

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Joint Committee for
Review of
Administrative Rules
(JCR-AR)

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98-144 TAX 11.19/11.70 PRINTED MATERIAL
EXEMPTIONS

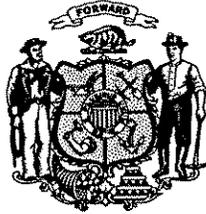
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 98-144

AN ORDER to amend Tax 11.19 (2) (d) and (f), (5) (intro.) and (b) and (6); and to create Tax 11.70 (3) (m), relating to printed material exemptions and the sales and use tax treatment of advertising agencies.

Submitted by **DEPARTMENT OF REVENUE**

09-29-98 RECEIVED BY LEGISLATIVE COUNCIL.
10-15-98 REPORT SENT TO AGENCY.

RNS:WF:kjf

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

PROPOSED ORDER OF THE DEPARTMENT OF REVENUE
AMENDING AND CREATING RULES

The Wisconsin Department of Revenue proposes an order to: amend Tax 11.19(2)(d) and (f), (5)(intro.) and (b) and (6); and create Tax 11.70(3)(m), relating to printed material exemptions and the sales and use tax treatment of advertising agencies.

Analysis by the Department of Revenue

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

Statutes interpreted: s. 77.54(9a), Stats., s. 77.51(18) and (22)(a), Stats., as amended by 1997 Wis. Act 27, and s. 77.54(43), Stats., as created by 1997 Wis. Act 27

SECTION 1. Tax 11.19(2)(d) and (f) and (5)(intro.) and (b) are amended, to reflect the amendment of s. 77.51(18) and (22)(a), Stats., and the creation of s. 77.54(43), Stats., by 1997 Wis. Act 27. These changes provide a sales tax exemption for raw materials of printed materials transported and used solely outside of Wisconsin. Previously, these materials were only exempt from use tax.

Tax 11.19(6) is amended, to clarify that the exemption for governmental units applies only to Wisconsin governmental units, and to reflect that certificate of exempt status numbers are being given to governmental units.

SECTION 2. Tax 11.70(3)(m) is created, to reflect the amendment of s. 77.51(18) and (22)(a), Stats., and the creation of s. 77.54(43), Stats., by 1997 Wis. Act 27.

SECTION 1. Tax 11.19(2)(d) and (f), (5)(intro.) and (b) and (6) are amended 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 with charge to the recipient." This exemption applies to newspapers, shoppers guides and 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(8), Stats.

(f) ~~Section 77.51(18) and (22)~~ 77.54(43), Stats., provides that ~~storage and use for purposes of imposing Wisconsin use tax does not include the keeping, retaining or exercising~~

any right or power over a sales and use tax exemption for raw materials for used for the processing, fabricating or manufacturing into, ~~attachment of, attaching to or incorporation into~~ incorporating into, printed materials ~~to be~~ that are transported outside Wisconsin and thereafter used solely outside Wisconsin.

(5)(intro.) Wisconsin sales and use tax is not imposed on raw materials that would otherwise be subject to use tax under s. 77.53(1), Stats., ~~purchased by a publisher or printer of printed materials~~ if both of the following conditions are met:

(b) The resulting printed materials will be ~~shipped outside Wisconsin for use~~ transported and used solely outside Wisconsin.

(6) EXEMPT PURCHASERS. Sales of printed material to federal and Wisconsin governmental units, and Wisconsin public schools, and certain nonprofit religious, charitable, educational or scientific organizations holding a certificate of exempt status are exempt under s. 77.54(9a) or 77.55(1), Stats. Sales to federal and Wisconsin governmental units and public schools need not be supported by exemption certificates, if a copy of the purchase order from the organization is retained or the governmental unit's certificate of exempt status number is recorded on the bill of sale. Sales to persons nonprofit organizations holding a certificate of exempt status can be shown to be exempt by recording the certificate of exempt status number on the bill of sale.

Note to Revisor: 1) In sub. (3), all quoted statutory material should be in italics.

2) Replace the first note at the end of Tax 11.19 with the following:

Note: Section Tax 11.19 interprets ss. 77.51(8) and (13h), 77.52(2)(a)11., 77.54(2m), (9a), (15), (25) and (43) and 77.55(1), Stats.

3) In the second note at the end of Tax 11.19, remove the word "and" before part (i) and add the following at the end of the note:

; and (j) The sales and use tax exemption for raw materials becoming printed materials transported and used solely outside Wisconsin became effective December 1, 1997, pursuant to 1997 Wis. Act 27.

SECTION 2. Tax 11.70(3)(m) is created to read:

Tax 11.70(3)(m) Raw materials processed, fabricated or manufactured into, attached to or incorporated into printed materials that are transported and used solely outside Wisconsin.

Example: Company A, located in Wisconsin, publishes catalogs it gives away to potential customers. Company A purchases paper from a company who delivers it to a Wisconsin printer that prints the catalogs for Company A. The catalogs are transported and used solely outside Wisconsin.

The paper purchased by Company A for the catalogs is exempt from Wisconsin sales or use tax.

Note to Revisor: 1) At the end of sub. (2)(b), change the word "Example" to "Examples."

2) In the second example at the end of sub. (2)(c), add the words "by the advertising agency" at the end of the fourth sentence, after "are produced"; also renumber the example from 2 to 3 and add the following new examples:

2) Assume the same facts as Example 1, except that Company C mails 90% of the flyers to customers outside Wisconsin and 10% to customers in Wisconsin.

Ten percent of the total charge to Company C by the advertising agency for the flyers, including the preliminary art, finished art and flyers, is subject to tax.

4) Assume the same facts as Example 3, except that 5 dubs are mailed by the advertising agency to radio stations outside Wisconsin.

Fifty percent of the entire charge by the advertising agency for the production of the master tape and dubs is subject to tax. The remaining 50% is not subject to tax because that portion of the sale took place outside Wisconsin.

3) In the example at the end of sub. (3)(j), change "an advertising agency" to "a Wisconsin advertising agency"; also, change the word "Example" to "Examples," number the example 1, and add the following new example:

2) Assume the same facts as Example 1, except that Company I provides the paper to the printer, in addition to the finished art.

The charge to Company I by the Wisconsin advertising agency for the preliminary art and finished art is subject to Wisconsin sales tax. The printer is selling a printing service, and not tangible personal property, to Company I. The destined for sale requirement is not met and exemption from tax does not apply.

4) In the first note at the end of Tax 11.70, change the zip code from "53708" to "53708-8902."

5) Replace the second note at the end of Tax 11.70 with the following:

Note: Section Tax 11.70 interprets ss. 77.51(14)(intro.) and (h) and (14r), 77.52(1) and (2) and 77.54(2), (2m), (6)(b), (25) and (43), Stats.

6) In the third note at the end of Tax 11.70, remove the word "and" before part (c) and add the following at the end of the note:

; and (d) The sales and use tax exemption for raw materials for printed materials transported and used solely outside Wisconsin became effective December 1, 1997, pursuant to 1997 Wis. Act 27.

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.

Initial Regulatory Flexibility Analysis

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

DEPARTMENT OF REVENUE

Dated: _____

Sept 29 '98

By: _____

Cate Zeuske

Cate Zeuske
Secretary of Revenue

Proposed Order 1119