

**NEW JERSEY DIVISION OF TAXATION
REGULATORY SERVICES BRANCH
TECHNICAL ADVISORY MEMORANDUM**

TAM – 2012-2

ISSUED: 9-18-12

TAX: SALES AND USE TAX

TOPIC: SALES OF COMMERCIAL GASES

The Sales and Use Tax Act imposes tax on sales of tangible personal property under N.J.S.A.54:32B-3(a) unless a valid exemption exists. Tangible personal property is defined as “personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses”. N.J.S.A. 54:32B-2(g).

Gases are specifically included in the definition of tangible personal property. However, the law provides an exemption from sales tax for “sales of gas other than natural gas, water, steam, or fuel delivered to consumers through mains, lines, pipes, or in containers or bulk.” N.J.S.A. 54:32B-8.7.

The Division considers sales of commercial gases, such as oxygen, acetylene and argon, to fall within the scope of the exemption above and are, therefore, exempt from the imposition of sales tax regardless of the intended use of the gas. For example, exempt sales of gas include the sale of canisters of shielding gases used in the welding process, and gases applied (but which are not a component part) during the manufacturing process.

Note: A Technical Advisory Memorandum (“TAM”) is an informational statement of the law, regulations, or Division policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, or changes in Division policies could affect the validity of the information presented in a TAM.