

Local Excise Tax on Energy Used in Manufacturing

The local excise tax on energy used in manufacturing is an optional local tax designed to replace the local sales tax revenues lost to the new statewide sales tax exemption on energy used in manufacturing beginning January 1, 2013. It should not be considered a new tax but a method of replacing local sales tax revenues. The new sales tax exemption and the imposition of the new excise tax are proportionately phased in over a four year period. Counties should decide before January 1, 2013 if they will impose the new excise tax and if their cities will participate.

What is the tax rate?

The local excise tax is levied at the same rate as the local county/city sales taxes. Future increases or decreases to the local sales tax rate will trigger an automatic rate adjustment to the excise tax.

How are tax revenues distributed between the county and its cities?

They are shared between the county and the cities based upon the same proportional share each receives from local sales taxes.

How is energy used in manufacturing defined?

Any natural or artificial gas, oil, gasoline, electricity, solid fuel, wood, waste, ice, steam, water and other materials necessary and integral for heat, light, power, refrigeration, climate control, processing or any other use in any phase of the manufacture of tangible personal property. It does not include energy purchased by a manufacturer that is primarily engaged in producing electricity for resale, such as energy manufactured for resale by Georgia Power or an EMC.

How is the tax enacted?

The tax is enacted through the adoption of an ordinance by the board of commissioners; no referendum is required. If one or more cities want to be included they must sign an intergovernmental agreement with the county. If the county fails to adopt the ordinance before the end of 2013, any city can adopt their own ordinance and collect the tax within their jurisdiction.

What is the deadline for adopting the ordinance with a January 1, 2013 effective date?

The law states that the effective date will be the first day of the next succeeding month after the adoption of the ordinance. However, it is recommended that counties adopt the ordinance at least 3 weeks prior to the first day of the next succeeding month in order to allow enough time to submit the necessary documents to the energy providers prior to the effective date.

We adopted the ordinance, now what do we do?

Once you have adopted the ordinance, the next step is to submit your ordinance along with the energy provider information form (Can be found on our website) to all the energy providers that service your jurisdiction. Due to the customer uncertainty of gas providers, it is recommended that you submit an

ordinance to all of the natural gas providers approved to sell in Georgia. The list can be found on our website.

Where can I get a list of energy providers for Georgia?

There is no exhaustive list of energy providers for Georgia. However, the Public Service Commissioner's website does have a list of all the natural gas providers approved to sell in Georgia. You can find a link to this page on our website. Outside of Georgia Power, the most of the electricity is provided by an EMC or a city run utility. We are currently working with Georgia EMC and Electric Cities of Georgia on a contact list of those who service Georgia. This list will be posted on our website once it is completed.

How is the tax collected?

The tax is collected by the county from companies that sell energy (e.g., electricity, gas, oil, or other types of fuel) to manufactures within the county. The county retains a one percent administrative fee for collecting the tax and distributes to the participating cities their share of the revenue. The county is also given the authority to conduct audits.

What if the county refuses to enact the tax but a city wants to impose the tax?

After January 1, 2013, if a county has failed to impose the tax, then any city can impose the tax at the same rate but only on energy sold to manufacturers within their

If the county does not impose the tax beginning January 1, 2013, can it impose the tax at a later date?

Yes, the tax can be imposed at anytime. If the county imposes the tax after a city has imposed the tax, the tax will revert back to the countywide collection and distribution formula.

How can this tax be used?

Unlike the restricted sales tax revenues that this tax is intended to replace, these revenues are unrestricted and can be used in the general fund for any purpose. A county may choose to use a portion of these revenues in their SPLOST account, but is not required to do so.

How is the tax terminated?

The tax can be terminated at any time by ordinance of the county governing authority. The effective date will be the first day of the following quarter that is at least 80 days after the adoption of the ordinance terminating the tax.

What is the fiscal impact to counties?

Unfortunately, the fiscal impact to counties cannot be accurately determined because the data does not exist. The most accurate way to assess the fiscal impact is to levy the tax initially and monitor the revenue for a year. Your first year's revenue will be approximately 1/4 of your revenue once the exemption is fully phased in.

Can we levy the excise tax on one of our local taxes but not the other?

No, the law requires the excise tax to be levied on all of your eligible local taxes or none at all.

Are the ESPLOST, ELOST, and TSPLOST subject to the excise tax?

No, the ESPLOST and ELOST are not subject to the energy exemption. As for TSPLOST, energy used in manufacturing was exempted from the tax in the TIA bill, HB 277.

Can we exempt a prospect from the excise tax?

No, a county levied excise tax must be levied or repealed in whole.

Will the excise tax be collected against all manufacturers regardless of whether they claim the exemption?

No, the law provides that the excise tax shall be levied against the sale or use of energy in manufacturing that would have been a taxable event but for the exemption. This language has been interpreted to mean that only those claiming the exemption will be charged the excise tax.

Can the excise tax be collected to offset the Ag exemption?

No, those businesses claiming the Ag exemption are not subject to the excise tax.

Who determines if a business should be exempt?

It is a self-selection process, meaning that a business who believes they qualify for the exemption may do so by downloading the exemption certificate from DOR, completing it, and submitting it to the energy providers. Energy providers are not responsible for determining the validity of the exemption.

How do counties know the tax is being collected properly?

The law provides audit authority to those counties who levy the excise tax. Counties can audit the energy providers to ensure they are collecting the tax at the proper rate.