



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

AUGUST 5, 2009

## **B&O Tax Exemption for Sales of Natural and Manufactured Gas by Industrial Users**

*Originally Issued May 31, 2007 – Reissued August 2009*

### **Business and Occupation Tax Exemption**

Substitute House Bill 1508 provides a business and occupation (B&O) tax exemption for certain sales of natural or manufactured gas. To qualify for the exemption, the total amount of natural or manufactured gas a company sells within the United States cannot exceed 20% of what the seller consumed in the United States, in the same calendar year. SHB 1508 is effective July 22, 2007.

### **Retail Sales Tax & Brokered Natural Gas Use Tax**

To the extent a company sells natural gas or manufactured gas to a buyer for its own use as a consumer, these sales are also exempt from retail sales tax under RCW 82.08.026. The buyer, however, must pay brokered natural gas use tax as required by RCW 82.12.022.

### *Non-Qualifying Sales*

If the total wholesale and retail sales of natural gas and manufactured gas exceed 20% of the combined total amount of natural and manufactured gas consumed by the seller in the United States in the same calendar year, and the gas is delivered to the buyer in this state, the sales are taxable as follows:

**Retail Sales** – If a business's sales of natural gas or manufactured gas exceed 20% of natural gas or manufactured gas consumed by the seller in the United States in the same calendar year, all sales to consumers are subject to retailing B&O tax. Such sales are not subject to sales tax under RCW 82.08.026.

**Wholesale Sales** – If a business's sales of gas exceed 20% of the amount of natural gas or manufactured gas the seller consumed in the United States in the same calendar year, all sales to a buyer for resale are subject to wholesaling B&O tax. In this case, a resale certificate (through 12/31/09) or a reseller's permit (effective 01/01/2010) must be obtained from the buyer.

### **Examples**

Company A sold natural gas. Their total sales of natural gas equaled 17.5% of what they consumed in natural or manufactured gas in that same calendar year. Company A qualifies for a B&O tax exemption and does not need to report income from such sales on their return.

Company B sold natural gas. Their total sales of natural gas equaled 22.5% of what they consumed in natural or manufactured gas in that same calendar year. The entire amount of natural gas sold by Company B, 22.5%, is now subject to wholesaling or retailing B&O tax, as the case may be.

### **Transfers not considered part of the sale**

The following transfers of natural or manufactured gas are not considered to be "the sale" of natural or manufactured gas.

- Transfers of natural or manufactured gas as a result of the acquisition of another business through merger or otherwise.
- Transfers of natural or manufactured gas done solely to comply with federal regulatory requirements imposed on the pipeline transportation of such gas when it is shipped by a third-party manager of a person's pipeline transportation.

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