

CR 90-122

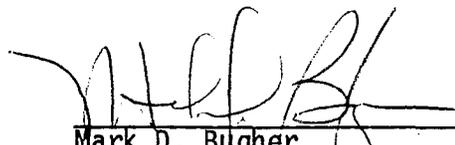
CERTIFICATE

STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF REVENUE )

I, Mark D. Bugher, Secretary of the Department of Revenue and custodian of the official records certify that the annexed rule, relating to sales and use tax was duly approved and adopted by this department on March 6, 1991.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 6<sup>th</sup> day of March, 1991.

  
\_\_\_\_\_  
Mark D. Bugher  
Secretary of Revenue

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MAR 15 1991  
3:20 p  
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MAR 15 1991

Revisor of Statutes  
Bureau

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

The Wisconsin Department of Revenue adopts an order to repeal Tax 11.85(1)(e); to renumber Tax 11.83(5), (6), (7)(b), (10)(c)(intro.), 2 and 3 and (11) and 11.85(4); to renumber and amend Tax 11.83(7)(a), (8), (9) and (10)(a), (b) and (c)1; to amend Tax 11.57(title), (1)(a), (i), (j) and (k), (2)(f), (g), (i) and (L)7 and 8, (3)(a) and (b)1, 2 and 4 and (4)(a), 11.65(title), (1)(b), (e), (f) and (g) and (4)(a) and (b), 11.83(title), (1), (2)(a), (c) and (d), (3)(a) and (4)(a) and (c) and 11.85(title), (2)(a), (c) and (f) and (3)(b); and to create Tax 11.57(4)(d) and (5), 11.65(2)(f) and (g), 11.83(5), (13) and (14) and 11.85(4), relating to sales and use taxation.

Analysis by the Department of Revenue

Statutory authority: s. 227.11(2)(a), Stats.

Statutes interpreted: ss. 77.51(13)(am) and (14)(j), 77.52(1), (2)(a)2, 9 and 10 and (15), 77.53(1), (16), (17), (17m) and (18), 77.54(3), (5)(c) and (d), (6)(a) and (c), (7), (7m), (10), (13), (17), (22)(f), (26m), (30) and (35), 77.56(2) and 77.61(1), Stats.

SECTION 1. Tax 11.57(title) is amended to add reference to s. 77.54(26m), Stats., as clarified by 1987 Wisconsin Act 399. Subsections (1)(a), (j) and (k), (2)(f) and (g), (3)(a) and (b)1 and 2 and (4)(a) are amended to update language and style per Clearinghouse standards. Subsection (1)(i) is amended to clarify that sales to persons other than employes may also be taxable. Subsection (2)(i) is amended to reflect the provision in s. Tax 11.12 that fuel to heat farm buildings, including greenhouses is not always exempt. This change is not effective until the rule order is adopted. Subsection (2)(L)7 and 8 are amended to clarify that a nursing home qualifies as residential use and that a secondary residence does not qualify as residential use. Subsection (3)(b)4 is amended to reflect the department's position that only certain X-ray testing is taxable as provided in s. Tax 11.86.

SECTION 2. Tax 11.57(4)(d) is created to reflect the department's position that certain X-ray testing is exempt as provided in s. Tax 11.86. Subsection (5) is created as a result of the amendment of s. 77.54(26m), by 1987 Wisconsin Act 399, created by 1983 Wisconsin Act 426.

SECTION 3. Tax 11.65(title) is amended to add reference to s. 77.54(7m), Stats., created by 1987 Wisconsin Act 399. Subsection (1)(b) is amended as a result of the amendment to s. 77.52(2)(a)2, Stats., by 1987 Wisconsin Act 399. Tax 11.65(1)(e) is amended to correct the tense of a word. Paragraph (f) is amended to reflect a change in department procedures relating to the sales tax on bingo receipts. Paragraph (g) is amended as a result of amendment to s. 77.54(10), Stats., by 1989 Wisconsin Act 399.

SECTION 4. Tax 11.65(2)(f) is created as a result of the amendment to s. 77.54(10), Stats., by 1989 Wisconsin Act 31. Subsection (2)(g) is created to reflect the creation of 77.54(7m), Stats., by 1987 Wisconsin Act 399.

SECTION 5. Tax 11.65(4)(a) and (b) are amended to update language and style per Clearinghouse standards.

SECTION 6. Tax 11.83(title) is amended to add reference to s. 77.54(5)(c), Stats., created by 1983 Wisconsin Act 426 and s. 77.53(17), Stats., never previously addressed in this section. Subsections (1), (2)(a) and (d) and (4)(a) are amended to update language and style per Clearinghouse standards. Also, subs. (2)(c) and (d) are amended to reflect the creation of s. 77.54(22)(f), Stats., by 1989 Wisconsin Act 238. Subsection (4)(a) is also amended due to the amendment of s. 77.53(18), Stats., by 1987 Wisconsin Act 27. Subsection (3)(a) is amended to reflect the department's position regarding transfers to stepparents and stepchildren and the amendment to s. 77.54(7), Stats., by Chapter 264, Laws of 1981. Subsection (4)(c) is amended to reflect the amendment to s. 77.53(18), Stats., by 1987 Wisconsin Act 27.

SECTIONS 7 AND 8. Tax 11.83(5) is renumbered and new sub. (5) created to address s. 77.53(17), not previously discussed.

SECTION 9. Tax 11.83(6), (7), (8), (9), (10) and (11) are renumbered for the same reason given in SECTION 7. Subsections (8)(a), (9), (10), (11)(a), (b) and (c) as renumbered are amended for the following reasons:

- a. To clarify that the provisions for dealers allowing salespersons to use motor vehicles and sales to salespersons apply also to other employees of the dealer.
- b. Clarify that the amounts for measuring sales tax by dealers are per vehicle or per plate, as appropriate.
- c. Update language and style per Clearinghouse standards.

SECTION 10. Tax 11.83(13) is created to reflect the creation of s. 77.54(5)(c), Stats., by 1983 Wisconsin Act 426. Subsection (14) is created to reflect the creation of s. 218.015, Stats., by 1985 Wisconsin Act 205.

SECTION 11. Tax 11.85(title) is amended to correct a statutory reference.

SECTION 12. Tax 11.85(1)(e) is repealed to reflect the amendment to s. 77.53(18), Stats., by 1987 Wisconsin Act 27.

SECTION 13. Tax 11.85(2)(a) and (3)(b) are amended to make the language clearer and update style. Paragraph (c) is amended to clarify the department's position regarding supplies used on boats. (See SECTION 15.) Paragraph (f) is amended to reflect amendment to s. 77.53(17m), Stats., by 1987 Wisconsin Act 268.

SECTIONS 14 and 15. Tax 11.85(4) is renumbered and new sub. (4) is created to reflect the department's position that certain supplies do not fall within the exemption under s. 77.54(13), Stats.

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SECTION 1. Tax 11.57(title), (1)(a), (i), (j) and (k), (2)(f), (g), (i), and (L)7 and 8, (3)(a) and (b)1, 2 and 4 and (4)(a) are amended to read:

Tax 11.57(title) PUBLIC UTILITIES. (s. 77.54(3), (6)(a) and (c), (17), (26m) and (30), Stats.)

(1)(a) Utility services billed to household, industrial or commercial customers, with any adjustments for discounts taken by customers ~~(e.g., early payment-discount)~~ in the utility's next reporting period.

Example: An early payment discount is adjusted for in the next reporting period.

(i) Sales of tools, used equipment and other tangible personal property to employes or other purchasers.

(j) Pilot relights for furnaces {, such as "no heat" calls}, or replacing appliance fuses.

(k) Sale of a utility overhead transmission or distribution line in place, if installed under easement or license on land owned by others. ~~{See-rule Tax-11.86.}~~

Note to Revisor: Insert the following note after sub. (1)(k):

Note: See s. Tax 11.86 for more information.

(2)(f) Contributions in aid of construction ~~{i.e.,}~~ such as payments by a customer to have a line extended to the customer's property.

(g) The installation charge for a pole sold to a customer, which is installed on land owned by the customer.

(i) Sales of gas or other fuel ~~{electricity-is-not-a-fuel}~~, not including electricity, to farmers if the fuel is used ~~to-heat-farm-buildings,-including greenhouses~~ in farm machinery that is exempt under s. Tax 11.12.

(L)7. In this paragraph subsection, "residential use" means use in a structure or portion of a structure which is a person's permanent principal residence. Use in a residence includes heating or cooling the premises, heating water, operating fans or other motors, providing lighting and other

ordinary uses by the purchaser in a residence. Residential use includes use in single-family homes, duplexes, townhouses, condominiums, mobile homes, rooming houses, apartment houses, nursing homes and farm houses, if the structure is used as a person's permanent principal residence. Residential use includes use in apartment houses, nursing homes and farm houses even though they are on a commercial or rural meter, ~~respectively~~.

8. "Non-residential use" is use other than "residential use" and includes any use in the conduct of a trade, business or profession, whether such the trade, business or profession is carried on by the owner of the premises or some other person. It includes use in secondary residences, motor homes not used as a permanent principal residence, travel trailers, other recreational vehicles and transient accommodations accommodations. "Transient accommodations accommodations" include hotels, motels, inns, travel homes, tourist houses, summer cottages, apartment hotels or resort lodges or cabins, and any ~~accommodation~~ accommodation which is rented for a continuous period of less than one month.

Examples: 1) A person owns a home in Wisconsin where he resides for 7 months each year and a cottage, also in Wisconsin, where he resides for 5 months each year. The home is his principal residence and the cottage is his secondary residence.

2) A person is a resident of Florida and has a home in Florida. The person also retains a home in Wisconsin. The person's Florida home is her principal residence and her Wisconsin home is her secondary residence.

(3)(a) Persons engaged in the business of providing electrical or gas public utility service are consumers of the tangible personal property or taxable services used to provide such the services. The tax applies to the sales of such the items to them, except where a specific exemption applies, such as the exemptions shown in sub. (4).

(b)1 Transformers, substation equipment and other tangible personal property purchased by a utility and used to construct, improve or repair a transmission or distribution line.

2. A contractor's charges for the construction, improvement or repair of an overhead utility transmission or distribution line installed under easement or license on land owned by others. (~~See Rule Tax 11.86.~~)

Note to Revisor: Insert the following note after subd. 2:

Note: See s. Tax 11.86 for more information.

4. Charges for ~~X-rays~~ X-ray testing of welding joints in the construction of overhead utility facilities.

(4)(a) Fuel converted to electrical energy, gas or steam by utilities (as provided under s. 77.54(6)(c), Stats.).

SECTION 2. Tax 11.57(4)(d) and (5) are created to read:

(4)(d) Charges for X-ray testing of welding joints in the construction of underground utility pipelines.

(5) WASTE TREATMENT FACILITIES. The gross receipts from the sales of and the storage, use or other consumption of tangible personal property which becomes a component part of an industrial waste treatment facility that is exempt or that would be exempt under s. 70.11(21)(a), Stats., if the property were taxable under ch. 70, Stats., is exempt from sales and use tax.

Note to Revisor: Replace the note at the end of s. Tax 11.57 with the following note:

Note: The interpretations in s. Tax 11.57 are effective under the general sales and use tax law on and after September 1, 1969, except that: (a) The exemption for sales of coal, fuel oil, propane, steam and wood became effective July 1, 1979, pursuant to Chapter 1, Laws of 1979; (b) The six-month exemption for electricity and gas became effective November 1, 1979, pursuant to Chapter 1, Laws of 1979; (c) The exemption for fuel converted to electrical energy, gas or steam by utilities became effective October 1, 1981, pursuant to Chapter 20, Laws of 1981; (d) The exemption for peat and fuel cubes produced from solid waste became effective April 2, 1986, pursuant to 1985 Wisconsin Act 149; (e) The exemption for wood residue became effective September 1, 1987, pursuant to 1987 Wisconsin Act 27; (f) The exemption for component parts of an industrial waste treatment facility became effective July 1, 1989, pursuant to 1983 Wisconsin Act 426, later clarified effective May 17, 1988, pursuant to 1987 Wisconsin Act 399; and (g) The sale of gas or other fuel used to heat farm buildings, including green houses, that are not exempt machinery under s. Tax 11.12 became taxable [Revisor to insert date the rule becomes effective].

SECTION 3. Tax 11.65(title) and (1)(b), (e), (f) and (g) are amended to read:

Tax 11.65(title) ADMISSIONS. (ss. 77.52(2)(a)2 and 77.54(7m), (10) and (35), Stats.)

(1)(b) The sales tax applies to the gross receipts of organizations which have as an objective the supplying of amusement, athletic, entertainment or recreational facilities to their members such as country clubs, golf clubs, athletic clubs, swimming clubs, yachting clubs, tennis clubs and flying clubs. Taxable sales include the sale, furnishing or use of recreational facilities on a periodic basis and other recreational rights, including but not limited to membership rights, vacation services and club memberships sold in connection with the sale of time-share properties described in s. 707.02(32), Stats. The proceeds received from the initiation fees, special assessments, dues and stock sales of clubs supplying amusement, athletic, entertainment or recreational facilities to members are charges for the privilege of obtaining access to such the clubs and are taxable receipts of the clubs.

(e) A person who provides boat, tackle, bait and guide service provides a combination of recreational items which ~~is~~ are subject to the tax, but guide service alone is not taxable.

(f) The sales tax applies to the gross receipts from conducting bingo games. ~~The tax is remitted to the bingo control board, rather than the department of revenue.~~

(g) The receipts from the sale or furnishing of access to campgrounds, other than Wisconsin state park campgrounds, are taxable, whether the fees are collected on a daily, weekly, annual or other basis.

SECTION 4. Tax 11.65(2)(f) and (g) are created to read:

Tax 11.65(2)(f) Campground fees in Wisconsin state parks.

(g) Admissions to events conducted by nonprofit organizations when the event does not involve entertainment as provided in s. 77.54(7m), Stats., the organization is not engaged in a trade or business as defined in s. 77.54(7m), Stats., and is not otherwise required to hold a seller's permit.

SECTION 5. Tax 11.65(4)(a) and (b) are amended to read:

Tax 11.65(4)(a) Persons conducting recreational events occasionally assert that the receipts are not taxable because they are donations and not charges for admission. To qualify as a donation, a payment ~~must~~ shall be totally voluntary and no restriction whatsoever may be placed on the entrance of persons not making a donation. The facts surrounding the requests for the donation ~~must~~ shall be obvious that admittance is not restricted to those making a donation. A set amount for the donation ~~{, such as through newspaper publicity or signs at the entrance}~~, a turnstile or restrictive device that ~~must~~ shall be passed through, or an attendant requesting a donation at the door shall be presumptive evidence that the charge is not a donation but that the payment is required.

(b) When a charge to a patron bears little or no relationship to the ~~actual~~ actual value received, such as \$100 per ticket for a fund raising dinner dance, the tax may be based on reasonable value of the tangible personal property and taxable services received.

Note to Revisor: Replace the note at the end of s. Tax 11.65 with the following note:

Note: The interpretations in s. Tax 11.65 are effective under the general sales and use tax law on and after September 1, 1969, except that: (a) Bingo receipts became taxable December 30, 1973, pursuant to Chapter 156, Laws of 1973; (b) The exemption for admissions to museums operated under a lease with the State Historical Society became effective July 20, 1985, pursuant to 1985 Wisconsin Act 29, (c) The exemption for admissions to American Legion baseball became effective September 1, 1985, pursuant to 1985 Wisconsin Act 29; (d) Recreational facilities and rights sold in connection with the sale of time-share property became taxable May 17, 1988, pursuant to 1987 Wisconsin Act 399; and (e) The exemption for state park campground fees became effective September 1, 1989, pursuant to 1989 Wisconsin Act 31.

SECTION 6. Tax 11.83(title), (1), (2)(a), (c) and (d), (3)(a) and (4)(a) and (c) are amended to read:

Tax 11.83(title) MOTOR VEHICLES. (ss. 77.51(13)(am) and (14)(j), 77.52(1) and (15), 77.53(1), (16), (17) and (18), 77.54(5)(c) and (d), (7) and (22)(f), 77.56(2) and 77.61(1), Stats.)

(1) In this ~~rule~~ section, "motor vehicle" means a self-propelled vehicle ~~(e.g., such as an~~ automobile, truck, truck-tractor and motorcycle), designed for and capable of transporting persons or property on a highway. In this ~~rule~~ section, "motor vehicle" does not include a self-propelled vehicle which is not designed or used primarily for transportation of persons or property, and is only incidentally operated on a public highway, such as a farm tractor, snowmobile, fork lift truck, and road machinery as defined in s. 340.01(52), Stats. "Motor vehicle" does not include a vehicle which is not self-propelled, such as a trailer or semitrailer.

(2)(a) Gross receipts from the sale of a motor vehicle minus any trade-in allowance, if the sale and trade-in are one transaction. A separate or independent sale of a motor vehicle by either the buyer or seller of another motor vehicle is not a trade-in, even if the proceeds from the sale are immediately applied by the seller to a purchase of another motor vehicle. A dealer does not realize taxable receipts from a transaction in which one motor vehicle is traded for another of lesser value ~~(, called a "trade-down")~~.

(c) Gross receipts from equipment and accessories sold with a motor vehicle. However, adaptive equipment that makes it possible for handicapped persons to enter, operate or leave a vehicle as defined in s. 27.01(7)(a)2, Stats., is exempt from sales and use tax if the equipment is purchased by the handicapped person, a person acting directly on behalf of the handicapped person or a nonprofit organization.

(d) Gross receipts from charges for all parts and labor for repair, service and maintenance performed on a motor vehicle, including charges for installation of accessories or attachments (~~e.g., a radio or air conditioner~~), except charges for adaptive equipment that makes it possible for handicapped persons to enter, operate or leave a vehicle as described in par.(c).

Example: Charges for installation of a radio or air conditioner into a motor vehicle are taxable.

(3)(a) The occasional sale of a motor vehicle is taxable, unless the transfer is to the spouse, parent ~~or~~, stepparent, child or stepchild of the transferor or is transferred from an individual to a corporation which is solely owned by the individual; and the motor vehicle has been previously registered in ~~this-state~~ Wisconsin in the name of the transferor; and the transferor is not a motor vehicle dealer. A son-in-law or daughter-in-law is not allowed this exemption.

(4)(a) The gross receipts from the sales of motor vehicles or truck bodies to nonresidents of ~~this-state~~ Wisconsin, including members of the armed forces, who will not use ~~such~~ the vehicles or trucks (for which the truck bodies were made) in ~~this-state~~ Wisconsin other than in their removal from ~~this-state~~ Wisconsin are exempt. However, the separate sale of a "slide-in" camper to a nonresident is taxable if delivery is in Wisconsin.

(c) A motor vehicle, trailer, semi-trailer, all-terrain vehicle or mobile home purchased by a nonresident of Wisconsin 90 days or more before bringing the unit into ~~this-state~~ Wisconsin, in connection with a change of residence to ~~this-state~~ Wisconsin by the individual, is not subject to the Wisconsin use tax.

SECTION 7. Tax 11.83(5) is renumbered Tax 11.83(6).

SECTION 8. Tax 11.83(5) is created to read:

Tax 11.83(5) TEMPORARY USE IN WISCONSIN. Motor vehicles purchased outside Wisconsin which are not required to be registered or titled in Wisconsin brought into Wisconsin by a nondomiciliary for that person's own storage, use or other consumption while temporarily in Wisconsin are not subject to use tax when the motor vehicle is not stored, used or otherwise consumed in Wisconsin in the conduct of a trade, occupation, business or profession or in the performance of personal services for wages or fees.

SECTION 9. Tax 11.83(6), (7), (8), (9), (10) and (11) are renumbered Tax 11.83(7), (8), (9), (10), (11) and (12) and Tax 11.83(8)(a), (9), (10) and (11)(a), (b) and (c) as renumbered are amended to read:

Tax 11.83(8)(a) If salespersons or other employes use a licensed Wisconsin retail motor vehicle dealer's motor vehicles for purposes in addition to retention, demonstration or display, the dealer may charge the salesperson or other employe a reasonable amount for ~~such~~ the use, and ~~such~~ the charge is subject to the tax. In lieu of making ~~such~~ the charge or reporting the tax on the cost of the vehicle, the dealer may report tax on the following basis:

1. In the case of motor vehicles licensed in the name of the retail dealer, the measure of the tax reported on the dealer's ~~monthly~~ sales and use tax return shall be \$45.00 per vehicle per month until December 31, 1985, \$57.00 per vehicle per month from January 1, 1986 through December 31, 1986, \$69.00 per vehicle per month from January 1, 1987 through December 31, 1987 and \$83.00 per vehicle per month from January 1, 1988 and thereafter.

2. In the case of motor vehicles being operated with retail dealer plates, the measure of the tax reported on the dealer's ~~monthly~~ sales and use tax return shall be \$12.00 per plate per month until December 31, 1985, \$15.00 per plate per month from January 1, 1986 through December 31, 1986, \$18.00 per plate per month from January 1, 1987 through December 31, 1987 and \$22.00 per plate per month from January 1, 1988 and thereafter.

(9)(title) SALES BY DEALERS TO THEIR SALESPERSONS OR OTHER EMPLOYEES.

When a licensed Wisconsin motor vehicle dealer sells a motor vehicle to one of the dealer's salespersons or other employees, the transaction is subject to the sales tax.

(10) Heavy equipment dealers who are not registered with the Wisconsin department of transportation as motor vehicle dealers because their sales are too few in number to require registration shall not charge sales tax on their sales of motor vehicles. The tax shall be collected from the purchaser at the time the unit is registered with ~~the state~~ Wisconsin. ~~Such~~ The heavy equipment dealers may purchase motor vehicles for resale without tax.

(11)(a) Motor vehicle dealers with body shops and any other person engaged in motor vehicle repair may purchase for resale without tax tangible personal property which is physically transferred to the customer's vehicle and which leaves the repair facility with the repaired vehicle. ~~Such~~ The property includes paints, paint hardeners, plastic fillers, welding rods and auto parts.

(b) Tangible personal property not physically transferred to a customer's motor vehicle ~~are~~ is subject to tax. ~~Such~~ The property includes tools, equipment and supplies used or consumed in performing motor vehicle repair service. ~~Examples-of-taxable~~ Taxable supplies include: sandpaper, masking paper and tape, buffing pads, paint and lacquer thinner, clean and glaze compound, disc pads, paint remover, paint masks, tack rags, steel wool, industrial gases, metal conditioner, brushes, lacquer removing solvent, rubbing compound, wax and grease remover, fluxing materials, disc adhesive and all other items not physically transferred to the customer's vehicle even though a separate charge may be made to the customer for these supplies.

(c)1 Inventories ~~such~~ the property;

SECTION 10. Tax 11.83(13) and (14) are created to read:

Tax 11.83(13) EXEMPTION FOR VEHICLES USED IN WASTE REDUCTION OR RECYCLING. Gross receipts from the sale, lease or rental of vehicles which are not required to be licensed for highway use and which are used exclusively and directly in waste reduction or recycling activities are exempt from sales and use tax.

(14) REFUNDS UNDER "LEMON LAW". Sales tax refunds made under s. 218.015(2)(f), Stats., the "lemon law", are normally made in the same manner as the other sales tax refunds. However, when a defective motor vehicle is returned to the manufacturer for a refund of the purchase price, the purchaser is permitted to collect a sales tax refund directly from the department of revenue if the manufacturer fails to refund the tax.

Note to Revisor: Replace the note at the end of s. Tax 11.83 with the following note:

Note: The interpretations in s. Tax 11.83 are effective under the general sales and use tax law on and after September 1, 1969, except that: (a) The 5% use tax payable by motor vehicle dealers using regular plates in sub. (8)(a)1 was \$1.00 per month through December 31, 1972, \$1.35 per month until June 30, 1981, \$2.25 per month until December 31, 1985, and thereafter as shown in this section; (b) The 5% use tax payable in sub. (8)(a)2 by motor vehicle dealers using dealer plates was 25¢ per month through December 31, 1972, 35¢ per month until June 30, 1981, 60¢ per month until December 31, 1985, and thereafter as shown in this section; (c) The exemption for a transfer from an individual to a corporation solely owned by an individual became effective January 1, 1983, pursuant to Chapter 264, Laws of 1981; (d) The exemption for motor vehicles used in waste reduction and recycling became effective July 1, 1984, pursuant to 1983 Wisconsin Act 426; (e) The exemption for mobile mixing and processing units became effective July 20, 1985, pursuant to 1985 Wisconsin Act 29; and (f) The exemption for adaptive equipment for handicapped persons to enter, operate or leave a vehicle became effective June 1, 1990, pursuant to 1989 Wisconsin Act 238.

SECTION 11. Tax 11.85(title) is amended to read:

Tax 11.85(title) BOATS, VESSELS AND BARGES. (ss. 77.51(13)(am), 77.52(2)(a)9 and 10, 77.53(17), (17m) and (18), 77.54(7) and (13) and 77.61(1), Stats.)

SECTION 12. Tax 11.85(1)(e) is repealed.

SECTION 13. Tax 11.85(2)(a), (c) and (f) and (3)(b) are amended to read:

Tax 11.85(2)(a) A The sale of a boat not required to be registered in Wisconsin with the Wisconsin department of natural resources or documented under the laws of the United States may ~~be sold at retail~~ qualify as an exempt occasional sale if the transferor ~~is not engaged in the business of selling tangible personal property or taxable services~~ does not hold or is not required to hold a seller's permit.

(c) Vessels and barges primarily engaged in interstate or foreign commerce or commercial fishing that are documented under the laws of the United States showing a net volumetric tonnage of 50 tons or more are exempt from tax. Accessories, attachments, and parts attached to the vessel or barge and fuel for ~~such~~ the vessels and barges are also exempt.

(f) Section 77.53(17m), Stats., exempts: "A ... a boat purchased in a state contiguous to this state by a person domiciled in that state if the boat is berthed in this state's boundary waters adjacent to the state of the domicile of the purchaser, and if the transaction was an exempt occasional sale under the laws of the state in which the purchase was made, ~~if the boat is not located in this state more than 60 consecutive days other than while it is in storage and if this state is not the state of principal use.~~"

(3)(b) A boat purchased outside Wisconsin which is required to be registered under Wisconsin law is subject to the Wisconsin use tax, regardless of the state of domicile of the person bringing the boat into Wisconsin or the use of the boat in Wisconsin, unless exempt under sub. (2)(d).

SECTION 14. Tax 11.85(4) is renumbered Tax 11.85(5).

SECTION 15. Tax 11.85(4) is created to read:

Tax 11.85(4) TAXABLE SUPPLIES. Sales of consumable supplies or furnishings not attached to the vessel or barge are not exempt from sales or use tax under s. 77.54(13), Stats.

Example: Sales of bedding, linen, table and kitchenware, tables, chairs, lubricants, work clothes, acetylene gas, paper towels, etc., used on commercial barges or barges of 50 ton burden or over engaged primarily in interstate or foreign commerce or commercial fishing are subject to sales and use tax.

Note to Revisor: Replace the note at the end of s. Tax 11.85 with the following note:

Note: The interpretations in s. Tax 11.85 are effective under the general sales and use tax law on and after September 1, 1969, except that: (a) Boats documented under laws of the United States do not qualify for the occasional sale exemption effective February 28, 1979, pursuant to Chapter 1, Laws of 1979; (b) Charges by governmental units for docking and storing boats became taxable effective June 1, 1980, pursuant to Chapter 221, Laws of 1979; (c) The exemption for boats of nonresidents kept in waters contiguous to the nonresident's state of domicile became effective September 1, 1985, pursuant to 1985 Wisconsin Act 29, later amended effective June 1, 1988, pursuant to 1987 Wisconsin Act 268; and (d) The exemption for boats brought into Wisconsin by new residents became effective August 1, 1987, pursuant to 1987 Wisconsin Act 27.

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The rules contained in this order shall take effect on the first day of the month following publication as provided by s. 227.22(2)(intro.), Stats.

Final Regulatory Flexibility Analysis

The rule order does not have a significant economic impact on a substantial number of small businesses.

Date: March 6, 1991

DEPARTMENT OF REVENUE  
By: [Signature]  
Mark D. Bugher  
Secretary of Revenue

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Bureau

1989 Session

LRB or Bill No./Adm. Rule No.

Tax 11

Amendment No. if Applicable

FISCAL ESTIMATE

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

DOA-2048 (R 10/88)

Subject

Miscellaneous Sales and Use Tax Rule Changes

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
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

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 \_\_\_\_\_

Fund Sources Affected

- GPR  FED  PRO  PRS  SEG  SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The proposed rule changes reflect changes in state law, clarify existing Department of Revenue positions, update language and style in conformance of Legislative Council Rules Clearinghouse standards and reflect a change in Department procedures regarding collection of the sales tax on bingo receipts. The rule changes have no fiscal effect.

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Long-Range Fiscal Implications

**FISCAL ESTIMATE WORKSHEET**

1989 Session

Detailed Estimate of Annual Fiscal Effect  ORIGINAL  UPDATED  
 DOA-2047(R 10/88)  CORRECTED  SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Tax 11	Amendment No.
---	---------------

Subject  
Miscellaneous Sales and Use Tax Rule Changes

**I. One-time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):**

**II. Annualized Costs:** Note: Treat fiscal costs like a "checkbook": increased costs reduce available funds (-); decreased costs increase available funds (+). **Annualized Fiscal impact on State funds from:**

A. State Costs by Category	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
Salaries and Fringes	\$ -	\$ +
Staff Support Costs	-	-
Other State Costs	-	-
Local Assistance	-	-
Aids to Individuals or Organizations	-	-
<b>TOTAL State Costs by Category</b>	<b>\$ -</b>	<b>\$ -</b>

B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ -	\$ -
FED	-	-
PRO/PRS	-	-
SEG/SEG-S	-	-

**C. FTE Position Changes**

Increased Pos.	Decreased Pos.
+ ( )	- ( )

**III. State Revenues-** Complete this only when proposal will increase or decrease state revenues, such as taxes, license fees, etc.

	Decreased Rev.	Increased Rev.
GPR Taxes	\$ -	\$ -
GPR Earned	-	+
FED	-	+
PRO/PRS	-	+
SEG/SEG-S	-	+
<b>TOTAL State Revenues</b>	<b>\$ -</b>	<b>\$ +</b>

**Net Annualized Fiscal Impact on State & Local Funds**

State	Annual Increases	Annual Decreases	Local	Annual Increases	Annual Decreases
Total Costs	\$ -	\$ +	Total Costs	\$ -	\$ +
Total Revenues	+	-	Total Revenues	+	-

NET Impact on State Funds \$ (+) or None

NET Impact on Local Funds \$ (+) or None



**State of Wisconsin** ● **DEPARTMENT OF REVENUE**

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

*Tommy G. Thompson*  
Governor

*Mark D. Bugher*  
Secretary of Revenue

March 7, 1991

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Gary L. Poulson  
Assistant Revisor  
2nd Floor  
119 Martin Luther King, Jr. Blvd.  
Madison, Wisconsin 53703

Re: Clearinghouse Rule 90-122

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to sales and use tax.

These materials are filed with you pursuant to s. 227.20(1), Stats.

Sincerely,

Mark D. Bugher  
Secretary of Revenue

MDB:MPW:ssa  
CKLEG/614

Enclosure

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



**State of Wisconsin** ● **DEPARTMENT OF REVENUE**

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

**Tommy G. Thompson**  
Governor

**Mark D. Bugher**  
Secretary of Revenue

March 7, 1991

Douglas LaFollette  
Secretary of State  
30 West Mifflin Street, 10th Floor  
Madison, Wisconsin 53703

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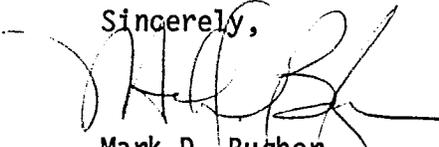
Revisor of Statutes  
Bureau

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 90-122.

These materials are filed with you pursuant to s. 227.20, Stats.

Sincerely,

  
Mark D. Bugher  
Secretary of Revenue

MDB:MPW:ssa  
CKLEG/613

Enclosure

cc: Revisor of Statutes