

CR 92-104

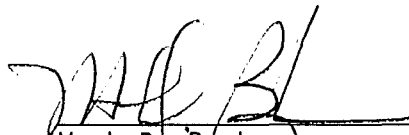
CERTIFICATE

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 taxes, was duly approved and adopted by this department on February 19, 1993.

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 19<sup>th</sup> day of February, 1993.

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

MDB:MPW:c11  
CKLEG/1163

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ORDER OF THE DEPARTMENT OF REVENUE  
RENUMBERING AND AMENDING RULES

The Wisconsin Department of Revenue adopts an order to renumber Tax 11.05(4)(intro.), (a), (b), (c), (d) and (e) and amend Tax 11.05(3)(p); 11.71(title), (1)(e)6 and (2)(a)(intro.) and 1 and (b)(intro.); and 11.95(1), relating to sales and use taxes.

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Analysis by the Department of Revenue

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

Statutes interpreted: ss. 77.51(20), 77.54(32) and 77.61(4)(c), Stats.

SECTION 1. Tax 11.05(3)(p) is amended to reflect the change to s. 77.54(32), Stats., by 1991 Wisconsin Act 269, relating to copies of records.

SECTION 2. Tax 11.05(4)(intro.) through (e) are renumbered to conform format to Legislative Council Rules Clearinghouse standards.

SECTION 3. Tax 11.71(title), (1)(e)6 and (2)(b)(intro.) are amended to reflect the change to s. 77.51(20), Stats., by 1991 Wisconsin Act 269, which clarifies that tangible personal property includes computer programs, except custom programs. Tax 11.71(2)(a)(intro.) and 1 are amended to conform format to Legislative Council Rules Clearinghouse standards.

SECTION 4. Tax 11.95(1), relating to the retailer's discount, is amended to reflect the amendment to s. 77.61(4)(c), Stats., by 1991 Wisconsin Act 269.

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SECTION 1. Tax 11.05(3)(p) is amended to read:

Tax 11.05(3)(p) Charges for filing, entering, docketing, recording or furnishing certified or uncertified copies of records by a state registrar, register of deeds, health officer and clerk of court under ss. 59.42, 59.57 and 69.22, Stats., or by a filing officer under s. 409.407(2), Stats., and fees charged by a register in probate pursuant to s. 814.66, Stats. Also, charges by an "authority", as defined in s. 19.32(1), Stats., for copying a ~~public-record-or-confidential~~ record under s. 19.35(1)(a), Stats., including charges for a search of records.

Note to Revisor: Replace item (g) of the note at the end of s. Tax 11.05 with the following:

Note: (g) A governmental unit's charges for copying public records became exempt effective April 27, 1984, pursuant to 1983 Wis. Act 287, later amended effective April 2, 1986, pursuant to 1985 Wis. Act. 149 to clarify that the exemption also applies to confidential records, and again amended effective May 1, 1992, pursuant to 1991 Wis. Act 269, to include records under s. 19.35(1)(a), Stats.;

SECTION 2. Tax 11.05(4)(intro.), (a), (b), (c), (d) and (e) are renumbered Tax 11.05(4)(a), (b), (c), (d), (e) and (f).

SECTION 3. Tax 11.71(title), (1)(e)6, (2)(a)(intro.) and 1, and (2)(b)(intro.) are amended to read:

Tax 11.71(title) COMPUTER INDUSTRY. (ss. 77.51(14)(h) and (j) and (20) and 77.52(1) and (2)(a)10, Stats.)

(1)(e)6 Custom programs do not include basic operational programs or prewritten programs.

(2)(a)(intro.) The retail sale, lease or rental of new or used automatic data processing equipment and charges for the installation, service and maintenance of this equipment. In this subsection, the following applies to leases:

1. ~~In this subsection, lease~~ Lease includes a contract by which a lessee, for a consideration, obtains the full or partial use of equipment if the lessee's employees are located on the premises where the equipment is located or operate the equipment. A lease does not include obtaining remote access to equipment by telephone or other means when that person's employees are not located on the premises where the equipment is located and they do not operate the equipment or control its operations.

(b)(intro.) The retail sale, lease, rental or license to use ~~prewritten programs and basic operational programs~~ computer programs, except custom programs, including the maintenance and enhancement of those programs, whether transferred in a machine readable form such as cards, tapes or discs, or

transferred in any other manner to the lessee or purchaser such as by telecommunications, or written instructions on coding sheets. The tax applies to the total charge for these programs, including:

SECTION 4. Tax 11.95(1) is amended to read:

Tax 11.95(1) For timely reporting state and county sales or use tax collected on their retail sales, retailers may deduct ~~2% of the first \$10,000 of sales and use tax payable during the retailer's tax year, 1% of the second \$10,000 of sales and use tax payable and~~ .5% of the sales and use tax payable in excess of \$20,000 each on retail sales during the retailer's tax year.

Note to Revisor: Replace the note at the end of s. Tax 11.95 with the following note:

Note: The interpretations in s. Tax 11.95 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The amount of retailer's discount on or after January 1, 1983, until December 31, 1992, was 2% of the first \$10,000 of sales and use tax payable during the retailer's tax year, 1% of the second \$10,000 of sales and use tax payable and .5% of the sales and use tax payable in excess of \$20,000 each year; (b) The amount of retailer's discount in sub. (1) became effective January 1, 1993, pursuant to 1991 Wis. Act 269; and (c) The requirement that county tax be remitted to the registering state agency was repealed effective May 1, 1988, pursuant to 1987 Wis. Act 287.

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

Final Regulatory Flexibility Analysis

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

Dated: February 19, 1993

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

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LRB or Bill No./Adm. Rule No.  
Tax 11.05, 11.71, 11.95  
Amendment No. if Applicable

FISCAL ESTIMATE

DOA-2048 (R11/90)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

Subject: Sales Tax Treatment of Copies of Records and Computer Programs; Retailer's Discount

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No

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

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 \_\_\_\_\_
  - School Districts
  - VTAE Districts

Fund Sources Affected  
 GPR  FED  PRO  PRS  SEG  SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This rule reflects changes made by 1991 Wisconsin Act 269 relating to the sales tax treatment of copies of records and computer programs and to the retailer's discount. It also makes changes to conform format to Legislative Council Rules Clearinghouse standards. It has no fiscal effect.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)  
Wisconsin Department of Revenue  
Dennis Collier, 266-9706

Authorized Signature/Telephone No. 266-2700  
Yeang-Eng Braun  
*Yeang-Eng Braun*

Date  
6/12/92



State of Wisconsin • DEPARTMENT OF REVENUE

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

Tommy G. Thompson  
Governor

Mark D. Bugher  
Secretary of Revenue

February 22, 1993

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Gary L. Poulson  
Assistant Revisor  
131 West Wilson Street, Suite 800  
Madison, WI 53703-3233

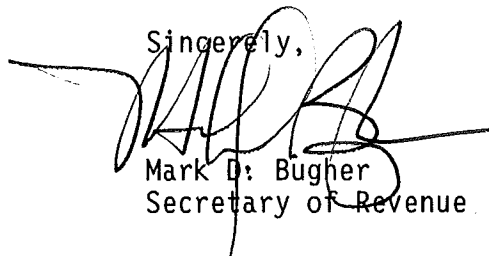
Re: Clearinghouse Rule 92-104

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 taxes.

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

Sincerely,



Mark D. Bugher  
Secretary of Revenue

MDB:MPW:c11  
CKLEG/1162

Enclosure

cc: Douglas J. LaFollette, Secretary of State  
Commerce Clearing House, Inc.  
Research Institute of America, Inc.



State of Wisconsin • DEPARTMENT OF REVENUE

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

*Tommy G. Thompson*  
Governor

*Mark D. Bugher*  
Secretary of Revenue

February 22, 1993

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

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Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 92-104.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Bugher', written over a horizontal line.

Mark D. Bugher  
Secretary of Revenue

MDB:MPW:c11  
CKLEG/1161

Enclosure

cc: Revisor of Statutes