

**CHAPTER 43. WATER WELL DRILLERS**

- Sec.  
43.1. General.  
43.2. Definitions.  
43.3. Exemption.  
43.4. Property.  
43.5. Procedure for claiming the exemption.  
43.6. Procedure for collection or payment of tax.

**Source**

The provisions of this Chapter 43 adopted October 20, 1972, effective October 21, 1972, 2 Pa.B. 1969, unless otherwise noted.

**§ 43.1. General.**

This chapter is promulgated as a result of the decision involving the *Commonwealth v. Tyger & Karl Complete Water Systems Co., Inc.*, 5 Pa. Commw. 154 (1972), which held that persons engaged in the business of drilling water wells for residential, farming, commercial and industrial use, constitutes that of mining within the provisions of the act.

**Source**

The provisions of this § 43.1 adopted October 20, 1972, effective October 21, 1972, 2 Pa.B. 1969.

**§ 43.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Water well driller*—A person who is engaged in the business of water well drilling.

*Water well drilling*—The operation of exploring, drilling and extracting natural water from the earth. Water well drilling includes the extension, widening, or recasing of the original water well.

**Source**

The provisions of this § 43.2 adopted October 20, 1972, effective October 21, 1972, 2 Pa.B. 1969.

**§ 43.3. Exemption.**

A water well driller is entitled to an exemption upon his purchase, rental and repair of equipment, materials and supplies used directly in the operation of water well drilling. However, this exemption does not apply to the purchase, repair or service of a vehicle required to be registered under 75 Pa.C.S. §§ 101—9910 (relating to Vehicle Code).

*Example 1.* Water well driller “W” purchases a back hoe from dealer “X.” “W” registers the back hoe with the Bureau of Motor Vehicles. Even though it will be used directly in water well drilling, “W” is required to pay sales tax on the purchase price.

*Example 2.* Water well driller “W” purchases a drilling rig from dealer “Y.” “W” mounts the rig on a chassis, purchased from dealer “Z,” which is registered with the Bureau of Motor Vehicles. “W” shall pay sales tax on the purchase price of the chassis, as well as on all repairs and service to the chassis. No tax should be paid on the purchase of, or the repair or service to, the drilling rig.

#### Source

The provisions of this § 43.3 adopted October 20, 1972, effective October 21, 1972, 2 Pa.B. 1969; amended through February 23, 1973, effective February 24, 1973, 3 Pa.B. 382.

### § 43.4. Property.

(a) *Property directly used.* Where a single unit of property is put to use in two different activities, one of which is a direct use and the other of which is not, the property is not exempt from tax unless the water well driller makes use of the property more than 50% of the time directly in mining operations. The following are examples of equipment, machinery, parts and their accessories, and materials and supplies which when predominantly used directly by a water well driller in the operation of water well drilling are exempt from tax:

(1) Equipment, machinery, parts and their accessories are back hoe, compressors, drilling rigs, generators, grout mixers, hand tools, trenching machines, pump hoist, pumps and controls, test and mud pumps, water treatment equipment, welders.

(2) *Materials and supplies* are casings, chemicals, electrical wiring, grouting materials, lining, pipe, tanks, wire rope and wire screen.

(b) *Property not directly used.* Equipment, machinery, parts and their accessories and materials and supplies predominantly used by water well drillers in an activity or operation other than water well drilling are subject to tax. Such activities or operations include the repair, maintenance or service to an existing water well system. With respect to these activities, a water well driller is a construction contractor.

*Example.* Water well driller “A” performs the operation of repairing or replacing a water tank and water pump for customer “B.” In performing these services, “A” is not engaged in the operation of water well drilling. “A” is required to pay a tax upon any materials he transfers or installs in conjunction with his repair activity. “A” is also required to pay a tax upon any equipment he uses to install the tank or pump which is not predominantly used in the operation of water well drilling.

**Source**

The provisions of this § 43.4 adopted October 20, 1972, effective October 21, 1972, 2 Pa.B. 1969.

**Cross References**

This section cited in 61 Pa. Code § 43.5 (relating to procedure for claiming the exemption).

**§ 43.5. Procedure for claiming the exemption.**

(a) A water well driller may claim an exemption upon his purchase, rental or repair of property set forth in § 43.4 (relating to property) together with other items of property which qualify for exemption. At the time of making claim of his exemption, he must tender to his supplier a properly executed blanket exemption certificate reflecting the following language on the face thereof: "Property and/or services will be directly used by the purchaser in his mining—water well drilling operation which is performed as a business."

(b) A blanket exemption certificate once tendered to a supplier may be used in lieu of the payment of tax on future exempt purchases. A blanket exemption certificate may not be tendered to a supplier with respect to property which does not qualify for exemption.

**Source**

The provisions of this § 43.5 adopted October 20, 1972, effective October 21, 1972, 2 Pa.B. 1969.

**§ 43.6. Procedure for collection or payment of tax.**

Water well drillers may be engaged in one or more of the following activities: Over-the-counter sales; repairing, servicing or maintaining existing water well systems; and water well drilling. In order that a water well driller may properly collect or pay tax with respect to these activities, he may utilize one of the following procedures depending upon the type of activities in which he is engaged.

(1) *Situation where the water well driller is licensed to collect tax.* A water well driller who is licensed to collect taxes because he makes over-the-counter sales is permitted to pay tax upon the property which he uses in his repair, service and maintenance activities by utilizing either one of the following two methods:

(i) By the payment of the tax to his supplier rather than claiming an exemption.

(ii) By payment of tax as use tax with his regular sales tax return.

(2) *Situation where the water well driller is not licensed to collect tax.* A water well driller who makes no over-the-counter sales is not required to be registered with the Bureau of Sales and Use Tax since he does not collect any sales tax. He may, however, pay tax upon any property which he uses in his repair, service or maintenance activities by utilizing either one of the following two methods:

(i) By payment of the tax to his supplier rather than claiming an exemption.

(ii) By payment of tax directly to the Bureau of Sales and Use Tax. This may be accomplished by obtaining a contractor's registration number for which he will receive regular tax returns for the purpose of remitting use tax.

**Source**

The provisions of this § 43.6 adopted October 20, 1972, effective October 21, 1972, 2 Pa.B. 1969.

[Next page is 44-1.]