



The Purchase Of Certain Commercial Gases

LR: LR: 2012-2-SUT – Issued June 22, 2012

Tax: Sales and Use Tax

The taxpayer requested a Letter Ruling regarding the application of the Sales and Use Tax Act (N.J.S.A. 54:32B-1, et seq.) to the purchase of certain commercial gases.

Facts

The taxpayer is a distributor of various gases including oxygen, acetylene, argon, various mixes containing argon, and shielding gases used in the welding process.

Issue

Do sales of commercial gases qualify for exemption from the imposition of Sales Tax under the Sales and Use Tax Act (N.J.S.A. 54:32B-1, et seq.)?

Discussion

The Sales and Use Tax Act imposes tax on sales of tangible personal property. N.J.S.A. 54:32B-3(a). "Tangible personal property" is defined as "personal property that can be seen, weighed, measured, felt or touched, or that is any other manner perceptible to the senses." N.J.S.A. 54:32B-2(g). Sales of tangible personal property are subject to Sales Tax unless a valid exemption exists.

Gases are deemed to be tangible personal property. However, the law provides for exemption from Sales Tax on sales of "gas other than natural gas, water, steam, or fuel delivered to consumers through mains, lines, pipes, or in containers or bulk," N.J.S.A. 54:32B-8.7.

Conclusion

Sales of commercial gases are within the scope of the exemption above and as such, are exempt from the imposition of Sales Tax. To claim the exemption, the purchaser must issue a properly completed Exempt Use Certificate ([Form ST-4](#)) to its supplier in lieu of paying Sales Tax.

A Letter Ruling is limited to the facts set forth therein and is binding on the Division of Taxation only with respect to the person or entity to whom it is issued and only if the person or entity fully and accurately describes all relevant facts. A Letter Ruling is based on the law, regulations, and Division policies in effect as of the date the Letter Ruling is issued or for the specific time period at issue in the Letter Ruling.