

GIL 1-21-1 Sales and Use Tax: Residential Water Services

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September 10, 2021

Dear XXXX,

In your correspondence to the Nebraska Department of Revenue (DOR), you requested sales tax information regarding Laws 2021, LB 26. The language from LB 26 has been enacted into [Neb. Rev. Stat. § 77-2704.68](#), which states, “Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of residential water service.” Your questions include how residential water is defined for purposes of the tax exemption, and if charges for water service to apartment owners, residential health care facilities, and hotels are exempt.

Based on the information contained in your inquiry, this General Information Letter (GIL) is being provided. GILs address general questions; provide analysis of issues; and direct taxpayers to the Nebraska statutes, DOR regulations, revenue rulings, or other sources of information to help answer a question. A GIL is a statement of current DOR policy, and taxpayers may rely on the DOR to follow the principles or procedures described in a GIL until it is rescinded or superseded. You may also find current regulations, revenue rulings, information guides, taxpayer rulings, and other GILs at revenue.nebraska.gov that may be helpful to you.

Neb. Rev. Stat. § 77-2704.68 does not contain a definition for residential water service. “Residential” is an adjective used to describe the nature of the water service. In other words, residential water services means water service to residences. Consequently, DOR must discern the common and ordinary meaning of the words “residential” and “residences.”

A review of common definitions of “residential” shows that the use of the term residence or living space is included in the definition. For example, one definition is “concerning or relating to residences,” and “designed for people to live in.” The Cambridge Dictionary includes “involving living in a place” and “relating to homes rather than businesses” among its definitions.

More helpful is the definition of “residence,” which has a well-recognized legal meaning and significance. “Residence,” according to Black’s Law Dictionary (11th ed. 2019), is: “The act or fact of living in a given place for some time. The place where one actually lives, as distinguished from a domicile. A house or other fixed abode; a dwelling.”

Consistent with the common and ordinary meaning of the above terms, DOR has determined that “residential water service,” as used in Neb. Rev. Stat. § 77-2704.68, means that the water service is provided to places that are designed primarily for residences or permanent places of abode for people.

The sales tax exemption for residential water service applies to single-family homes, duplexes, townhomes, apartments, condominiums, dorms, nursing homes, assisted living homes, and other dwellings designed for people to live in permanently or for a considerable length of time. The units do not have to be billed individually from their own meters. A single meter for an apartment complex where water service is provided as part of the rent is exempt. However, when there is a combination of residential and other uses, and there is no separate measure of water between the two uses, the exemption does not apply. Hotels, motels, hospitals, jails, travel trailers, and recreational vehicles do not qualify for the exemption. Sewer fees for residential service remain taxable pursuant to [Neb. Rev. Stat. § 77-2701.16\(2\)c\(i\)](#).

For the Tax Commissioner

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