



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

JULY 28, 2015

## Compressed Natural Gas and Liquefied Natural Gas Used as Transportation Fuel

Effective July 1, 2015, there will be significant changes to the taxation of compressed natural gas (CNG) and liquefied natural gas (LNG). These changes impact the public utility tax (PUT), business and occupation (B&O) tax, retail sales tax, use tax, and brokered natural gas use tax. See Engrossed Substitute Senate Bill (ESSB) 6440 ([Chapter 216, Laws of 2014](#)). See also [RCW 82.04.310](#); [RCW 82.04.120](#); [RCW 82.16.310](#); [RCW 82.12.022](#); [RCW 82.08.0261](#); [RCW 82.08.02565](#); [RCW 82.12.02565](#).

This Special Notice is organized into the following sections:

- I. Business and occupation Tax**
- II. Public Utility Tax**
- III. Retail Sales Tax and Use Tax**
- IV. Reporting Requirements**
- V. Definitions**

### Section I. Business & Occupation Tax

#### Manufacturing of CNG/LNG by Gas Distribution Businesses

Effective July 1, 2015, the production of CNG or LNG by a gas distribution business for sale or use as a transportation fuel is now included within the definition of "To manufacture" in [RCW 82.04.120](#). Income earned from these sales is accordingly reported under the manufacturing B&O tax classification when the buyer provides the seller with the appropriate certificate for their records as explained below.

The buyer must provide the seller with a completed "Purchases of Natural Gas for Use as Transportation Fuel" certificate to indicate that the CNG or LNG will be used as transportation fuel, or that the buyer is purchasing the natural gas for the purpose of manufacturing CNG or LNG that will be used as transportation fuel.

A business must be producing CNG or LNG for use as a transportation fuel in order to qualify for the following:

- Reporting the income under the B&O tax rather than the public utility tax
- For gas distribution businesses: applying for a remittance (refund) of sales tax paid on qualified manufacturing machinery and equipment (See Section III of this Special Notice for more information.)
- For manufacturers of CNG/LNG for use as transportation fuel that are not gas distribution businesses: using the Manufacturer's Sales and Use Tax Exemption Certificate for Manufacturing Machinery and Equipment. (See Section III of this Special Notice for more information.) The production of CNG or LNG for sale or uses other than transportation fuel is not a manufacturing activity for purposes of B&O tax and the sales and use tax exemptions for manufacturing machinery and equipment. A business

that sells CNG or LNG for use both as transportation fuel and other uses must separately report their income under the B&O tax and PUT, as appropriate.

## **Section II. Public Utility Tax**

The PUT ([chapter 82.16 RCW](#)) does not apply to sales by a gas distribution business of the following:

- CNG or LNG that is to be sold or used as transportation fuel
- Natural gas from which the buyer manufactures CNG or LNG, where the CNG or LNG is to be sold or used as transportation fuel

These sales are instead subject to B&O tax as described in Section I of this Special Notice. The buyer must provide the seller with a completed "Purchases of Natural Gas for Use as Transportation Fuel" certificate to indicate that the CNG or LNG will be used as transportation fuel, or that the buyer is purchasing the natural gas for the purpose of manufacturing CNG or LNG that will be used as transportation fuel.

## **Section III. Retail Sales Tax and Use Tax**

### **Sales and use tax exemption for qualified manufacturing machinery and equipment**

A gas distribution business that manufactures CNG/LNG for use as transportation fuel must pay retail sales tax when purchasing machinery and equipment used in the manufacturing process. However, beginning July 1, 2017, the gas distribution business may apply for a remittance (refund) from the Department for the retail sales tax paid on such equipment. The equipment must qualify as "machinery and equipment" as defined in [RCW 82.08.02565](#). A gas distribution business may apply for such a remittance no more than once per quarter, and may not apply for a remittance after June 30, 2028. The business must retain adequate records to substantiate the exemption, including: invoices, proof of tax paid, and documents describing the machinery and equipment.

Other types of businesses (i.e., businesses that do not meet the definition of a gas distribution business) that manufacture CNG/LNG for use as transportation fuel do not need to apply for a remittance. These businesses may use the Manufacturer's Sales and Use Tax Exemption Certificate to purchase qualifying machinery and equipment if all requirements are met for the exemption.

### **Brokered Natural Gas – Use Tax**

[RCW 82.12.022](#) imposes a use tax on consumers of natural gas or manufactured gas, including CNG and LNG. Beginning July 1, 2015, this tax does not apply to the use of natural gas, compressed natural gas, or liquefied natural gas if the consumer uses the gas for transportation fuel as defined in [RCW 82.16.310](#).

### **Sales of LNG to Common Carriers Engaged in Interstate Commerce by Water**

**Instructions to Sellers:** Sellers of LNG are not required to collect retail sales tax from customers that are operating as private or common carriers by water in interstate or foreign commerce when the following requirements are met:

- The customer is registered with the Department of Revenue, and
- The customer provides a completed Buyer's Retail Sales Tax Exemption Certificate to the seller

In lieu of a Buyer's Retail Sales Tax Exemption Certificate, the seller may accept a completed Streamlined Sales Tax Exemption Certificate that includes the buyer's tax registration or UBI number.

**Instructions to Buyers:** Buyers entitled to this exemption must do one of the following:

- If the seller does not collect retail sales tax from the buyer, then the buyer must remit directly to the Department retail sales tax on all LNG consumed in this state and on ten percent of all LNG that is transported and consumed outside of this state, or

- The buyer may choose to pay retail sales tax to the seller on the full amount at the time of purchase, and then request a refund on qualifying amounts directly from the Department.

Note: This retail sales tax exemption applies to purchases of liquefied natural gas only, not compressed natural gas. This exemption does not apply to purchases of LNG made on or after July 1, 2028.

## Section IV. Reporting Requirements

### E-File Reporting Requirements for Gas Distribution Businesses

The retail sales and use tax exemptions for qualified machinery and equipment (M&E) purchased by gas distribution businesses are considered new tax preferences subject to additional reporting requirements ([RCW 82.32.808](#)). Buyers must therefore report the amount of sales or use tax saved under the “Tax Preference” section of the Department’s E-file tax return. The business must also report the amount of LNG and CNG sold as a transportation fuel.

When completing this section of their return, buyers should select the appropriate option from the drop down list of exemptions and enter the purchase price paid on sales for which an exemption was claimed. This addendum must be completed in addition to a buyer’s regular reporting responsibilities.

Buyers are not required to report the amount of preference received if:

- The tax benefit to a buyer is less than \$1,000 per year; or
- The business files tax returns with the Department on an annual basis

### Annual Report Required

A gas distribution business claiming a remittance of sales tax paid on qualifying machinery and equipment (M&E) must electronically file an annual report ([RCW 82.32.534](#)) to the Department by May 31 of the year following the year in which the tax incentive was used. The report is available online by logging to your account at [dor.wa.gov](#).

### Section V. Definitions

“Gas distribution business” means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural.

“Transportation fuel” means fuel for the generation of power to propel a motor vehicle as defined in [RCW 46.04.320](#), a vessel as defined in [RCW 88.02.310](#), or a locomotive or railroad car.

## Section VI. References

See also [RCW 82.04.310](#); [RCW 82.04.120](#); [RCW 82.16.310](#); [RCW 82.12.022](#); [RCW 82.08.0261](#); [RCW 82.08.02565](#); [RCW 82.12.02565](#).

## For More Information

Call our Telephone Information Center at 1-800-647-7706.