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# NEVADA DEPARTMENT OF TAXATION

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## **Tax Bulletin SUT 13-0002** **Issue Date: December 9, 2013** **Sale of Propane Gas to Consumers**

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### **Introduction**

This bulletin provides information for retailers of propane gas that is sold to consumers.

### **Statutes and/or Regulations referenced**

NRS 372.275, NRS 372.295, NRS 372.300, NRS 372.735

### **Sellers of Propane Gas to Consumers**

In general, the sale of propane gas to consumers is taxable unless specifically exempted by law or sold for resale. NRS 372.105 A seller may want to consider the following exemptions in determining taxability of propane it sells to consumers.

**NRS 372.300 Domestic Fuels.** Domestic fuels are exempted from taxation and defined as "any matter used to produce domestic heat by burning, including, without limitation, wood, coal, petroleum and gas". In this context, gas includes propane. Domestic heat is most commonly considered to be "residential heat" like that used in a residential home, and it does not refer to heating used outside the residential structure or in a commercial property, or for cooking.

**NRS 372.295 Gas, electricity and water.** "There are exempted from taxes . . . the sales. . . of gas. . . when delivered to consumers through mains, lines or pipes." Therefore, sales of propane to consumers who provide portable containers would be taxable because it is not delivered by means of mains, pipes or lines.

**NRS 372.275 Fuel used to propel motor vehicle.** NRS 372.275 exempts sales of propane for use in "an internal combustion or diesel engine for the generation of power to propel a motor vehicle on the highways." In this context the seller/dealer must have and maintain a special license in accordance with the provisions of NRS Chapter 482 (which also requires the dealer/seller with the special license to maintain a log of sales to customers.)

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In conclusion, generally, all sales of propane in portable containers are subject to sales tax unless the propane is used for domestic heating purposes, is delivered by mains, pipes or lines, or is for use in motor vehicles.

If a retailer believes that it is making sales that are exempt from the sales tax the retailer should, pursuant to NRS 372.735, keep records to clearly document the reason for the exemption. For audit purposes, the best way the retailer could protect themselves would be to obtain an affidavit, in the form of a statement, from the customer indicating the intended use of the propane, the date and amount of the sale, and the customer's address. These records must be maintained by the retailer for four years.

If a seller has additional questions regarding any specific sales of propane please request a written response from the Department pursuant to NAC 360.190.