

January 21, 2010

<REQUESTER>  
<COMPANY>

Formal Ruling 2010-01

Dear <REQUESTER>:

You requested a ruling as to whether certain fuels, specifically propane, wood pellets, fire logs and kerosene, are exempt from sales tax when purchased for domestic use. You also ask whether use of the form enclosed with your letter is sufficient to satisfy the requirement that the purchaser complete a certificate of exemption from tax in order to claim the domestic use exemption.

Sales of electricity, oil, gas and other fuels for domestic use is exempt from sales tax. 32 V.S.A. § 9741(26). The commissioner has further defined exempt fuels to include kerosene, natural gas, propane, wood, coal and similar products. Department of Taxes Reg. § 9741(26)-1. Each of the fuels listed in your request - when used domestically - are exempt pursuant to either the statute or regulation.

The regulation also addresses how the exemption must be claimed. The purchaser must complete a certificate of exemption from tax. Reg. § 1.9745-1(A). The regulation further provides that the certificate is available online or in paper version from the Department. *Id.* Form S-3F can be found on the Department's website. A copy is attached to this letter. The seller must obtain an exemption certificate from the purchaser at the time of the exempt sale, but may accept a blanket exemption certificate that covers current and future sales to the holder of the certificate. The regulation also requires the seller to maintain proper records of exempt transactions and provide them to the commissioner upon request. *Id.* The log form you attached to your letter may be used to record the specific exempt purchases to satisfy this requirement once the S-3F is obtained but cannot be substituted for the S-3F. *See* 32 V.S.A. § 3201(a)(6)(commissioner shall determine the form in which returns and reports are filed.)

Although not raised in your request, it should be noted that some of the fuels listed, specifically propane and kerosene are subject to fuel gross receipts tax which is imposed on the seller of the fuel, not on the consumer. Sellers receiving more than \$10,000 annually for the sale of fuels including heating oil, kerosene and propane, natural gas are subject to the fuel gross receipts tax is the rate of 0.5 percent. 33 V.S.A. § 2503. There is no exemption from fuel gross receipts tax for fuel purchase for domestic use.

This ruling will be made public after deletion of the parties' names and any information which may identify the parties. A copy of this ruling showing the proposed deletions is attached, and you may request within thirty (30) days that the Commissioner delete any further information that might identify the interested parties. The final discretion as to deletions rests with the Commissioner.

This ruling is issued solely to the requester and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling to determine the Department's general approach, but the Department is not bound by this ruling in the case of any other taxpayer or in the case of any change in relevant statutes or regulations.

Section 808 of Title 3 provides that this ruling has the same status as an agency decision or an order in a contested case. You have the right to appeal this ruling within thirty (30) days.

Sincerely,

Molly Bachman  
General Counsel

Approved this \_\_\_\_ day of January, 2010.

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Richard Westman  
Commissioner of Taxes

Enclosure