companies must use a special formula to calculate the taxes due for service periods that

include days before and after the January 1, 2003, and July 1, 2003, rate changes. For example, that customer whose residential meter that is read on January 5, 2003, with 30 days in the service period since the previous reading, will have 25/30ths of his/her charges for the period subject to the tax at the 3.9 percent rate that was applicable before January 1, 2003. The remainder, or 5/30ths of the charges for the period, will be subject to the 2 percent rate applicable to residential sales for periods on and after January 1, 2003. These fractions will change for each meter reading date.

What Is a Residence?

Electricity, water, and natural gas utility companies will collect the 2 percent rate as of January 1, 2003, and allow the complete sales tax exemption as of July 1, 2003, only on sales made “directly to the consumer for residential use.” Article VII, Section 2.2 of the Louisiana Constitution defines this term to include the furnishing of these utilities “to single private residences, including the separate private units of apartment houses and other multiple dwellings, actually used for residential purposes, which residences are separately metered or measured, regardless of the fact that a person other than the resident is contractually bound to the supplier for the charges, actually pays the charges, or is billed for the charges.” Article VII, Section 2.2 also states specifically that “(t)he use of electricity, natural gas, or water in hotel or motel units does not constitute residential use.”

This constitutional provision does not require that the residences to which the utility services are delivered be the principal residences of the occupants. Eligible residences will include single-family homes, duplexes, triplexes, apartment units, condominiums, town homes, and camps, provided that the utility services are billed separately for each occupied unit.

Examples of Utility Sales That Are Not Eligible for Reduced Rate or Exemption

- Sales of utility services, where a single meter is used to measure consumption by several residential units, are not eligible for the reduced sales tax rate or the sales tax exemption.
- Sales of utility services for any building or facility that is used other than for residential purposes, such as a business, commercial, industrial, or institutional facility, are not eligible for the reduced sales tax rate or the sales tax exemption.
- Sales of utility services for hotels, motels, bed and breakfasts, rooming houses, campgrounds, and nursing homes are not eligible for the reduced sales tax rate or the sales tax exemption.

Questions concerning these matters can be directed to the Taxpayer Services Division in Baton Rouge at 225.219.7356 or to any of the department's regional offices.

Cynthia Bridges
Secretary

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