



August 12, 2008
Pennsylvania Sales and Use Tax
No. SUT-08-014
Residential Use of Heating Oil

ISSUE:

Does sales tax apply to fuel oil delivered to a garage that is detached from the home and used to house the homeowner's car?

CONCLUSION:

Fuel oil delivered to a garage that is detached from the home and used to house the homeowner's car is exempt from tax.

FACTS:

Original correspondence received by the Office of Chief Counsel on November 1, 1995, indicated that a residential homeowner has a garage that is detached from the home and used to house the homeowner's car. The garage has its own tank for storing the fuel oil that heats the garage. The company supplying the fuel oil has two accounts for the same address, one account for the home and the other for the garage. The garage does not have an apartment and does not house a business or anything else that creates an income for the homeowner.

DISCUSSION:

The purchase of fuel oil for residential use is not subject to sales tax. 72 P.S. § 7201(m). Specifically:

(1) The purchase or use of steam, natural and manufactured gas and electricity, through a metered device; bottled gas; fuel oil; or kerosene by a residential purchaser solely for the purchaser's own residential use is exempt from tax.

(2) The purchase or use of steam, natural and manufactured gas and electricity, through a metered device; bottled gas; fuel oil; or kerosene other than by a residential purchaser for the purchaser's own residential use, is presumed to be made for a commercial use and is subject to tax, unless the purchaser is entitled to claim an exemption under subsection (d).

61 Pa. Code § 32.25(b)(1)(2).

Residential use has been defined as "The use or consumption within that portion of a structure used as a home, dwelling, private residence, condominium, housing cooperative, mobile home, camper, summer home, motor home or similar place of abode." 61 Pa. Code § 32.25(a). There is no restriction limiting the exemption to "one per customer." So long as there is no commercial use of the home, and as long as the home is used as a residence as defined by the exemption, a person may be entitled to the residential use exemption for fuel oil delivered to any structures that make up the home or residence. In this instance,

because the garage is a structure that is used for residential purposes only, the fuel oil is not subject to sales tax.