

Form 13E INSTRUCTIONS

WHO MUST FILE. A Nebraska Energy Source Exempt Sale Certificate must be filed by every person claiming a sales and use tax exemption when it has been determined that more than 50 percent of the purchase of electricity is used or directly consumer in manufacturing and processing, irrigation, farming, refining, or generation of electricity.

WHERE TO FILE. The Form 13E must be given to the seller at the time of purchase.

DETERMINING PERCENT OF EXEMPT USE

To properly determine whether your purchase of energy for which you are claiming an exemption from tax, an energy analysis must be completed. The analysis can be completed by your company or you can hire an outside firm to conduct the analysis.

You must be able to document how the percentage was determined. An energy analysis should be completed every few years to ensure that the exemption is still valid.

Energy consumed directly in manufacturing and processing, irrigation, farming, refining, or generation of electricity, as herein defined, is a qualified use. Energy consumed in heating cooling, or lighting that portion of the facility directly used in manufacturing and processing, irrigation, farming, refining, or generation of electricity, is also considered to be for an exempt use.

Examples of energy use that are **not a qualified use** include, but are not limited to, office spaces, bathrooms, storage areas, freezer storage, housing, shop areas and transporting of materials to and from the direct manufacturing area.

If you checked one of the exemption (A - E), the purchase and use of energy will be exempt from tax, when it has been determined that more than 50 percent of the energy charge through a single meter is consumed for an exempt use. If more than 50 percent of the energy is consumed for exempt use, the entire billing for that meter is exempt from the sales and use tax. However, if it is determined that 50 percent or less of the energy charge through a single meter is consumed for exempt purposes, an exempt certificate on that meter billing cannot be issued. The entire charge (qualified and nonqualified use) is taxable.

The example on the back illustrates the basis under which the exemption is claimed. This example assumes a manufacturing facility with two electric meters. Separate billings are issued for each meter.

	Percent Electric Use Meter 1	Percent Electric Use Meter 2
Qualified Area Usage		
(1) Direct manufacturing	40%	15%
(2) Production control	10	5
(3) Product testing	10	10
Subtotal	60%	30%
Nonqualified Area Usage		
(4) Raw materials storage	15%	15%
(5) Research and development	20	5
(6) Finished goods storage		15
(7) Office and clerical		25
(8) Plant maintenance	5	10
Subtotal	40%	70%
TOTAL	100%	100%

For purposes of determining the percentage use of exempt energy, only the consumption (direct consumption plus related heating/cooling/lighting) attributable to areas (1), (2), and (3) may be included:

- (a) Exempt use of electricity billed through meter #1 is 60%
- (b) Exempt use of electricity billed through meter #2 is 30%

RESULT:

Electricity billing (meter #1) EXEMPT
Electricity billing (meter #2) TAXABLE

For purpose of determining the usage percent, a one-year period of consumption will be required. New customers may project their anticipated consumption.

The use of separate energy meters is acceptable for establishing exemption within a single facility; however the taxability of the entire billing for that meter is dependent upon the total energy usage through the meter.

DEFINITIONS

Manufacturing and processing is defined as an action or series of actions performed upon tangible personal property, either by hand or machine, which results in that tangible personal property being reduced or transformed into a different state, quality, form, property or thing. Processing includes grain drying, and feed grinding in a commercial facility, and the freezing of food products. Processing or manufacturing does not include moving, cleaning, sorting, or repairing property, aerating grain, building erection, cold storage of food products, or the preparation of food for immediate consumption.

In addition, energy consumed in heating, cooling, or lighting that portion of the facility directly used in processing, manufacturing, refining, irrigation, or farming, is considered to be for a qualified use.

Refining is defined as the action or process of removing impurities from crude or impure materials, such as glass, metal, sugar and petroleum products. Refining includes the extraction of gas and petroleum products.

Irrigation is defined as the application of water to lands for the raising of agricultural crops.

Farming is commercial agriculture, which is the business of producing food products, or other useful and valuable crops, or raising animal life. The crops or animal life can either be sold or used by the grower. Commercial agriculture does not include storage of crops off the farm or in commercial elevators, or animal life in stockyards or sale barns. Energy consumed by on-farm grain storage and processing is considered to be consumed in farming.

Gas is defined as those gases such as natural gas or acetylene that are burned for energy, or oxygen used in welding or cutting metals.

PROPERLY COMPLETED CERTIFICATE. A purchaser must properly complete a certificate before issuing it to a seller. To properly complete the certificate, the purchaser must: (1) identify both purchaser and seller; (2) mark the box for either the "single purchase" or "blanket" indicating whether the certificate is for a single purchase or is a blanket certificate for future purchases; (3) mark the appropriate exemption category (A-E); (4) have the certificate signed by an authorized person; and (5) indicate the date the certificate was issued.

PENALTIES. Any purchaser, or the agent thereof, who gives a Nebraska Energy Source Exempt Sale Certificate, Form 13E, to the seller for property which is purchased for a use other than those enumerated in the Nebraska Revenue Act, as amended, may, in addition to other penalties, be subject to a penalty of \$100 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. With regard to a blanket certificate, the penalty shall apply to each purchase made during the period the blanket certificate is in effect. Any purchaser, or the agent thereof, who fraudulently signs a Form 13E with the intention to avoid payment of the tax may, in addition to the aforementioned penalty, be found guilty of a Class IV misdemeanor.

Questions regarding overpayment of sales tax can be directed to the Nebraska Department of Revenue at 800-742-7474 or 402-370-3333 (Norfolk office) or log on to:

www.revenue.ne.gov
Click on Businesses
Click on Tax Forms
Click Current Forms
Scroll down to Sales and Use Tax
Click on Form 7 – Claim for Overpayment of Sales Use Tax