

This Memorandum should be attached to TSB-M-78(7)S,
dated November 24, 1978

Reduction in Rate on Certain Energy Sources and Services -
Public Service Commission Classification Versus Actual Use

Question:

Does a customer whose utility use is clearly residential, but whose New York State Public Service Commission classification is commercial, need to file a Certification Of Residential Use (form TP-385) with the vendor in order to be eligible for the state sales tax rate reduction on purchases of energy sources and services?

Answer:

There generally is no certification necessary where the State Tax Commission has notified a vendor that the classification schedule on file with the New York State Public Service Commission may be used to determine eligibility of a customer for the reduced sales tax rate.

However, in all cases where the customer's use of energy sources is clearly for residential purposes, the vendor shall grant the reduced rate without certification, despite the commercial classification on file with the New York State Public Service Commission.

Example: A condominium complex has a single meter for all its residents. The Public Service Commission classification for the condominium is "commercial". However, for purposes of Chapter 70 of the Laws of 1978, the condominium's use of certain energy sources and services is clearly residential. The vendor, in such a case, should grant the reduced sales tax rate without certification from the customer.