

Certification of Residential Use of Energy Purchases

Complete this certification and give it to your supplier.

| | | |
|--|--|----------|
| Account number (from utility bill or fuel bill) | Type of structure (college dorm, commercial with upstairs residential, etc.) | |
| Name | | |
| Street address | | |
| City | County | State |
| | | ZIP code |
| If this certification is for another location, give address | | |
| Street address | | |
| City | County | State |
| | | ZIP code |
| _____ % Percentage of residential use for property indicated above. | | |
| A new certification must be filed when there is a change in residential use. | | |
| Signature of claimant | | |
| Title | | Date |

The sales tax reduction and petroleum business tax (PBT) exemption on the purchase of residential energy sources and services is based on the allocation of space between residential and nonresidential use.

Section 301-b(d) of the Tax Law exempts from the measure of tax imposed on petroleum businesses the gallonage of diesel motor fuel (which includes kerosene and heating oil) and residual heating. Kerosene (that has not been mixed or blended to produce motor fuel, diesel motor fuel, or residual petroleum product, or been used or sold as fuel to operate a motor vehicle) is exempt from the PBT pursuant to section 301-b(a) of the Tax Law.

Section 1105-A of the Tax Law provides for an exemption from the statewide sales and compensating use taxes imposed on energy sources and services (i.e., fuel oil, natural gas, electricity, etc.), when sold for residential use. Section 1210(a)(3) and 1210(b)(3) of the Tax Law provides for either a reduction in the rate of local sales and compensating use taxes, or an exemption from local taxes, with respect to energy sources and services sold for residential use.

Who should use this form

If you purchase energy sources (or services) for premises that have residential and nonresidential space but only one tank for the storage of energy sources (or only one meter for services), you should complete this certification and give it to your supplier.

This certification can be issued to make tax exempt purchases of any of the residential energy sources or services exempted under the sections of the Tax Law cited above.

For applicable local sales and use tax rates for jurisdictions that impose tax on residential energy, refer to Form ST-100.3 (or Form ST-810.3), *Quarterly Schedule B* (consumers' utility and fuel tax, for the specific period).

Allocation formula

Use the following allocation formula to determine the percentage of residential use when the premises consist of both residential and nonresidential space. Common areas (areas for both residential and nonresidential use) are not included in the formula. Hotels, motels, etc., may claim as residential only those units used by the same occupant for at least 90 consecutive days (180 days in New York City).

$$\frac{\text{Square footage of residential use (excluding common areas)}}{\text{Total square footage of premises (excluding common areas)}} = \text{ \% applicable to residential use}$$

If 75% or more of the space is for residential use, the entire sale of fuel or other energy sources is deemed to be for residential use, and the entire sale is exempt from the PBT (if petroleum

product is purchased) and the New York State portion of the sales tax. Your supplier will collect any local sales tax applicable on your purchase.

If less than 75% of the space is for residential use, the percentage for residential use is rounded to the nearest 10%, and only that percentage of the sale of fuel or other energy sources is exempt from PBT and the New York State portion of the sales tax. Any local sales tax imposed will apply at the reduced rate on only that percentage. The remaining percentage of the sale is subject to the PBT and all state and local sales tax.

If you have a building that is part commercial and part residential and you have two separate storage tanks, one for residential heating and one for commercial heating, you cannot use the allocation formula. Purchases of residential energy sources stored in the tank solely for residential use will be exempt from the PBT and the state portion of the sales and use tax, but will be subject to any applicable local tax. Purchases of energy sources stored in the tank for nonresidential use will be subject to the PBT and the state and local sales and use tax. The same principle applies if two separate meters provide services for residential and nonresidential use.

Example 1: Mr. Jones owns a two-story building. He operates a delicatessen on the first floor and has a private residence on the second. The building has two storage tanks for heating oil, one for the residence and one for the delicatessen. Fifty percent of the property is residential. Since there are separate tanks for residential and commercial uses, all the fuel pumped into the residential tank will be exempt from the PBT and subject to sales tax at the local rate only. All the fuel pumped into the commercial tank will be fully taxable (even if — for example — only 30% of the total fuel purchased is delivered into the commercial tank).

Example 2: The facts are the same as in Example 1, except that there is only one storage tank for the entire building. Since the building (based on square footage) is 50% commercial and 50% residential, the owner will be allowed to purchase 50% of the fuel subject only to the local sales tax, but must pay all applicable taxes on the remaining 50%.

Instructions for completing the form

1. Enter the account number that appears on your bill.
2. Enter your name and billing address. If you claim residential use for a location other than the billing address, indicate this address in the space provided.
3. Describe the type of structure and indicate the percentage of residential use rounded to the nearest 10% (see formula).
4. Send the completed certification to the utility company or fuel dealer from whom you purchase your energy.