

WISCONSIN LEGISLATIVE COUNCIL STAFF

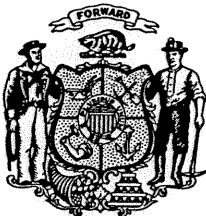
LCRC
FORM 2

RULES CLEARINGHOUSE

MAR 26 REC'D
1999

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CLEARINGHOUSE REPORT TO AGENCY

[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

**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.

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.

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.

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



State of Wisconsin • DEPARTMENT OF REVENUE

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Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

June 4, 1999

Honorable Judy Robson
Co-Chair, Joint Committee for Review
of Administrative Rules
Rm 115 South State Capitol
PO Box 7882
Madison WI 53707-7882


Honorable Glenn Grothman
Co-Chair, Joint Committee for Review
of Administrative Rules
Rm 15 North State Capitol
PO Box 8952
Madison WI 53708

Re: Clearinghouse Rule 99-062

Dear Senator Robson and Representative Grothman:

Copies of Clearinghouse Rule 99-062 in final draft form and the Report to the presiding officers of the State Senate and Assembly required under s. 227.19(2) and (3), Stats., are enclosed.

Sincerely,


Cate Zeuske
Secretary of Revenue

CZ:MPW:cil
e:rules\1133 Committees - JCRAR

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

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

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.

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Dated: 2.15.99

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Secretary of Revenue

1133 Proposed Order

FISCAL ESTIMATE

DOA-2048 N(R10/94)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

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