



## Sales Tax Exemption on Industrial Utility Usage

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### GENERAL INFORMATION

Businesses may qualify for a sales tax exemption on industrial utility usage. The utilities consumed in manufacturing and processing must be used in the continuing business activity of producing or processing tangible personal property.

The following uses of utilities, which include electricity, coal, gas, fuel oil, coke, or nuclear fuel, qualify for the sales tax exemption: manufacturing and processing; mining; refining; irrigation; construction; telegraph, telephone, and radio communication; and street and railroad transportation services. Activity prior to or subsequent to manufacturing and processing a product is not exempt.

Taxable uses of utilities include: parking lot lighting; cooling and lighting in office portions of a building, lunch rooms, laboratories, maintenance rooms, computer rooms, lounges, waiting areas and any customer-used areas.

### DETERMINING THE EXEMPT PORTION OF USAGE

Compute the percentage of utility usage which is exempt for the industrial purposes stated above. This is calculated by comparing the amount of utility usage for the exempt and taxable portions of the plant served by each meter. Retain these records for future audit purposes.

### WHEN TOTAL USAGE IS 75 PERCENT OR MORE EXEMPT

The State of Colorado advises taxpayers to fill out a "Sales Tax Exempt Certificate - Electricity & Gas for Industrial Use" when the exempt usage is 75 percent or more of the total usage. The form should be filled out, approved and provided to your utility company. Loveland will accept this State of Colorado form, once approved, as proof that such usage is exempt from city sales tax. The utility company should stop charging city sales tax on your exempt utility bills.

**You will be responsible for remitting annually all applicable Loveland sales taxes on the taxable portion of your utility bills directly to the City of Loveland.** If you have a city sales tax license, the tax is to be remitted on line 14 of the December sales tax return", which is due by January 20 of the following year. If you do not have a sales tax license, you must remit the tax, along with a reconciliation worksheet showing how the tax was arrived at, in the same manner and time frame, as a licensed taxpayer.

If you paid sales tax for utility usage prior to notifying your utility company that you are wholly or partially exempt, you may apply for a refund of the taxes paid. You may go back no more than three years from the date of the claim for refund to determine the amount owed to you. You must submit a "Claim for Refund", which is found on our website, to the City of Loveland, with the documentation as outlined above.

#### WHEN TOTAL USAGE IS LESS THAN 75 PERCENT EXEMPT

If your exempt usage is less than 75 percent of the total usage, you should still fill out the State "Sales Tax Exempt Certificate - Electricity & Gas for Industrial Use" form and obtain approval of this form, but you should not submit the Exempt Certificate to your utility company. The utility company will continue to charge sales tax on your utility bills. Instead, you must request a credit on your sales tax return or apply for a refund of the tax paid, on the exempt portion, directly to the city. If you have a city sales tax license, you may take a credit of the tax paid on line 14 of the December sales tax return", which is due by January 20 of the following year. If you use this method, the credit must be smaller than the tax owed on your December return. If the credit is larger than the tax owed on your December sales tax return, you must also submit a claim for refund form on the excess amount. If you do not have a sales tax license, you must submit a claim for refund form for the amount of the taxes paid for the exempt portion of your utilities.

To apply for a refund, you should complete and submit a "Claim for Refund" form. You can obtain the form by calling our office at 970-962-2708 or you can obtain the form from our website <http://www.ci.loveland.co.us/finance/PDFs/SalesTax/Forms/ClaimForRefund.pdf> into your web browser. You must include documentation which will substantiate the claim, an approved copy of the State Exempt Certificate, a description of your business activity, a worksheet showing the calculations you used to determine the percentage of usage claimed as exempt from tax, copies of the first and last utility bills for the period for which you are claiming a refund and a worksheet listing the billings and taxes paid.

THE ABOVE INFORMATION IS A SUMMARY IN LAYMAN'S TERMS OF THE RELEVANT LOVELAND TAX LAW FOR THIS INDUSTRY OR BUSINESS SEGMENT. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE LMTC (LOVELAND MUNICIPAL TAX CODE) AND APPLICABLE RULES AND REGULATIONS.