

Chapter Tax 11

SALES AND USE TAX

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Tax 11.001 Definitions and use of terms. In this chapter, unless otherwise specified:

(3) "Consumers" are persons who purchase and use tangible personal property, and sales to consumers are retail sales to which either the sales or use tax applies. Resale certificates should not be accepted from consumers.

(5) "Department" means the Wisconsin department of revenue.

(8) "Retailer" means a person who sells taxable tangible personal property or a taxable service and who shall comply with all requirements imposed upon retailers, including:

- (a) Obtaining a seller's permit for each place of business in this state;
- (b) Filing tax returns and paying tax;
- (c) Collecting use tax when applicable and remitting the tax with returns; and

(d) Keeping proper records. (See Tax 11.92)

(12) "Tax" means the 4% Wisconsin sales or use tax.

(13) "Taxable", "subject to the tax", "tax applies", "the sale is taxable", "_____ (specific tangible personal property or a specific service) is/are taxable", or "the purchase of _____ (specific tangible personal property or a specific service) is taxable", means that:

(a) The sales tax applies to a sale of the property or service, measured by the gross receipts from the sale; or

(b) The use tax applies to the storage, use or other consumption of the property or service sold, measured by the sales price.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

Tax 11.01 Sales and use tax return forms. (s. 77.58, Stats.) (1) For filing sales and use tax returns, the following forms shall be used:

(a) Form S-010. For occasional sales of motor vehicles.

(b) Form S-011. For occasional and non-Wisconsin sales of snowmobiles.

(c) Form S-012 (also called "ST-12"). The monthly, quarterly or annual return for each registered retailer and consumer holding a Wisconsin seller's permit.

(d) Form S-012A (also called "ST-12A"). The annual information return for each registered retailer and consumer holding a Wisconsin seller's permit.

(e) Form S-013. For concessionaires. (Annual return).

(f) Form S-014. For concessionaires (single events) and temporary sellers (limited) periods).

(g) Form S-015. For occasional bingo sales.

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(h) Form S-174. For determination of taxable status of temporary sellers and reporting of tax liability.

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(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, photo-

graphs, 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.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78.

Tax 11.72 Laundries, dry cleaners, and linen and clothing suppliers. (s. 77.52 (1) and (2) (a) 6, Stats.) (1) LAUNDRIES AND DRY CLEANERS. The gross receipts from selling, performing or furnishing laundry, dry cleaning, pressing and dyeing services are taxable, except when the services are performed on raw materials or goods in process destined for sale, or when the services are performed by the customer through the use of coin-operated, self-service machines.

(2) LINEN AND CLOTHING SUPPLIERS. The gross receipts of lessors from leasing or renting clothing (e.g., uniforms) towels, linens, diapers or similar items to commercial establishments or household users under agreements which provide for furnishing items and cleaning the items when they become soiled are subject to the tax. However, the items furnished to customers under such agreements may be purchased by the lessor without paying sales or use tax.

(3) PURCHASES. (a) Laundries, dry cleaners and linen or clothing suppliers are the consumers of solvents, soaps, detergents, spotting compounds, water repellents, disinfectants, fabric softeners, starch, dyes, mat compounds, fire repellent compounds and marking tags which they use for laundering, dry cleaning or identification purposes. The tax applies to the gross receipts on the sale of these items to such purchasers.

(b) The tax applies to gross receipts from sales, leases or rentals of machinery and equipment to persons engaged in performing or furnishing laundry, dry cleaning, pressing and dyeing services, and to persons leasing or renting linens, towels and clothing to industrial, commercial or household users.

(c) Laundries, dry cleaners and linen or clothing suppliers may purchase the following items without tax (by using a resale certificate) if these items are transferred to customers with clean linen or clothes:

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hangers, handkerchiefs, bags, boxes, shirt boards, shoulder guards, twisters and pins.

Note: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80.

Tax 11.78 Stamps, coins and bullion. (s. 77.51 (5), Stats.) (1) TAXABLE SALES. Retail sales of the following tangible personal property are subject to the sales and use tax:

- (a) Cancelled United States and foreign postage stamps.
- (b) Uncancelled United States postage stamps when sold or traded as collectors' items above their face value.
- (c) Uncancelled foreign postage stamps.
- (d) Postage charges which are billed by the seller to the purchaser in connection with the sale and delivery of tangible personal property if the sale of the property is subject to the tax.
- (e) Foreign coins and paper currency when sold or traded as collectors' items.
- (f) United States coins and paper currency when sold or traded as collectors' items above their face value.
- (g) Silver bullion and gold bullion which is physically located in Wisconsin is subject to the sales tax whether the sales contract is entered into or outside of Wisconsin. Such bullion purchased and delivered to the purchaser outside Wisconsin is subject to the use tax when brought into the state.
- (h) Commemorative medals.

(2) NONTAXABLE SALES. Retail sales of the following tangible personal property are not subject to the sales and use tax:

- (a) United States postage stamps, coins and paper currency sold at face value.