

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 Wisconsin sales or use tax in effect under ss. 77.52 (1) and (2) and 77.53 (1), Stats.

(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; am. (12), Register, January, 1983, No. 325, eff. 2-1-83.

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 MV-1. For occasional and dealer sales of motor vehicles, motor homes, trailers and semitrailers.

(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.

(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.

(4) Entrepreneurs, promoters, sponsors or managers of an amusement, entertainment or recreational event shall be regarded as retailers for the purposes of s. 77.51 (7) (c), Stats., if said entrepreneurs, promoters, sponsors or managers have control and direction of the event including activities such as controlling the sale of admissions or admission tickets; controlling or regulating the admittance of all persons to the event or place; determining the nature of the amusement, entertainment or recreation to be offered; deciding the scale of prices to be charged for admission; receiving the proceeds from ticket sales, including amounts from ticket agents or brokers; and deciding, or having the right to decide, the disposition of the net profits, if any, realized from the event.

(5) As retailers, such entrepreneurs, promoters, sponsors or managers are persons liable for the sales tax and are required to hold a seller's permit for each place of operations pursuant to s. 77.52 (7), Stats., and may be required to post security as provided in s. 77.61 (2), Stats. Such retailers are required to have a seller's permit on the first date on which tickets or admission to an event to be conducted in this state are offered for sale.

(6) This rule does not apply to traveling attractions which perform in stadiums, theaters or other places where the permanent management of such stadium, theater or other location holds a valid seller's permit, controls the sale of tickets or admissions and assumes the liability for the payment of the sales tax. Further, it does not apply to churches or other nonprofit groups which operate within the occasional sale limitations of s. 77.51 (10) (c), Stats.

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, March, 1976, No. 243, eff. 4-1-76; renun. from Tax 11.02; Register, January, 1978, No. 265, eff. 2-1-78.

Tax 11.55 Agents, consignees, lienors and brokers. (s. 77.51 (4g) (f), (7) and (8), Stats.) (1) **UNDISCLOSED PRINCIPAL.** A person who has possession of personal property owned by an unknown or undisclosed principal and has the power to transfer title to that property to a third person, and who exercises that power, is a retailer whose gross receipts are subject to the tax.

(2) **DISCLOSED PRINCIPAL.** (a) Gross receipts from the sale of tangible personal property made by a person with possession of the property, who is acting for a known or disclosed principal, are taxable to the principal if the principal is engaged in the full or part-time business of selling tangible personal property. If the principal fails to pay the tax, the agent may be liable for it.

(b) A principal shall be deemed disclosed to a purchaser only when the evidence shows that the identity of the principal is made known to the purchaser at the time of the sale, and when the name and address of the principal appear on the books and records of the agent.

(3) **ENFORCEMENT OF LIENS.** Pawnbrokers, storage persons and others selling tangible personal property to enforce a lien are retailers with respect to such sales, and tax applies to the gross receipts from such sales.

(4) **REPOSSESSIONS.** Repossessions of tangible personal property by a seller from a purchaser when the only consideration is cancellation of the purchaser's obligation to pay for the property is not a taxable transaction. However, sales at retail of repossessed property (e.g., by finance

companies, insurance companies, banks and other financial institutions) are taxable sales.

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

History: Cr. Register, May, 1978, No. 269, eff. 6-1-78.

Tax 11.56 Printing industry. (ss. 77.51 (4) (h) and (25); 77.52 (1) and (2) (a) 11 and 77.54 (2) and (6) (a) and (b), Stats.) (1) DEFINITIONS. In this section:

(a) The process of manufacturing printed matter by a manufacturer includes initial typesetting and composition, producing a paste-up, combining photographs with words, making page makeups and taking pictures of them, making proofs and paper for editing, producing negatives which go to the stripping department for assembly of the flat and taking a picture, either positive or negative, of a flat which after it is finally proofed is known as plate-ready film, and producing an image carrier which is installed on a printing press, or equivalent prepress technology employed to produce an image carrier, and the bindery/finishing stage.

(b) "Typesetting" includes converting images into standardized letter forms of a certain style which usually are hyphenated, justified and indented automatically by means of machinery and equipment. Typesetting machinery and equipment includes, fonts, video display terminals, tape and disc making equipment, computers and typesetters which are interconnected to operate essentially as one machine. A system shall be considered to operate essentially as one machine whether or not the tape or disc is automatically fed to the typesetter.

(c) "Manufacturer" includes a printer or other person who performs any one or more of the processes in manufacturing printed matter, provided that the printer or other person qualifies as being engaged in manufacturing under s. 77.51 (27) Stats., whether or not the printed matter is sold.

(2) **PRINTERS' TAXABLE SALES.** Taxable receipts of printers include gross receipts from the following, unless otherwise exempt.

(a) Charges for printing, lithography, photolithography, rotogravure, gravure, letter press, silk screen printing, imprinting, multilithing, mimeographing, photostating, steel die engraving, and similar operations for consumers, whether or not the paper and other materials are furnished by the consumers. A printer's charge for printing on paper furnished by a customer to produce printed matter not to be sold is subject to the tax.

(b) Charges for services in connection with the sale of printed matter, such as overtime and set-up charges, die cutting, embossing, folding, and binding operations, and charges for painting signs, show cards and posters, whether the materials are furnished by the printer or by the customer.

(c) Charges for envelopes, but not for separately stated charges for postage in the sale of prestamped envelopes.

(3) **TAXABLE SALES BY OTHERS.** (a) Sales of tangible personal property by persons who are not printers (e.g., so-called "trade shops" such as typesetters, image reproduction manufacturers, color separators and

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binder/finishers) are taxable unless the sales qualify for exemption under s. 77.54 (2) or other statutes.

(b) Section 77.54 (2) exempts the gross receipts from sales of “. . . tangible personal property becoming an ingredient or component part of an article of tangible personal property or which is consumed or destroyed or loses its identity in the manufacture of tangible personal property in any form destined for sale . . .”

(c) Tangible personal property includes type-matter, whether or not combined with artwork, such as typeset output, a paste-up, mechanical, assembly, camera-ready copy, flat or a photoreproduction (including film plates).

(4) **NONTAXABLE SALES.** Tax does not apply to charges, if stated separately on invoices and in the accounting records, for mailing services such as:

(a) Addressing printed matter by hand or mechanically for the purpose of mailing.

(b) Enclosing, sealing and preparing for mailing.

(c) Mailing letters or other printed matter.

(5) **EXEMPT PRINTING MACHINERY AND EQUIPMENT.** Section 77.54 (6) (a), Stats., provides that: “Machinery and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property” are exempt from the sales or use tax. This includes machinery and equipment and repair parts or replacements thereof used exclusively and directly by a manufacturer in the printing process to manufacture tangible personal property. Interpretations of this statute are contained in s. Tax 11.40.

(6) **PURCHASES FOR USE IN MANUFACTURING PRINTED MATTER FOR SALE.** (a) Persons engaged in manufacturing printed matter for sale may purchase the following items without tax under the statutes indicated:

1. Section 77.54 (2). Property becoming an ingredient or component part of an item destined for sale (e.g., paper stock or printing ink).

2. Section 77.54 (2). Property such as chemicals, emulsions, acids, raw film, lubricating oils, greases, nonoffset spray, finished art, color separations, plate-ready film, other positives and negatives, flats and similar items which are consumed, destroyed or lose their identity in the manufacture of tangible personal property to be sold. For example, a printer's purchases of positives and negatives which are used to produce catalogs and shoppers guides it sells to other persons.

3. Section 77.54 (6) (b). Containers and packaging and shipping materials for use in packing, packaging or shipping printed matter to their customers.

(b) The exemptions under s. 77.54 (2), Stats., described in par. (a) 1 and 2, apply to property purchased by a person who does not use the property other than to provide it to a manufacturer described in par. (a) for use by the manufacturer in manufacturing tangible personal property to be sold. The exemption under s. 77.54 (2) does not apply if the manufactured tangible personal property is not to be sold. Examples of nontaxable purchases include:

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1. A paper manufacturer's purchases of negatives which it transfers to a printer, who uses the negatives to produce printing on the manufacturer's products which are to be sold.

2. An advertising agency's purchases of color separations which are furnished to a commercial printer who uses the color separations to produce advertising material the agency sells to a retailer.

3. A publisher's purchases of paper and ink which are furnished to a commercial printer to produce a publication to be sold.

(7) PURCHASES FOR USE IN MANUFACTURING PRINTED MATTER NOT FOR SALE. 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. An example of taxable purchases is a retailer's purchases of color separations which are used in its own printing plant to produce advertising material it distributes to its customers in Wisconsin.

Note: The interpretations in this rule 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.

History: Cr. Register, March, 1983, No. 327, eff. 4-1-83.

Tax 11.57 Public utilities. (ss. 77.54 (3), (6) (a) and (c), (17) and (30), Stats.) (1) TAXABLE SALES. The gross receipts from the sale of the following tangible personal property and services provided by utilities are taxable:

(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.

(b) Excess use charges and minimum or idle service charges.

(c) The gross amounts received for contacts on poles and excess pole height contributions.

(d) Parking space rentals.

(e) Rentals of transformers located on a customer's property.

(f) Labor and materials to install or repair conversion burners.

(g) The rental of water heaters.

(h) Sales of scrap, gravel or timber sold for removal.

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

(j) Pilot relights for furnaces ("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.)

(l) Charges to builders to put in "temporary services".

(2) NONTAXABLE SALES. Gross receipts from the following charges to customers are not subject to the tax:

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- (a) Connection or reconnection charges.
- (b) Utility services delivered to Indians living on a Indian reservation, or services delivered on the reservation to an Indian tribal governing board.
- (c) Billings for repairs to persons who damaged utility property.
- (d) Services coincidental with house moving.
- (e) Pilot relight of yard gas lamp.
- (f) Contributions in aid of construction (i.e., payments by a customer to have a line extended to the customer's property).