

WISCONSIN LEGISLATIVE COUNCIL STAFF



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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 99-062**

AN ORDER to amend Tax 11.33 (4) (a) and (g), relating to auction sales of personal farm property or household goods, and exempt purchases for resale by nonprofit organizations.

Submitted by **DEPARTMENT OF REVENUE**

03-23-99 RECEIVED BY LEGISLATIVE COUNCIL.

03-26-99 REPORT SENT TO AGENCY.

RNS:WF:kjf

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached          YES           NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached          YES           NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached          YES           NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached          YES           NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached          YES           NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached          YES           NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached          YES           NO



**State of Wisconsin • DEPARTMENT OF REVENUE**

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*Tommy G. Thompson*  
Governor

*Cate Zeuske*  
Secretary of Revenue

June 4, 1999

Honorable Fred Risser  
President, State Senate  
Rm 220 South State Capitol  
PO Box 7882  
Madison WI 53707-7882

Honorable Scott Jensen  
Speaker State Assembly  
Rm 211 W State Capitol  
PO Box 8952  
Madison WI 53708

Re: Clearinghouse Rule 99-062

Dear Senator Risser and Representative Jensen:

Pursuant to s. 227.19(2), Stats., this is to notify you that the proposed rule order relating to occasional sales is in final draft form. The proposed rule order was published in the **Wisconsin Administrative Register** on April 30, 1999. A public hearing was not required under the exception provided in s. 227.16(2)(e), Stats.

Copies of the proposed rule order and Report required under s. 227.19(2) and (3), Stats., are enclosed. A brief summary of the proposed rule order follows:

**Summary of Proposed Rule Order**

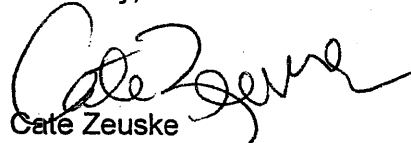
Statutory authority: s. 227.11(2)(a), Stats.

Statutes interpreted: ss. 77.51(9)(e), 77.52(1) and 77.54(7)(a) and (7m), Stats.

SECTION 1. Tax 11.33(4)(a) is amended, to include the condition that an auction sale must be held at other than regular intervals to qualify for exemption as an occasional sale.

Tax 11.33(4)(g) is amended, to remove nonprofit organizations from the provisions of that paragraph.

Sincerely,

A handwritten signature in black ink, appearing to read "Cate Zeuske", written in a cursive style.

Cate Zeuske  
Secretary of Revenue

CZ:MPW:cil  
e:rules\1133 Committees – President Speaker

Enclosure

cc: Deputy Revisor

**DEPARTMENT OF REVENUE**  
**CLEARINGHOUSE RULE NUMBER 99-062**  
**SECTION 227.19(2) AND (3), STATS., REPORT**

**Need for Proposed Rule**

The rule is necessary to:

- Reflect the department's policy, consistent with s. 77.51(9)(e), Stats., that "exempt occasional sales" include auction sales of personal farm property or household goods which are not held at regular intervals.
- Remove nonprofit organizations from the provisions of sub. (4)(g), consistent with s. 77.54(7)(d), Stats.

**Public Hearing**

A public hearing was not required, pursuant to s. 227.17(2)(e), Stats.

**Legislative Council Staff Recommendations**

The Legislative Council staff reviewed the proposed order and had no recommendations for changes.

**Regulatory Flexibility Analysis**

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

**PROPOSED ORDER OF THE DEPARTMENT OF REVENUE  
AMENDING RULES**

The Wisconsin Department of Revenue proposes an order to amend Tax 11.33(4)(a) and (g), relating to auction sales of personal farm property or household goods, and exempt purchases for resale by nonprofit organizations.

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**Analysis by the Department of Revenue**

Statutory authority: s. 227.11(2)(a), Stats.

Statutes interpreted: ss. 77.51(9)(e), 77.52(1) and 77.54(7)(a) and (7m), Stats.

SECTION 1. Tax 11.33(4)(a) is amended, to include the condition that an auction sale must be held at other than regular intervals to qualify for exemption as an occasional sale.

Tax 11.33(4)(g) is amended, to remove nonprofit organizations from the provisions of that paragraph.

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SECTION 1. Tax 11.33(4)(a) and (g) are amended to read:

Tax 11.33(4)(a) Auction sales of tangible personal farm property and or household goods which are not held at regular intervals.

(g) The sale of tangible personal property or taxable services by a person not otherwise required to hold a seller's permit, if the total taxable gross receipts from sales of tangible personal property and taxable services are less than \$1,000 during the calendar year. However, purchases of tangible personal property or taxable services which when resold are exempt under this paragraph, are taxable purchases by that person, ~~except when the person is able to claim exemption under s. 77.54(9a), Stats.~~ This paragraph does not apply to nonprofit organizations.

**Note to Revisor:** 1) In the example following sub. (5)(a), replace the word "operator" with "retailer."

2) Remove the note following sub. (5)(b).

3) Replace the first note at the end of Tax 11.33 with the following:

**Note:** Section Tax 11.33 interprets ss. 77.51(9), 77.52(1) and (2)(a)2. and 77.54(7) and (7m), Stats.

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The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

**Initial Regulatory Flexibility Analysis**

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

DEPARTMENT OF REVENUE

Dated: 2.15.99

By: Cate Zeuske  
Cate Zeuske  
Secretary of Revenue

1133 Proposed Order

FISCAL ESTIMATE

- ORIGINAL     UPDATED
- CORRECTED     SUPPLEMENTAL

DOA-2048 N(R10/94)

LRB or Bill no./Adm. Rule No.

TAX 11.33

Amendment No. if Applicable

Subject

Sales and Use Tax Treatment of Certain Auction Sales and Purchases for Resale

Fiscal Effect

State:  No State Fiscal Effect  
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation     Increase Existing Revenues
- Decrease Existing Appropriation     Decrease Existing Revenues
- Create New Appropriation

Increase Costs - May be Possible to Absorb Within Agency's Budget  Yes  No

Decrease Costs

Local  No Local Government Costs

1.  Increase Costs:  
 Permissive  Mandatory
2.  Decrease Costs:  
 Permissive  Mandatory

3.  Increase Revenues:  
 Permissive  Mandatory
4.  Decrease Revenues:  
 Permissive  Mandatory

5. Types of Local Governmental Units Affected:
- Towns     Villages     Cities
  - Counties     Others \_\_\_\_\_
  - School Districts     WTCS Districts

Fund Sources Affected

- GPR     FED     PRO     SEG     SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The rule updates the Wisconsin Administrative Code with respect to auction sales of personal farm property and household goods when the sales are held at irregular intervals. The rule also clarifies the tax treatment of nonprofit organizations.

These changes have no fiscal effect.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Wisconsin Department of Revenue

Craig D. Kammholz, (608) 261-8984

Authorized Signature/Telephone No.

Yeang-Eng Braun

(608) 266-2700

*Yeang-Eng Braun*

Date

7/8/98