

CR 83-221

CERTIFICATE

STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF REVENUE)

RECEIVED

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Revisor of Statutes  
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Michael Ley, Secretary of the Department of Revenue and custodian of the official records of said department do hereby certify that the annexed Order relating to Clearinghouse Rule No. 83-221 was duly approved and adopted by this department on July 10, 1984.

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 10<sup>th</sup> day of July, 1984.



Michael Ley  
Secretary of Revenue

ML:em  
405101a

10-184

ORDER OF THE DEPARTMENT OF REVENUE  
REPEALING, AMENDING AND CREATING RULES

To repeal Tax 11.08(2)(c), 11.09(3)(g), 11.39(4)(p), (q) and (r) 10, and 11.45(2)(c)5; to renumber Tax 11.08(5), and 11.56(3)(b); to amend Tax 11.08 title, 11.10 title, (3)(a)3 and (b)2, 11.17 title and (3), 11.19 title, (2)(b) and (3)(c), 11.39(1), (3)(f) and (L), 11.45 title, (3)(intro.) and (3)(e) and 11.56 title and (3)(a); to repeal and recreate Tax 11.19(3)(title), (a) and (b) and 11.56(7); and to create Tax 11.08(5), 11.19(2)(d), 11.39(3)(ze), (zf) and (zg) and 11.56 (3)(b)2, relating to miscellaneous changes in various sales and use tax rules.

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Analysis by the Department of Revenue

The changes in the Order affect sales and use tax rules.

SECTION 1. The title of rule Tax 11.08 is amended by adding statutory references. A reference to s. 77.54(14s) was added to rule Tax 11.08, a provision added to the law by 1983 Wisconsin Act 27 as renumbered by 1983 Wisconsin Act 538.

SECTIONS 2, 3, 4, 5, 7, 15, 16 and 17. These changes reflect the new exemption which was created for equipment used to administer oxygen by 1983 Wisconsin Act 27, effective September 1, 1983. The titles to rules Tax 11.17 and 11.45 are amended by adding statutory references and subsection (3) of rule Tax 11.17 is amended to include diaphragms in the list of exempt items furnished to a patient at the direction of a physician. Effective June 8, 1984, 1983 Wisconsin Act 538, renumbered 77.54(14m) to 77.54(14s) to avoid a conflict in numbering.

SECTION 6. Rule Tax 11.10 title is amended to add a statutory reference and (3)(a)3 and (b)2 are amended to reflect the new 9 different days or 9 consecutive days standards in s. 77.51(10)(c), Stats., for exempt occasional sales pursuant to 1983 Wisconsin Acts 23 and 27.

SECTIONS 8 and 11. Rule Tax 11.19 title is amended to add a reference to s. 77.54(30), Stats., which defines "newspapers" and s. 77.54(2m), Stats., which provides an exemption for ingredients or components of shoppers guides, newspapers or periodicals or items consumed in their manufacture. Subsections (2)(b) and (3)(c) are amended to reflect the limitation of the exemption for periodicals to "periodicals sold by subscription" pursuant to 1983 Wisconsin Act 27, effective September 1, 1983.

SECTIONS 9, 18, 19, 20 and 21. These changes reflect an exemption added to s. 77.54(2m), Stats., for ingredients or components of shoppers guides, newspapers or periodicals or items consumed in their manufacture by 1983 Wisconsin Act 27, effective September 1, 1983. The title of rule Tax 11.56 is amended by adding the statutory reference s. 77.54(2m), a provision added to the law by 1983 Wisconsin Act 27.

SECTION 10. Tax 11.19(3)(a) and (b) previously defined a "newspaper". Section 77.51(30), Stats., as created by 1983 Wisconsin Act 27, defines a "newspaper" and this new definition is reflected in Tax 11.19(3)(a). The definition of "shoppers guide" found in s. 77.54(15), Stats., is inserted in Tax 11.19(3)(b).

SECTION 12. The definition of manufacturing for sales tax purposes was expanded by 1983 Wisconsin Act 27 which created s. 77.51(27)(c), effective September 1, 1983. It provides that mixing and processing performed in mobile units qualifies for the manufacturing exemption.

SECTION 13. Rule Tax 11.39(3)(ze) and (zf) are created to reflect the new definitions of manufacturing added by 1983 Wisconsin Act 27 to s. 77.51(27)(a) and (b), Stats. Tax 11.39(3)(zg) is added to reflect the Wisconsin Tax Appeals Commission's decision of June 2, 1983 in the Lerman Tire Service case which held tire retreading is manufacturing.

SECTION 14. Rule Tax 11.39(4)(q) is repealed because of the Lerman Tire Service decision referred to in Section 13. Rule Tax 11.39(4)(p) and (r)<sup>10</sup> are repealed because of the expanded manufacturing definitions referred to in Sections 12 and 13.

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Pursuant to the authority vested in the Department by s. 227.014(2)(a), Stats., the Department of Revenue hereby amends, repeals and recreates rules interpreting ss. 77.51(10)(a) and (c), (27)(a) to (c) and (30), 77.52(2)(a)2 and 77.54(2m), (7), (14s) and (15), Stats., as follows:

SECTION 1. Tax 11.08 title is amended to read:

Tax 11.08 MEDICAL APPLICANCES, PROSTHETIC DEVICES AND AIDS. (ss. 77.54 (14s) and (22), Stats.)

SECTION 2. Tax 11.08(2)(c) is repealed.

SECTION 3. Tax 11.08(5) is renumbered (6).

SECTION 4. Tax 11.08(5) is created to read:

Tax 11.08(5) OXYGEN EQUIPMENT. Section 77.54(14s), Stats., exempts the gross receipts from the sale of "Equipment used to administer oxygen for medical purposes by a person who has a prescription for oxygen written by a person authorized to prescribe oxygen." The exemption applies to oxygen carts acquired for use by patients with a prescription for oxygen.

Note to Revisor: The "Note" at the end of the rule should be revised to read:

Note: The interpretations of s. Tax 11.08 are effective under the general sales and use tax law on and after September 1, 1969, except that the exemption for oxygen equipment in sub. (5) was added to the law by 1983 Wisconsin Act 27, effective September 1, 1983.

SECTION 5. Tax 11.09(3)(g) is repealed.

SECTION 6. Tax 11.10 title, (3)(a)3 and (b)2 are amended to read:

Tax 11.10 OCCASIONAL SALES. (ss. 77.51(10), 77.52(2)(a)(2) and 77.54(7), Stats.)

Tax 11.10(3)(a)3 The organization did not conduct more than 3 events involving sales of admissions or tickets in the previous calendar year, no more than 3 are anticipated during the current calendar year and such the events do not fall on more than ~~7~~ 9 different days or 9 consecutive 24-hour periods within the calendar year. If 3 or less events are anticipated, but a fourth event takes place during the year, only the fourth event shall be taxable. However, in the following year, all events shall be taxable, even though there are 3 or less of such the events in that year.

Tax 11.10(3)(b)2 The organization conducted no more than 3 events involving sales of meals, food, food products and beverages in the previous calendar year, no more than 3 are anticipated during the current calendar year and such the events do not fall on more than ~~7~~ 9 different days or 9 consecutive 24-hour periods within the calendar year. If 3 or less events are anticipated, but a fourth event takes place during the year, only the fourth event shall be taxable. However, in the following year, all events shall be taxable, even though there are 3 or less of such the events in that year.

Note to Revisor: The "Note" at the end of the rule should be revised to read as follows:

Note: The interpretations in s. Tax 11.10 are effective under the general sales and use tax law on and after September 1, 1969, except that par. (6)(e) became effective on March 1, 1979. The 7 day standard in subd. (3)(a)3 and (b)2 was changed to 9 days by 1983 Wisconsin Act 23, effective June 7, 1983 and the "9 consecutive 24-hour periods" standard was added by 1983 Wisconsin Act 27, effective July 2, 1983. Refer to s. Tax 11.50 for information regarding auction sales.

SECTION 7. Tax 11.17 title and (3) are amended to read:

Tax 11.17 HOSPITALS, CLINICS AND MEDICAL PROFESSIONS. (ss. 77.51(21), (22) and (22m), 77.52(2)(a) 1 and 9, 77.54(9a), (14), (14s), (20)(c)4, (22) and (28), Stats.)

Tax 11.17(3) PURCHASES BY CLINICS AND MEMBERS OF THE MEDICAL PROFESSIONS.

~~(a)~~ Purchases made by medical clinics and physicians are subject to the sales or use tax unless specifically exempt by law. To be exempt, the items on the exempt list must be furnished to patients at the direction of a physician, surgeon or podiatrist in conjunction with providing medical service, except for items noted with an asterisk. These items are exempt even though not purchased under the direction of ~~such~~ the health professional. The following is a partial list of taxable and exempt purchases of clinics and members of the medical professions.

Taxable	Exempt
Adhesive tape	*Artificial eyes and limbs
Alcoholic beverages	Bone pins and plates

Bandages, gauze and cotton  
Bed pans  
Beds and linens  
Compresses and dressings  
Cosmetics  
Deodorants and disinfectants  
Diaphragms  
Distilled water  
Enema kits  
Instruments  
Laboratory equipment and  
supplies  
Medical equipment  
Office equipment and supplies  
Oxygen-tanks  
Paper products  
Printed material  
Rib belts and supports  
Soda water beverages  
Soap  
Splints and cast materials  
Uniforms and gowns  
X-ray film and machines

\*Crutches and wheel chairs  
Diaphragms  
\*Dietary foods  
\*Disposable syringes containing  
insulin  
Dye  
\*Hearing aids and parts  
Medical oxygen and equipment to  
administer oxygen  
Medicines  
\*Needles and syringes used by  
diabetics ~~(effective November  
19, 1975)~~  
Oral Contraceptives  
Pacemakers  
Prescription drugs  
Prophylactics  
Rubbing alcohol  
Suppositories  
Sutures  
Vaccines  
Vaginal creams and jellies  
Vitamins

Note to Revisor: The "Note at the end of the rule should be revised to read as follows:

Note: The interpretations in s. Tax 11.17 are effective under the general sales and use tax law on and after September 1, 1969, except that the exemption in sub. (3) for needles and syringes used by diabetics became effective November 19, 1975 pursuant to Ch. 102, Laws of 1975, and the exemption in sub. (3) for oxygen equipment became effective September 1, 1983 pursuant to 1983 Wisconsin Act 27.

SECTION 8. Tax 11.19 title and (2)(b) are amended to read:

Tax 11.19 PRINTED MATERIAL EXEMPTIONS. (ss. 77.51(30), 77.52(2)(a)11, 77.54(2m), (9a), (15), (25) and (30), Stats.)

Tax 11.19(2)(b) Section 77.54(15), Stats., provides an exemption for the sale of newspapers, and periodicals sold by subscription and regularly issued at average intervals not exceeding 3 months ~~(effective September 1, 1969)~~ and shoppers guides ~~(effective July 1, 1978)~~.

SECTION 9. Tax 11.19(2)(d) is created to read:

Tax 11.19(2)(d) Section 77.54(2m), Stats., provides an exemption for "The gross receipts from the sales of and the storage, use or other consumption of tangible personal property or services that become an ingredient or component of shoppers guides, newspapers or periodicals or that are consumed or lose their identity in the manufacture of shoppers guides, newspapers or periodicals, whether or not the shoppers guides, newspapers or periodicals are transferred without charge to the recipient." This exemption applies to newspapers, shoppers guides and to periodicals which are issued at average intervals not exceeding 3 months. It does not apply to advertising supplements that are not newspapers as defined in s. 77.51 (30), Stats.

SECTION 10. Tax 11.19(3)(title), (a) and (b) are repealed and recreated to read:

Tax 11.19(3) NEWSPAPERS, SHOPPERS GUIDES AND PERIODICALS DEFINED. (a) Section 77.51(30), Stats., defines a "newspaper" under Chapter 77 as: "... those publications which are commonly understood to be newspapers and which are printed and distributed periodically at daily, weekly or other short intervals for the dissemination of current news and information of a general character and of a general interest to the public. In addition, any publication which qualifies as a newspaper under s. 985.03(1) is a newspaper. 'Newspaper' also includes advertising supplements if they are printed by a newspaper and distributed as a component part of one of that newspaper's publications or if they are printed by a newspaper or a commercial printer and sold to a newspaper for inclusion in publications of that newspaper. A 'newspaper' does not include handbills, circulars, flyers, or the like, advertising supplements not described in this subsection which are distributed with a newspaper, nor any publication which is issued to supply information on certain subjects of interest to particular groups, unless such publication otherwise qualifies as a newspaper within this subsection. In this subsection, advertising is not considered news of a general character and of a general interest."

Tax 11.19(3)(b) Section 77.54(15), Stats., defines a shoppers guide as: "a community publication delivered, or attempted to be delivered, to most of the households in its coverage area without a required subscription fee, which advertises a broad range of products and services offered by several types of businesses and individuals."

SECTION 11. Tax 11.19(3)(c) is amended to read:

Tax 11.19(3)(c) The exemption for periodicals is limited to publications which appear-at-stated-intervals are sold by subscription and which are regularly issued at average intervals not exceeding 3 months each issue of which contains news or information written by different authors which is of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues in respect to continuity of literary character or similarity of subject matter, and there must be some connection between the different issues of the series in the nature of the articles appearing in them. To qualify for the exemption, the publication must qualify for the second class mail rate or as a controlled circulation publication under U.S. postal laws and regulations.

Note to Revisor: The "Note" at the end of the rule should be revised to read:

Note: The interpretations in s. Tax 11.19 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) where other dates are shown; (b) the second class mail standard described in sub. (3) became effective on August 1, 1974; (c) the exemption for sales of shoppers guides became effective July 1, 1978; (d) the exemption for ingredients and components of shoppers guides, newspapers and periodicals described in par. (2)(d) became effective July 2, 1983; (e) the definition of newspaper in par. (3)(a) was added to the law effective July 2, 1983; and the limitation of the periodical exemption to "periodicals sold by subscription" became effective July 2, 1983.

SECTION 12. Tax 11.39(1), (3)(f) and (L) are amended to read:

Tax 11.39(1) DEFINITION. Manufacturing means an operation ~~at a fixed location~~ complete in itself, or one of a series of operations ~~each at a fixed location~~, whereby, through the application of machines to tangible personal property by a process popularly regarded as manufacturing, a new article of tangible personal property with a different form, use and name is produced.

Tax 11.39(3)(f) Cement and concrete plants, ~~{but not including concrete mixing and processing units mounted on trucks or trailers}~~. The exemption does not apply to the trailer or truck chassis, including its motor, which is used to provide a transportation service since they are not exclusively used in manufacturing.

Tax 11.39(3)(L) Flour and feed mills, ~~{but not including mobile units}~~.

SECTION 13. Tax 11.39(3)(ze), (zf) and (zg) are created to read:

Tax 11.39(3)(ze) Crushing, washing, grading and blending sand, rock, gravel and other minerals.

Tax 11.39(3)(zf) Ore dressing, including the mechanical preparation, by crushing and other processes, and the concentration, by flotation and other processes, of ore, and beneficiation, including but not limited to the preparation of ore for smelting.

Tax 11.39(3)(zg) Tire retreaders.

SECTION 14. Tax 11.39(4)(p), (q) and (r)<sup>10</sup> are repealed.

Note to Revisor: The "Note" at the end of the rule should be revised to read as follows:

Note: The interpretations in s. Tax 11.39 are effective under the general sales and use tax law on and after September 1, 1969, except the exemption for mobile redi-mix concrete units in (3)(f) which became effective September 1, 1983, pursuant to 1983 Wisconsin Act 27.

SECTION 15. Tax 11.45 title is amended to read:

Tax 11.45 SALES BY PHARMACIES AND DRUG STORES. (ss. 77.52(21) and (22) and 77.54(14), (14s), (22) and (28), Stats.)

SECTION 16. Tax 11.45(2)(c)5 is repealed.

SECTION 17. Tax 11.45(3)(intro.) and (3)(e) are amended to read:

Tax 11.45(3) EXEMPT SALES: MEDICAL APPLIANCES AND PROSTHETIC DEVICES. The exemption for medical appliances and prosthetic devices under s. 77.54(14s), (22) and (28), Stats., shall apply to sales of the following:

Tax 11.45(3)(e) Apparatus or equipment for the injection of insulin and equipment used to administer oxygen for medical purposes if the patient has a prescription for oxygen written by a person authorized to prescribe oxygen. The exemption for oxygen equipment applies to oxygen carts acquired for use by patients with a prescription for oxygen.

SECTION 18. Tax 11.56 title and (3)(a) are amended to read:

Tax 11.56 PRINTING INDUSTRY. (ss. 77.51(4)(h), (25) and (30); 77.52(1) and (2)(a)11 and 77.54(2), (2m) and (6)(a) and (b), Stats.)

Tax 11.56(3)(a) Sales of tangible personal property by persons who are not printers {e.g., including so-called "trade shops" such as typesetters, image reproductions manufacturers, color separators and binder/finishers} are taxable unless the sales qualify for exemption under s. 77.54(2), (2m) or other statutes.

SECTION 19. Tax 11.56(3)(b) is renumbered (3)(b)1.

SECTION 20. Tax 11.56(3)(b)2 is created to read:

Tax 11.56(3)(b)2 Section 77.54(2m), Stats., exempts the gross receipts from sales of "tangible personal property or services that become an ingredient or component of shoppers guides, newspapers or periodicals or that are consumed or lose their identity in the manufacture of shoppers guides, newspapers or periodicals, whether or not the shoppers guides, newspapers or periodicals are transferred without charge to the recipient. The exemption... does not apply to advertising supplements that are not newspapers."

SECTION 21. Tax 11.56(7) is repealed and recreated to read:

Tax 11.56(7) PURCHASES FOR USE IN MANUFACTURING PRINTED MATTER NOT FOR SALE. (a) An exemption applies for tangible personal property or services that become an ingredient or component of shoppers guides, newspapers or periodicals or that are consumed or lose their identity in the manufacture of shoppers guides, newspapers or periodicals, whether or not they are transferred without charge to a recipient.

Note: Examples of nontaxable purchases: 1. A shoppers guide publisher, who distributes the publication without charge, purchases paper and furnishes it to a printer who charges for the printing of the shoppers guide. 2. A shoppers guide publisher purchases paper it uses to print a shoppers guide which it distributes without charge to recipients.

(b) The tax applies to purchases of artwork, single color or multicolor separations, negatives, flats and similar items if such purchases are used in the manufacture of tangible personal property not to be sold, other than items exempt under (a).

Note: Example. A retailer purchases color separations which are used in its own printing plant to produce advertising material it distributes to its customers in Wisconsin.

Note to Revisor: The "Note" at the end of Tax 11.56 should be revised to read:

Note: The interpretations in s. Tax 11.56 are effective under the general sales and use tax law on and after September 1, 1969, except that sales of typeset material shall first be considered sales of tangible personal property on April 1, 1983 and the exemption in subd. (3)(b)2 for ingredients of publications was created by 1983 Wisconsin Act 27, effective July 2, 1983.

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The rules, amendments and repeals contained in this order shall take effect as provided in s. 227.026(1)(intro.), Wis. Stats.

WISCONSIN DEPARTMENT OF REVENUE

Dated:

July 10, 1984

By:

Michael Ley  
Michael Ley  
Secretary of Revenue

420028



State of Wisconsin \ DEPARTMENT OF REVENUE

July 12, 1984

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

RECEIVED

JUL 13 1984

Revisor of Statutes  
Bureau

Dear Mr. Prestegard:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue amending various sales and use tax rules.

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

Sincerely,

Michael Ley  
Secretary of Revenue

ML:em  
405201a

Enclosures

cc: Douglas J. LaFollette, Secretary of State  
Prentice Hall, Inc.  
Commerce Clearinghouse, Inc.