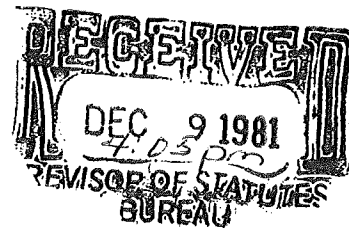


Tax 11



CERTIFICATE

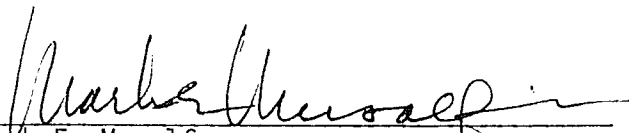
STATE OF WISCONSIN)
DEPARTMENT OF REVENUE) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Mark E. Musolf, Secretary of the Department of Revenue and custodian of the official records of said department do hereby certify that the annexed rule Tax 11.53 relating to temporary events, was duly approved and adopted by this department on December 7, 1981.

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.

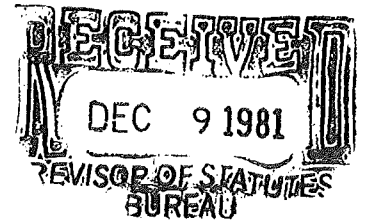
IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 7th day of December 1981.



Mark E. Musolf
Secretary of Revenue

2-1-82

ORDER OF THE DEPARTMENT OF REVENUE
REPEALING AND RECREATING RULE TAX 11.53



Relating to interpretation of the sales and use tax law to persons holding temporary events or making taxable sales at changing locations.

Analysis by the Department of Revenue

This proposed order would repeal present rule Tax 11.53 titled "Concessionaires" and create a new expanded rule. The new rule interprets ss. 77.52(7), (8), (9), (10), (11), (12) and (19), 77.58 and 77.61(2), Wis. Stats., relating to sales tax permits, security deposits and sales and use tax returns of retailers who conduct business operations at temporary events or changing locations, such as fairs, carnivals, circuses, festivals or roadside stands.

The rule authorizes a new "mobile permit" which may be used at more than one location and also provides for temporary and concessionaire permits which are valid only at the location and duration of the specific event for which they are issued. Under present rules a seller's permit is valid only at one location; separate permits are necessary for each separate business location. Under this rule, seller's permit requirements are simplified in that a person may obtain a mobile seller's permit and thereby be relieved from applying for and obtaining numerous separate permits and paying the fee related to each permit.

The gross receipts and resulting sales tax payable by concessionaires have increased substantially since 1965 when the current security deposit of \$10 per concession was established. This is primarily due to price increases. The larger security deposits reflect this increase in a concessionaire's gross receipts and the fact that the tax rate increased from 3% to 4% during 1969.

Subsection (1) of the rule defines terms. Subsection (2) provides for and describes the types of permit which may be obtained for temporary events. Subsection (3) provides for security required from retailers subject to the rule and subsection (4) describes the sales and use tax return requirements applicable to such retailers. Subsection (5) indicates that persons operating without a permit are guilty of a misdemeanor.

Pursuant to authority vested in the Department of Revenue by s. 227.014, Stats., the Department of Revenue hereby proposes to repeal and recreate a rule interpreting ss. 77.52(7), (8), (9), (10), (11), (12) and (19), 77.58 and 77.61(2), Stats., as follows:

Section Tax 11.53 of the Wisconsin Administrative Code is repealed and recreated to read:

Tax 11.53 TEMPORARY EVENTS (ss. 77.52(7), (8), (9), (10), (11), (12), and (19), 77.58 and 77.61(2), Stats.)

(1) DEFINITIONS. In this section: (a)1. "Concessionaire" includes any person conducting games at temporary events such as coin pitch, pop-in, ring toss, short range basketball, guess your weight, fish pond, and tip the bottle. Further examples include persons selling snack foods and other tangible personal property from stands at temporary events such as ice cream, cotton candy, candy apples, sno cones, popcorn, frozen delight, jewelry, photos, hats, signs or kitchenware.

2. "Concessionaire" does not include:

a. A person operating amusement rides, traveling vaudeville performances, menageries, or objects of curiosity shows.

b. A person selling meals or beverages including lunches, sandwiches or beer.

c. A person in subpar. a. or b. who also operates as a concessionaire.

(b) "Concessionaire permit" means a permit for a temporary event conducted by a concessionaire which is valid for only one temporary event for the duration of the event.

(c) "Mobile seller's permit" means a permit issued under s. 77.52(7) and (19), Stats., which is valid at any temporary event conducted by the permittee within the state but which is valid at only one event at a time. Except for its use at more than one place of operations, all provisions of s. 77.52(7), (8), (9), (10), (11) and (12), Stats., apply to it.

(d) "Temporary event" means an activity at one place of operations for a brief duration where taxable sales are made. A place of operation includes a fair, carnival, circus, festival or portable roadside stand.

(e) "Temporary seller's permit" means a permit issued under ss. 77.52(7) and (19), Stats., which is valid at only one temporary event for the duration of the event.

(2) PERMITS FOR TEMPORARY EVENTS. (a) Each person who conducts business as a retailer at a temporary event shall hold one of the following:

1. Mobile seller's permit.
2. Temporary seller's permit.
3. Concessionaire permit.

(b) Any retailer, including a concessionaire, intending to conduct business at temporary events may apply for and hold a mobile seller's permit. Retailers who are not concessionaires may acquire either a mobile seller's permit or a temporary seller's permit for temporary events. Concessionaires who do not hold a mobile seller's permit shall acquire a concessionaire permit for a temporary event.

(c) A concessionaire who is not a resident of Wisconsin shall furnish the department with the name and address of his or her agent in this state upon whom may be served any process, notice or demand required or allowed by statutes to be served upon the applicant.

(3) SECURITY. Application for permits referred to in this section shall be on such forms as prescribed by the department. The applicant shall be subject to security requirements of s. 77.61(2), Stats., except that for events of 7 consecutive days or less retailers holding concessionaire permits shall deposit security of \$10 per concession for each event beginning prior to January 1, 1982 and \$25 per concession for each event beginning on or after that date and deposits for events which exceed 7 consecutive days shall be \$10 per concession for each event beginning prior to January 1, 1982 and \$50 per concession for each event beginning on and after that date.

(4) RETURNS. (a) Sales and use tax returns due from persons holding permits referred to in this section shall be subject to the provisions of s. 77.58, Stats. The returns shall report the tax due for the period of time or event covered by the return and shall be due as follows:

1. Mobile seller's permittee: Quarterly, on the last day of the next month following a calendar quarter unless notified by the department to file on some other basis under s. 77.58(1), (2) and (19), Stats., and shall include on such return gross receipts from all temporary events and other taxable transactions of the permittee during the quarter.

2. Temporary seller's permittee: Per event, within 10 days after the close of the event for which the permit was issued.

3. Concessionaire permittee: Annually, on or before January 31 of the next succeeding calendar year, and including on such return the gross receipts from all concessionaire events conducted by the permittee during the calendar year.

(b) Concessionaire and temporary seller permittees may claim the security deposited in cash for the event or events reported on as a credit against the tax due, unless the department notifies the permittee otherwise.

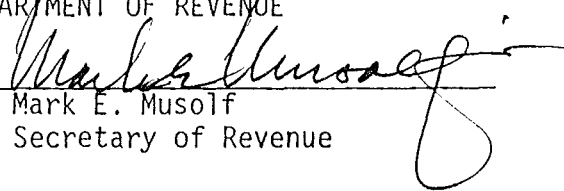
(5) VIOLATION. Under s. 77.52(12), Stats., any person who operates without a permit is guilty of a misdemeanor and shall immediately cease selling when requested by a department representative.

The rule contained in this order shall take effect as provided by s. 227.026(1)(intro.), Stats.

Dated: December 7, 1981

DEPARTMENT OF REVENUE

BY:


Mark E. Musolf
Secretary of Revenue



State of Wisconsin \ DEPARTMENT OF REVENUE

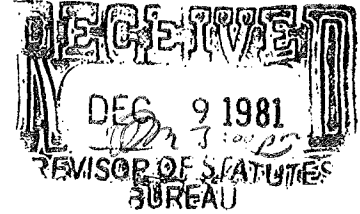
Lee Sherman Dreyfus
Governor

Mark E. Musolf
Secretary

December 8, 1981

125 SOUTH WEBSTER STREET
MADISON, WISCONSIN 53702

Orlan L. Prestegard
Revisor of Statutes
411 West, State Capitol
Madison, WI 53702




Dear Mr. Prestegard:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue repealing and recreating rule Tax 11.53.

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

Sincerely,


Mark E. Musolf
Secretary of Revenue

Enclosures