

## REG-1-066, Sewer and Water

066.01 The sales or use tax applies to all retail sales of sewer and water services.

066.02 Sales tax applies to all amounts paid for sewer and water, irrespective of whether there is an actual consumption or not. Thus, there is tax due on all payments whether in the form of a minimum charge, a flat rate, or other billing method.

066.03 The gross receipts from furnishing sewer service are taxable regardless of the nature of the use.

066.04 Rental charges made to the customer for meters, bottles, and related equipment are rentals of property and are taxable.

066.05 Water used for irrigation of agricultural lands, manufacturing purposes, or for the care of or consumption by animal life, the products of which ordinarily constitute food for human consumption or the pelts of which are ordinarily used for human apparel, is not taxable.

066.06 For the purpose of proper administration of the tax on sewer and water services and to insure that the full amount of any applicable tax is collected and remitted, the entire amount of sewer or water service sold or billed through one meter shall be taxable if any portion, other than incidental use, of such service is taxable.

066.07 Incidental use of water shall include uses that are connected with the exempt use, but are not themselves exempt, such as water for employees for drinking, hand washing, or restrooms. Such usage cannot exceed ten percent of the total usage through the meter.

066.08 Amounts received from installation, service connection, move and change charges, and construction are not gross receipts of providers of sewer and water service and are not taxable.

066.08A If there is no tangible personal property installed, annexed, or repaired and the charge is merely for activating a connected service, such charge is not taxable.

066.09 An amount added for failure to make payment within a prescribed period shall be considered as a penalty or interest to which no tax attaches; provided, the additional charge is separately billed to the customer.

066.10 Services rendered to the United States Government and to federal agencies and instrumentalities, including those federal corporations enumerated in Reg-1-072, United States Government and Federal Corporations, are exempt. Sales to those purchasers enumerated in Reg-1-012.02C are exempt.

066.11 A water or sewer company with a formal classification of usage that reasonably reflects the actual use by the customer, and such usage is for an exempt purpose, does not need to accept an exempt sale certificate from each customer account in the classification. This provision is not to be construed as relieving the consumer of liability for the applicable tax on any such usage.

066.11A Acceptance of a blanket exempt sale certificate by a sewer or water company relieves the company of any further tax liability until such time as the sewer or water company is notified of a change in use.

066.12 Persons furnishing sewer and water services may elect to assume or absorb the applicable sales tax or may elect to pass the tax to the final consumer in the same manner as all other retailers. If the election is made to assume or absorb the tax, the vendor will remit the applicable tax directly to the Department of Revenue based upon the total charges made to the ultimate consumer. The receipts will not be factored to determine the proper amount of tax. All billings to the ultimate consumer shall contain a statement to the effect that no tax is being collected from customers who are exempt or that the tax has been assumed or absorbed by the vendor for taxable customers.

066.13 If the vendor of sewer and water services elects to pass the applicable tax to the final customer, the tax shall be separately stated on all billings; provided, that in lieu of separately stating the tax, the Department of Revenue hereby authorizes the vendor to include a statement on all billings to the effect that the total charge includes sales tax. The total receipts will be factored to determine the proper amount of tax. (Reg-1-008, Records)

066.14 Persons engaged in providing water and sewer service are considered the consumers of materials, supplies, and other property or services used by them in providing their services and must pay tax on their purchases.

066.14A Exempt governmental units providing water service must also pay tax on all purchases of materials, supplies, and other property or services used in providing water service. (See Reg-1-093.04.)

066.14B Exempt governmental units providing sewer service are exempt on all purchases of materials, supplies and other property or services used exclusively in providing sewer service. (See Reg-1-093.04 and Reg-1-093.05.)

066.14C Exempt governmental units providing water service for fire protection are exempt on all purchases of materials, supplies and other property or services used exclusively in providing water service for fire protection. (See Reg-1-093.04 and Reg-1-093.05.)

066.15 Charges made between sewer and water companies for joint control and use of facilities, duct space, pole or pin space, or other joint use of facilities in connection with furnishing sewer and water services are exempt.

*(Sections 77-2701.31, R.R.S. 2003, and sections 77-2701.16, 77-2701.32, and 77-2703(1)(b), R.S.Supp., 2008. February 22, 2009)*