



COLORADO
Department of Revenue

Taxation Division

Office of Tax Policy
P.O. Box 17087
Denver, CO 80217-0087

dor_taxpolicy@state.co.us

GIL 23-003

August 3, 2023

XXXXXXXXXX
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Via Electronic Mail: XXXXXXXXXXXXXXXX

Re: Taxability of Liquefied Petroleum Gas

Dear XXXXXXXXXXXX,

You submitted a request for a general information letter regarding the taxability of liquefied petroleum gas. The Colorado Department of Revenue (“Department”) issues general information letters and private letter rulings. A general information letter provides a general overview of the relevant tax issues but is not binding on the Department. A private letter ruling provides a specific determination for a specific set of facts, is binding on the Department, and requires payment of a fee. For more information about general information letters and private letter rulings, please see 1 CCR 201-1, Rule 24-35-103.5.

Issue

1. Whether liquefied petroleum gas sold to heat or cook in recreational vehicles (not for propulsion), cabins, or tents at campsites is subject to sales tax.
2. Whether liquefied petroleum gas sold for use in recreational vehicles, cabins, or tents at campsite is subject to gasoline and special fuel tax.
3. Whether liquefied petroleum gas purchased for resale is subject to sales and use tax.
4. Whether liquefied petroleum gas purchased for resale is subject to gasoline and special fuel tax.
5. Whether liquefied petroleum gas purchased for heating and cooking in cabins and tents furnished by taxpayer to guests, or for use in taxpayer’s normal business operations, is subject to sales and use or gasoline and special fuel tax.

Discussion

Colorado imposes a sales tax on all sales and purchases of tangible personal property at retail, unless an exemption applies.¹ Tangible personal property means a commodity that is dealt in and capable of being possessed and exchanged.² Liquefied petroleum gas is tangible personal property because it is a commodity that is capable of being possessed and exchanged.

Gas purchased for residential use is exempt from Colorado sales and use tax.³ Residential use is defined as “the use of ... gas, ... for domestic purposes...in a residence.”⁴ A residence is “a separate dwelling in a multi-unit apartment, condominium, townhouse, or mobile trailer home park, or a separate single-unit dwelling...”⁵ The sale of liquefied petroleum gas by an auto camp⁶ to the owner of a recreational vehicle is not within the definition of residential use.

Likewise, cabins and tents are not residences. Instead, they are temporary accommodations, like hotels and motels. Gas is subject to Colorado sales tax when purchased at retail by a hotel or motel operator for heating or lighting rooms because such consumption is commercial consumption, not residential.⁷ The same principle regarding the purchase of gas at retail for heating or lighting hotel or motel rooms applies to purchases or uses by businesses offering similar temporary accommodations.

As discussed above, Colorado imposes sales tax on retail sales of liquefied petroleum gas.⁸ When a person uses, stores, or consumes tangible personal property in this state that was purchased at retail without the payment of tax, the person must file a return and pay the state use tax.⁹ A retail sale includes all sales except wholesale sales.¹⁰ A wholesale sale means a sale by wholesalers to retail merchants for resale.¹¹ If the retail merchant uses a portion of the wholesale liquefied petroleum gas for the retail merchant’s own use, then the retail merchant must remit use tax to the Department on purchase price paid for the amount of gas used.¹²

Colorado imposes a special fuel tax on any liquefied petroleum gas, including propane, used to propel a motor vehicle on the highways of this state.¹³ Liquefied petroleum gas that is sold for retail use, and not to propel a motor vehicle, is not subject to the gasoline and special fuel tax.¹⁴

¹ Section 39-26-104(1)(a), C.R.S.

² Section 39-26-102(15)(a)(I), C.R.S.; paragraph (1) of 1 CCR 201-4, Rule 39-26-102(15).

³ Section 39-26-715(1)(a)(II), C.R.S.

⁴ Section 39-26-715(1)(a)(II)(C), C.R.S.

⁵ Section 39-26-715(1)(a)(II)(B), C.R.S.

⁶ See paragraph (3) of 1 CCR 201-4, Rule 39-26-102(11) (defining “auto camp” for purposes of the sales tax on rooms and accommodations).

⁷ 1 CCR 201-5, Special Rule 22.

⁸ Section 39-26-104(1)(a), C.R.S.

⁹ Sections 39-26-202 and 39-26-204(1), C.R.S.

¹⁰ Section 39-26-102(9), C.R.S.

¹¹ Section 39-26-102(19)(a), C.R.S.

¹² Section 39-26-202(1), C.R.S.; 1 CCR 201-4, Rule 39-26-202. See also *IBM v. Charnes*, 601 P.2d 622, 625 (Colo.1979), “[A]n inventory withdrawal triggers the use tax belatedly...it triggers a retroactive recognition that a previous purchase – earlier thought to be wholesale – actually was retail.”

¹³ Section 39-27-102(1)(a)(I)(B) and (1)(a)(I)(C), C.R.S.

¹⁴ Section 39-27-102(1)(a)(I)(C), C.R.S. See also section 39-27-104(5), C.R.S., for additional requirements for a person who sells liquefied petroleum gas at retail.

Miscellaneous

This letter represents the good-faith opinion of Department personnel who are knowledgeable on state taxes issues. However, the Department does not make a specific determination on any of the issues raised and the Department is not bound by this general information letter.

The Department administers state and state-administered local sales and use taxes. This letter does not address sales and use taxes administered by self-collected home-rule cities. You may wish to consult with those local governments that administer their own sales or use taxes about the applicability of those taxes. Visit our website at tax.colorado.gov for more information about state and local sales taxes.

Thank you for your request.

Sincerely,

Office of Tax Policy
Colorado Department of Revenue