

701—17.37(422,423) Temporary exemption from sales tax on certain utilities. Effective February 5, 2001, the sales of specific energy sources are exempt from Iowa sales tax. Specified sales of energy are exempt from local option taxes as well; see rule 701—107.9(422B).

This exemption is not applicable to electricity, regardless of whether the electricity is used for heat. Electricity charges on utility bills will continue to be subject to Iowa sales and local option taxes. This exemption does not impact franchise fees. Franchise fees will continue to be imposed where applicable.

17.37(1) Definitions. The following definitions are applicable to this rule:

“Fuel” means a liquid source of energy for a residential dwelling, individual apartment unit, or condominium. “Fuel” includes propane, heating fuel, and kerosene. However, “fuel” does not include blended kerosene used as motor fuel or special fuel.

“Heat” means to increase or maintain the temperature of a residential dwelling, apartment unit, or condominium. Due to metered gases and fuels being used for other purposes in the dwelling, such as clothes dryers, gas stoves, and hot water heaters, this temporary exemption for metered gas used for heating purposes will also be extended to metered gases and fuels used for appliances in the residential dwelling, individually metered apartment unit, or individually metered condominium.

“Metered gas” means natural gas that is billed based on metered usage to provide energy to a residential dwelling, individually metered apartment unit, or individually metered condominium.

“Residential dwelling” means a structure used exclusively for human occupancy. This does not include commercial or agricultural structures, nor does it include nonresidential buildings attached to or detached from a residential dwelling, such as a detached garage or outbuilding. However, a garage attached to the residential dwelling that is used strictly for residential purposes will fall within the exemption. Also excluded from this exemption are classified commercial facilities. Classified commercial facilities include, but are not limited to, nursing homes, adult living facilities, assisted living facilities, halfway houses, charitable residential facilities, YMCA residential facilities, YWCA residential facilities, apartment units not individually metered, and group homes.

17.37(2) Metered gas exemption. Effective February 5, 2001, the gross receipts from the sale, furnishing or service of metered gas for residential customers which is used to provide energy to residential dwellings, individually metered apartment units, and individually metered condominiums, and that has a billing date of March 2001 or April 2001, are exempt from sales tax.

a. Billing date determinative. The determining factor for exemption for metered gas is the billing date for the metered gas. The exemption applies only to bills for metered gas which are dated in March 2001 or April 2001.

If a billing for the same usage period needs to be billed more than once due to loss of the original bill or some other error, the billing date of the original bill controls qualification for exemption of metered gas. For example, a utility company issues a billing for metered gas on January 8, 2001, and customer A loses the billing. Customer A calls the utility company in late February and requests that a new billing be issued. The utility company issues a replacement billing to customer A and the replacement bill has a date of March 3, 2001. The date of the original billing issued to customer A is determinative for the purpose of qualifying for the exemption. The fact that a previously taxable billing was reissued during an exemption period does not qualify the reissued billing for the exemption.

b. Qualifying usage. All metered gas billed to a residential customer during March 2001 and April 2001, which will be used as energy for a residential dwelling, individually metered apartment unit, or individually metered condominium as defined in this rule, qualifies for exemption. This exemption includes metered gas used to operate heating units, appliances, and hot water heaters.

c. Qualifying structures. Structures that include both residential and commercial usage on the same meter are subject to a proration formula to obtain the qualifying portion eligible for exemption. To qualify for proration, the structure must be used for both commercial and residential purposes. The purchaser must furnish an exemption certificate to the supplier with respect to that percentage of metered gas that is eligible for exemption. See 701—subrule 15.3(2). The exemption certificate must be in writing and detail how the percentages of exempt residential usage and taxable nonresidential usage were developed. For example, a gift shop, Miss Barb’s Bangles and Baubles, is located on the town square of Indianola, Iowa. Above the gift shop is an apartment. The gas usage of the apartment and

the gift shop are monitored by one gas meter. The metered gas usage for the apartment is exempt, but usage for the gift shop is not. As a result, a proration formula must be established to separately reflect the metered gas usage of the apartment and the gift shop. In addition, the occupant of the apartment must provide an exemption certificate to the metered gas utility company to request the exemption. Approved exemption certificates are available upon request from the department.

It is important to note that the exemption for metered gas is limited to metered gas provided to residential customers. Consequently, a building containing apartment units is not considered to be residential. Instead, if it is classified as commercial property for property tax or any other purpose it is not eligible for exemption unless each apartment has a separate meter to monitor usage.

d. Credit. A utility company that sells, furnishes or services metered gas to residential customers may bill customers sales tax even if the customer qualifies for the exemption from sales tax under this subrule in March and April 2001 if the utility company cannot adjust its billing process in time to accommodate this exemption. Subsequently, the utility company must provide a credit for tax collected from a qualifying utility customer during the exemption period and the credit is to appear on the first possible billing date after March 31, 2001.

17.37(3) Fuel exemption. Effective February 5, 2001, through March 31, 2001, the gross receipts from the sale, furnishing, or service of fuel used to heat a residential dwelling, apartment unit, or condominium is exempt from sales tax.

a. Qualifying fuel. Any fuel which is used to provide heat for a residential dwelling, apartment unit, or condominium, as defined for the purposes of this rule, is exempt from tax. The fuel must be used to heat the residential dwelling, apartment unit, or condominium.

b. Delivery date determinative. The determining factor for exemption from sales tax is the delivery date of the fuel. Payment date, billing date, or date of execution of the contract for fuel is not a factor. Prices established by contracts executed to establish a fixed price for fuel are not impacted by this exemption. The exemption for fuel applies to the furnishing of the fuel and the delivery service. Only fuel delivered in the time frame beginning February 5, 2001, through March 31, 2001, is exempt.

Consequently, contracts executed to establish a fixed price for fuel, which may also include total or partial prepayment for the fuel under the contract, are exempt only for the amount of fuel delivered beginning February 5, 2001, through March 31, 2001. For example, in September 2000, customer A executed a contract with a propane retailer for fuel which will be delivered in January, February, March and April of 2001. Customer A pays \$1,000 of the contract price to the retailer. Customer A cannot claim exemption for the entire \$1,000 previously paid. Instead, customer A may only receive exemption on the \$525 in gross receipts in fuel delivered under the contract from February 5, 2001, through March 31, 2001.

This rule is intended to implement Iowa Code section 422.45 as amended by 2001 Iowa Acts, House File 1.