

Application of Sales Tax to Oil, Gas and

Solution Mining Purchases

This memorandum states the Department's policy with respect to the application of sales and use tax to purchases made by persons engaged in oil, gas and solution mining activities which result in a product for sale. These purchases may be made free from state and local (other than New York City) taxes by owners or operators of a well or by subcontractors who supply the expertise and labor for such activities with the use of Form ST-121 (Exempt Use Certificate). The owner or operator must give a properly completed Form ST-121 to either the vendor or the subcontractor with whom he is doing business. The subcontractor must in turn tender a properly completed Form ST-121 to his supplier.

The exemption from sales tax granted to such purchasers under section 1115(a)(12) as amended, became effective August 26, 1981. The purchases covered include all pipe, pipeline, drilling rigs, service rigs, vehicles and associated equipment used in the drilling, production and operation of oil, gas and solution mining activities to the point of sale to the first commercial purchaser.

Solution Mining - in New York State, salt brine is the only product resulting from solution mining. A well is drilled to a required depth at which point water is pumped into the well. The resulting brine is then pumped through pipe and pipelines to the consumer of this product.

Point of Sale - the point at which the producer of a product resulting from oil, gas or solution mining activities no longer exercises control over the product.

First Commercial Purchaser - the first person to whom the product is sold for compensation.

This exemption deems that up to the point of sale to the first commercial purchaser of the extracted product, all pipe, pipeline, drilling rigs, service rigs, vehicles and associated equipment used in drilling, production and operation of oil, gas and solution mining activities are being used directly in production of tangible personal property or gas for sale by mining or extracting. However, in order to be exempt from sales tax, such property must also be used predominantly in such activities (more than 50% of use). The subsequent resale of such property is taxable unless the purchaser uses the property predominantly in the drilling, production and operation of oil, gas and solution mining activities and furnishes the seller with a properly completed copy of Form ST-121.

In order to remove oil, gas or a mineral from its natural underground reservoir or deposit, it is necessary to prepare the drilling site by clearing the terrain and building access roads. Vehicles and associated equipment such as bulldozers, backhoes and other earth moving equipment used predominantly to accomplish these activities are exempt under section 1115(a)(12).

Vehicles used to move personnel and equipment (ATVs*, pick-up trucks and four wheel drive vehicles) from well to well or to the drilling site (within the production area or along the pipelines) are likewise exempt when used predominantly to perform such activities.

A tank truck used to deliver a product from a holding tank to the first commercial purchaser while under the control of a mine or well operator is exempt if used predominantly in such activity.

Parts, tools and supplies used in conjunction with the exempt rigs, vehicles and associated equipment are exempt from the statewide and local sales and use tax, except for the 4% tax imposed within New York City for the benefit of the Municipal Assistance Corporation. Receipts from sales of services of installing, repairing, maintaining or servicing such exempt property are exempt from statewide tax (including the ¼% tax in effect within the metropolitan commuter transportation district), but subject to all local sales and use tax. Tangible personal property or services used in administrative or marketing activities are subject to all applicable sales and use taxes in New York State.

The following list, although not all inclusive, has been prepared to serve as a guideline of tangible personal property which becomes exempt when consumed or used predominantly in the drilling, production or operation of oil, gas or solution mining activities.

Alcohol (methane)	Drilling rig	Pipelines
Anti-pollution devices	Dust collector systems	Pressure plants
ATVs*	Fluids for injection	Pumps
Backhoes	Four wheel drive vehicles	Pumping barrels
Blasting agents	Fuel oil**	Pumping units
Boilers	Gasoline**	Rods
Bulldozers	Gathering lines	Rotary rigs
Cable tool rig	Heater treaters	Separators
Carbon dioxide (CO ₂)	Holding tanks	Service poles
Casings	Liquid calcium	Service tractors
Casing heads	Lubricating oils	Siphon
Completion rigs	Magnesium carbonate	Snowmobiles
Compressed air	Meters	Storage tank
Compressors	Nitroglycerine	Tubing
Detergent additives	Palletizers	V-belts
Detonating devices	Pick-up trucks	Ventilation system
Detonating explosives	Pipes	Water pressure lines
Diesel fuel**	Pipe dope	
Drill points	Pipe fittings	

* All Terrain Vehicles

** Fuel must be used directly and exclusively to qualify for exemption. Fuel purchased in bulk for consumption for both taxable and exempt purposes must be allocated according to taxable and exempt use. Only the portion used directly and exclusively for the operation of equipment being used in an exempt manner will qualify for exemption.