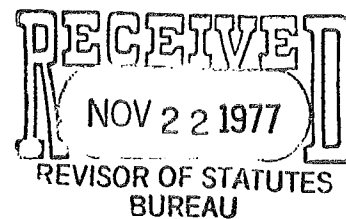


TAX 2, 11

CERTIFICATE OF RULE ADOPTION

STATE OF WISCONSIN)
DEPARTMENT OF REVENUE)



TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Dennis J. Conta, Secretary of the Department of Revenue and custodian of the official records of said Department, do hereby certify that the annexed rules were duly approved and adopted by this Department on November 22, 1977.

These rules relate to the following:

- 1) Apportionment of corporate income (franchise/income tax).
- 2) Radio and television stations (sales and use tax).
- 3) Financial institutions (sales and use tax).
- 4) Advertising agencies (sales and use tax).

I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 201 East Washington Avenue in the city of Madison, this 22nd day of November, 1977.

A large, stylized handwritten signature in dark ink, appearing to read "Dennis J. Conta".

Dennis J. Conta

APPORTIONMENT OF CORPORATE INCOME

Section Tax 2.39 (intro.) of the Wis. Adm. Code is adopted to read:

Tax 2.39(intro.). Any person doing business both in and outside this state shall report by the statutory apportionment method when the person's business in this state is an integral part of a unitary business unless the department, in writing, allows reporting on a different basis.

RADIO AND TELEVISION STATIONS

Section Tax 11.63 of the Wis. Adm. Code is adopted to read:

Tax 11.63 Radio and television stations. (Sections 77.51(4), 77.52(2)(a)11 and 77.54(23m), Wis. Stats.) (1) NONTAXABLE SERVICES. Gross receipts from the sale of the following services are not subject to the sales and use tax. (a) Air time.

(b) Advertising.

(2) TAXABLE SALES. (a) Gross receipts from charges imposed by a radio or television station for art work, slides, films, tapes or other tangible personal property which such station prepares or produces for its advertisers or sponsors are subject to the sales and use tax. Such gross receipts are taxable even though a station may retain possession of the tangible personal property because "sale" is defined to include the transfer of not only title to and possession of tangible personal property, but also the transfer of enjoyment of tangible personal property. If an advertiser maintains any control over the tangible personal property prepared or produced such as the right to determine when the property will be used for advertising purposes, the advertiser is deemed to have received the enjoyment of the property.

(b) Gross receipts from a radio or television auction are subject to the sales and use tax.

(c) If a radio or television station advertises on behalf of out-of-state persons to sell merchandise (such as records or books), the station is the retailer of such merchandise and must pay sales tax on such sales if:

1. The advertising message does not clearly identify the out-of-state source of the merchandise; or

2. The merchandise orders are sent directly to the station which accounts for the gross receipts.

(3) NONTAXABLE PURCHASES. The gross receipts from the sale, lease or rental of motion picture films or tape, and advertising materials related thereto, to a motion picture theater or radio or television station are exempt from the sales and use tax under section 77.54(23m). Sales of sound tapes to radio stations are included in this exemption.

(4) TAXABLE PURCHASES. Radio and television stations are consumers of equipment, materials and supplies used to conduct their businesses and shall pay sales or use tax on purchases of such tangible personal property except as provided in sub. (3).

(5) BROADCASTING TOWERS. Commercial broadcasting towers constituting the transmission antenna system of a radio or television station are deemed real estate improvements for sales and use tax purposes if installed on land owned by the station. Contractors engaged in construction of such broadcasting towers are the consumers of building materials used by them in constructing, altering or repairing such towers and must pay tax on the cost of such materials.

FINANCIAL INSTITUTIONS

Section Tax 11.69 of the Wis. Adm. Code is adopted to read:

Tax 11.69 Financial institutions. (Section 77.51(4)(k)) (1) EXEMPT SALES. Financial institutions are primarily engaged in providing nontaxable services. Such services include charges to customers for cashier's checks, money orders, traveler's checks, checking accounts and the use of safe deposit boxes.

(2) TAXABLE SALES. A financial institution shall obtain a Seller's Permit and regularly file sales and use tax returns if it has taxable gross receipts. Taxable gross receipts include sales of the following:

- (a) Coin savings banks.
- (b) Commemorative medals.
- (c) Collectors' coins or currency sold above face value.
- (d) Gold and silver bullion.
- (e) Repossessed merchandise.
- (f) Meals and beverages in the institution's cafeteria.
- (g) Charges for providing parking space for motor vehicles.
- (h) Personalized imprinted checks, except where the financial institution has paid the tax on its purchases of such checks from a retailer and the financial institution resells the checks to customers at the same price or a price lower than its purchase price.

(3) PURCHASES. (a) A financial institution's purchases subject to sales or use tax include office furniture and equipment (such as desks, chairs, couches, writing tables and office machines), safe deposit boxes, drive-up and walk-up windows, night depository equipment, vault doors, remote TV auto teller systems and camera security equipment.

(b) Any tangible personal property purchased by a financial institution to be given away or sold at cost or less than cost to a customer, whether or not based upon the amount of a deposit, is taxable at the time it is purchased. This property includes calendars, playing cards, plat books, maps and any other items transferred to customers to promote business. Checking account and savings account forms provided customers free of charge are also subject to the tax. When such items are sold by a financial institution at a price in excess of cost, the financial institution is a retailer and shall report the sales tax on such sales. The financial institution may purchase such property without tax by giving its supplier a properly completed resale certificate when acting as a retailer.

(c) If a financial institution is not required to have a Seller's Permit and has a use tax obligation because purchases are made without tax, it shall apply for a consumers' use tax registration and report the tax on such purchases.

(4) DEFINITION. In this rule "financial institution" includes a bank, savings and loan association and credit union.

(5) SPECIAL PROVISIONS. (a) Sales to federal and state chartered credit unions, banks and savings and loan associations are taxable.

(b) The use tax may not be imposed directly on a federal credit union due to federal restrictions.

ADVERTISING AGENCIES

Section Tax 11.70 of the Wis. Adm. Code is adopted to read:

Tax 11.70 Advertising agencies. (Sections 77.51(4)(intro.) and (h), 77.52(1) and (2), Wis. Stats.) (1) NONTAXABLE SERVICES. Charges by advertising agencies are not subject to sales and use tax if they are for services that are not a part of the sale of tangible personal property, or that do not represent labor or service costs in the production of tangible personal property. Examples of such nontaxable services include:

- (a) Writing original manuscripts or news releases.
- (b) Writing copy to be used in media advertising.
- (c) Consultation, market research and compiling statistical or other information.
- (d) Recommendations for advertising themes or merchandising plans.
- (e) Obtaining media space and time.
- (f) Providing preliminary art (i.e., roughs, visualizations, sketches, layouts and comprehensives) prepared solely for presenting an idea to a client or prospective client. Thus, when a job involves production of sketches, but never results in the production of finished art or other tangible personal property by the advertising agency, the charges for preliminary art work are not taxable; however if finished art or other tangible personal property is produced by the advertising agency as the result of the preliminary art work, all the charges for preliminary art are taxable because they are for the production of tangible personal property.

(2) TAXABLE SALES. (a) Tax applies to an agency's gross receipts from the sale of tangible personal property located or used in Wisconsin whether the transfer is to the advertiser or to a third party at the direction of or on behalf of the advertiser. This applies to advertiser clients located both inside and outside Wisconsin. The sale of tangible personal property normally occurs when the advertising agency bills the client for the property and the client realizes the economic benefits of the property's use, even though the property may not be physically transferred to the client. For example, an agency's billing to a client for finished art transferred to another Wisconsin business is taxable.

(b) Tax applies to an advertising agency's total retail sales price of tangible personal property, without any deduction for any cost element which becomes a part of the sales price. Such elements include preliminary art work, consultation, research, copy, supervision, model fees, rentals, photostats, typesetting, postage, express, telephone, travel, agency service fees, or any other labor or service cost incurred in the production of that property. No deduction may be taken even though such costs may be separately itemized in a billing to a client.

(c) Tax applies to in-progress billings for production work which ultimately results in the production of finished art work or other tangible personal property.

(d) The total sales price of the following items or services are subject to the tax:

1. Retail sales of signs, circulars, business cards, stationary showcards, banners, posters, bulletins, direct mail advertising, catalogs, brochures, commercials, tapes or other items of tangible personal property.

2. Charges for photographic services or photostats.

3. Charges for producing, fabricating, processing, printing or imprinting tangible personal property for consumers for a consideration, even though the consumers may furnish the materials used in the producing, fabricating, processing, printing or imprinting of the tangible personal property.

4. Charges for "finished art". "Finished art" means the final art used for actual reproduction by photomechanical or other processes, or for display purposes and includes drawings, paintings, designs, photographs, lettering, paste-ups, mechanicals or assemblies, charts, graphs, and illustrative material not reproduced. The tax applies to sales of finished art whether it is used to produce a taxable item or an exempt item (e.g., periodical), or is used to provide an advertising service by placing advertising in an advertising media (such as newspapers, magazines, other publications and radio or television stations).

(3) FEES ADDED TO BILLINGS. When an amount billed as an agency "fee", "retainer", "service charge", or "commission" represents services rendered which are a part of the sale of tangible personal property, the amount is taxable. If it clearly represents a charge or a part of a charge for any nontaxable service rather than for the sale of tangible personal property, it is not taxable. A fee representing both taxable and nontaxable items is taxable in accordance with the ratio between the charges.

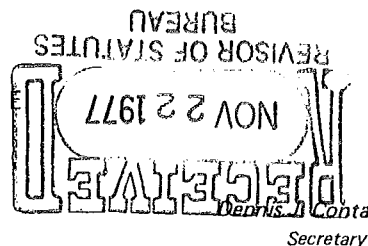
(4) PURCHASES BY AGENCIES. (a) An advertising agency is the seller of, and may purchase without tax for resale, any item that it resells before use, or that becomes physically an ingredient or component part of tangible personal property which it produces and sells.

(b) An advertising agency is the consumer of all tangible personal property not purchased for resale or not becoming physically an ingredient or component part of tangible personal property sold by such agency.



State of Wisconsin \ DEPARTMENT OF REVENUE

Martin J. Schreiber
Governor



November 22, 1977

201 EAST WASHINGTON AVENUE
MADISON, WISCONSIN 53702

Mr. Douglas C. LaFollette
Secretary of State
112 West, Capitol Building
Madison, Wisconsin 53702

Mr. Orlan L. Prestegard
Revisor of Statutes
411 West, Capitol Building
Madison, Wisconsin 53702

Gentlemen:

Enclosed is a certified copy of 4 administrative rules adopted by the Department of Revenue, a "Certificate" and an "Order of the Department of Revenue Adopting Rules".

These materials are filed with you pursuant to s. 227.023(1), Wis. Stats.

Sincerely,

Dennis J. Conta
Secretary of Revenue

DJC: sbg

Enclosures

cc: Prentice-Hall, Inc.
Commerce Clearing House, Inc.

ORDER OF THE DEPARTMENT OF REVENUE ADOPTING RULES

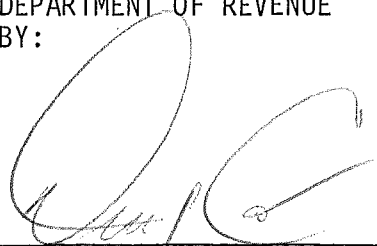
Pursuant to the authority vested in the Department of Revenue by ss. 71.11(24)(a) and 227.014(2), Wis. Stats., the Department hereby adopts the following 4 rules as shown on the attached copy:

- 1) Section Tax 2.39(intro.), relating to apportionment of corporate income.
- 2) Section Tax 11.63, "Radio and television stations".
- 3) Section Tax 11.69, "Financial institutions".
- 4) Section Tax 11.70, "Advertising agencies".

The rules contained herein shall take effect on January 1, 1978.

Dated this 22nd day of November, 1977.

DEPARTMENT OF REVENUE
BY:

A handwritten signature in black ink, appearing to read "Dennis J. Conta", is written over a horizontal line. The signature is stylized and cursive.

Dennis J. Conta
Secretary of Revenue