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STATE OF MICHIGAN  
**DEPARTMENT OF TREASURY**  
TREASURY BUILDING  
LANSING, MICHIGAN 48922

REVENUE ADMINISTRATIVE BULLETIN 1988-37,

Approved: June 10, 1988

**SALES AND USE TAXES - TAXABILITY OF ENERGY SUPPLIED TO PUBLIC ASSISTANCE RECIPIENTS**

(Replaces Position Paper SUW 84-004)

RAB-88-37. The Michigan Department of Treasury has established the following guidelines for the taxability of Energy as defined in the General Sales and Use Tax Acts and the General and Specific Sales and Use Tax Rules. These guidelines are effective June 1, 1985.

All energy transactions after June 1, 1985, will be subject to these guidelines without regard to previous positions taken by the Department of Treasury.

Guidelines

Taxable Sales

A supplier of energy must remit sales tax on all energy sales made to the recipient. Energy sales are taxable when a recipient orders, is billed for, or pays for the energy. Energy transactions are also taxable if a recipient authorizes a reduction in his or her basic grant to pay for energy consumed.

A supplier of energy must remit tax on all sales of electricity, natural or artificial gas, or steam when the FINAL CONSUMER IS THE RECIPIENT, even if paid for by the Department of Social Services (DSS) or other nonprofit organization.

Examples:

1. The supplier bills directly to the recipient.
2. The supplier bills in the recipient's name but mails the bill to the agency or organization.
3. The agency or organization pays past due billings to prevent service shut-off.
4. The supplier bills the agency, but the recipient had previously ordered the energy.
5. The supplier bills the agency, but the recipient is the final consumer of the electricity, natural or artificial gas or steam.



### Nontaxable Sales

A supplier of energy to an assistance recipient will not be liable for sales tax when all the following conditions are met:

1. The sale is for wood, home heating fuel (oil), propane, or kerosene;\* and
2. A purchase order or request for service or product delivery is made by the governmental agency or qualified nonprofit organization to the energy supplier; and
3. The billing for the product or service is prepared in the name of the governmental agency or qualified nonprofit organization by the energy supplier (an information billing may be sent to the recipient); and
4. Payment is made by the governmental agency directly to the supplier by warrant on government funds, or by the qualified nonprofit organization directly to the supplier by organization check.

See the Michigan Sales Tax Act, MCL 205.54(5).

### Public Assistance Programs and Billing Methods

#### General Information

The following energy assistance programs are administered by the Michigan Department of Social Services (DSS):

- o Home Heating Credit
- o Special Heating Allowance - ADC
- o Special Heating Allowance - GA
- o Emergency Needs Program
- o Heating Assistance Plan and Electric Assistance Plan
- o Voluntary Payment Plan

The Michigan Department of Labor administers the Targeted Fuel Assistance program which makes a lump sum payment to nonprofit agencies for fuel assistance. The nonprofit agency in turn distributes the money to low income households.

**Energy Drafts.** Effective January 1, 1985, DSS issues a draft to the recipient to pay his/her fuel bills. The draft can be used to pay only enrolled energy providers. (The recipient can, however, turn the draft in to the Michigan Department of Treasury for a negotiable warrant.) The individual is billed directly for the fuel; DSS does not pay the bill. Any time an energy draft is presented for payment of fuel, the transaction is taxable.

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\* Sales of electricity, natural or artificial gas, or steam are all taxable when the recipient is the final consumer.

Specific Information - Assistance Programs and Billing Methods

Taxable

Home Heating Credit:

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|---|-----|
| 1. Treasury issues warrant to recipient when heat is included in rent.  | Yes |
| 2. Treasury issues energy draft to recipient to pay for his or her heating bills when the recipient has direct heat obligation. | Yes |

Special Heating Allowance - ADC:

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|--|-----|
| 1. Sale of electricity, natural or artificial gas, or steam when the recipient uses or consumes it.  | Yes |
| 2. Recipient receives an increased grant (in his or her name) from November to April to cover fuel expenses.                                   | Yes |
| 3. Recipient's grant remains the same. Recipient currently receives a heating bill in his/her name, but DSS pays it with a government warrant. | Yes |

Special Heating Allowance GA (recipient receives additional payment separate from grant (January, February, March):

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|---|-----|
| 1. Sale of electricity, natural or artificial gas, or steam when the recipient uses or consumes it.   | Yes |
| 2. DSS issues warrant directly to the recipient if his/her heat is included in rent.  | Yes |
| 3. DSS issues an energy draft to recipient for payment of fuel.   | Yes |
| 4. Recipient does not receive an additional grant. Recipient receives energy bill and forwards it to DSS which pays for it with a government warrant. | Yes |

Emergency Needs Program:

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| 1. Sale of electricity, natural or artificial gas, or steam when recipient uses or consumes it.  | Yes |
| 2. DSS pays the energy provider directly with a government warrant to prevent a shut-off based on past due bills (arrearage vendoring).  | Yes |
| 3. Recipient receives the wood, home heating fuel (oil), propane or kerosene ordered from the energy provider by DSS. DSS receives the bill in its name and pays for it with a government warrant. | No  |

Taxable

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| 4. DSS issues a warrant to the recipient to meet his/her emergency need.   | Yes |
| 5. For home repair:  |     |
| A. DSS issues a warrant to a contractor to pay for home repairs. The contractor purchases materials that become a structural part of real estate.              | Yes |
| B. DSS orders materials on a government form and pays for them directly with a government warrant. DSS then hires a contractor to do the repairs/installation. | No  |

Heating Assistance Plan and Electric Assistance Plan:

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|---|-----|
| 1. Sale of electricity, natural or artificial gas, or steam when the recipient uses or consumes it.   | Yes |
| 2. DSS pays the energy provider directly with a government warrant to prevent a shut-off based on past due bills (arrearage vendoring).   | Yes |
| 3. Recipient receives the wood, home heating fuel (oil), propane or kerosene ordered from the energy provider by DSS. DSS Receives the bill in its name and pays for it with a government warrant. (The recipient may receive an informational billing only.) | No  |
| 4. DSS issues a warrant to the recipient to meet his/her emergency need.  | Yes |

Voluntary Payment Plan ADC/GA (a portion of the recipient's grant goes directly to a fuel provider; their grant is decreased by the amount of this allowance):

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| 1. Recipient authorizes DSS to decrease his/her grant by the utility allowance amount. Recipient orders the fuel but does not receive the bill or pay it. DSS receives the bill and pays for it with a government warrant. | Yes |
| 2. Recipient authorizes DSS to decrease his/her grant by the allowance amount. Recipient receives energy bill with allowance amount subtracted. DSS pays the bill with a government warrant.                               | Yes |

Department of Labor (DOL)

Targeted Fuel Assistance (DOL makes lump sum payment to nonprofit agencies for fuel assistance; the nonprofit agency then distributes the money to low income households):

	<u>Taxable</u>
1. Sale of electricity, natural or artificial gas, or steam when recipient uses or consumes it.	Yes
2. Recipient receives the wood, home heating fuel (oil), propane or kerosene ordered from the energy provider by the nonprofit agency. The agency pays the provider directly by check.	No
3. The nonprofit agency pays the energy provider directly with a nonprofit agency check to prevent shut-off for past due bills.	Yes
4. The nonprofit agency pays the recipient with an agency check if the energy provider refuses to accept payment or restore heat supply.	Yes
5. The nonprofit agency issues payment jointly to the recipient and the landlord when heat is included in rent.	Yes
6. The nonprofit agency pays energy provider with agency check when heat is included in recipient's rent (if landlord failed to pay the bill and recipient faces a shut-off).	Yes

These guidelines, although addressing the specific topic of energy assistance, also apply to the purchase of all tangible personal property (clothes, shoes, furniture, food, etc.) under the same circumstances.

Address specific questions about these guidelines to:

Sales, Use and Withholding Taxes Division  
Michigan Department of Treasury  
Treasury Building  
Lansing, MI 48922

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