

1999 DRAFTING REQUEST

Bill

Received: **09/28/1999**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Jon Erpenbach (608) 266-6670**

By/Representing: **Julie**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Alt. Drafters:

Subject: **Tax - sales**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Mailing lists subject to sales tax

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 10/19/1999	chanaman 10/20/1999		_____			S&L
/P1	jkreye 01/18/2000	chanaman 01/20/2000	mclark 10/20/1999	_____	lrb_docadmin 10/20/1999		S&L
/1			hhagen 01/20/2000	_____	lrb_docadmin 01/20/2000	lrb_docadmin 01/21/2000	

FE Sent For:

4/11
2/16/00

<END>

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/?	jkreye 10/19/1999	chanaman 10/20/1999		_____ _____			S&L
/P1		<i>cm</i>	mclark 10/20/1999	_____ _____	lrb_docadmin 10/20/1999		
FE Sent For:		<i>1/1/20</i>	<i>hh</i> <i>1/20</i>	<i>hh</i> <i>KF</i> <i>1/20</i>			

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1?	jkreye	cmh ki 10/19	MRC 10/20	MRC/KJF 10/20			

FE Sent For:

<END>

MONEY: Gold prices rebound/8B

LOCAL

2B
3B
4B
Lotteries
Wisconsin
Obituaries

WISCONSIN STATE JOURNAL

Tuesday, September 28, 1988

City Editor: Joyce DeHl (608) 252-6117

Using my name? Then pay me, bill says

Expanded tax on mailing lists would fund checks

By Jeff Meyers
State government reporter

Certain artists get a fee for the use of their recorded music. Should you get an annual check for the use of your name and other personal information on market-ers mailing lists?

One state senator thinks so.

Sen. Jon Erpenbach, D-Middleton, who heads the Senate's privacy panel, is working on what direct marketers say would be a novel piece of legislation.

Erpenbach's idea is to expand taxation of mailing lists, then issue state checks from the proceeds.

Under Erpenbach's check proposal, the state would expand its 5 percent sales tax to public and private trading and sale of lists in printed, video, diskette or electronic form.

"The sale of data is generating a lot of money. Nine-tenths of this is not taxed, and it should be taxable," Erpenbach said Monday.

He said some of the money should go to people in the form of a check as payment for the right to use their name and address.

"The question is, who owns the information? I think you own your personally identifiable information," Erpenbach said. "If we can't pass this, I would advise people to go out and copyright your name."

Currently, the state taxes only

very limited kinds of mailing lists, such as gummed labels physically attached to envelopes.

Initial estimates from the state Department of Revenue show expanding taxation to a broad array of tangible and electronic mailing lists would garner about \$1.1 million a year. Department Executive Assistant Tom Ourada suggested that wouldn't be enough to cover the expense of issuing checks. Erpenbach thinks the estimate undercuts the potential tax gain.

The department also suggests the idea could clash with the

state's open records laws and could have unintended consequences if applied too broadly. A Republican bill to partly expand taxation of mailing lists is pending in an Assembly committee.

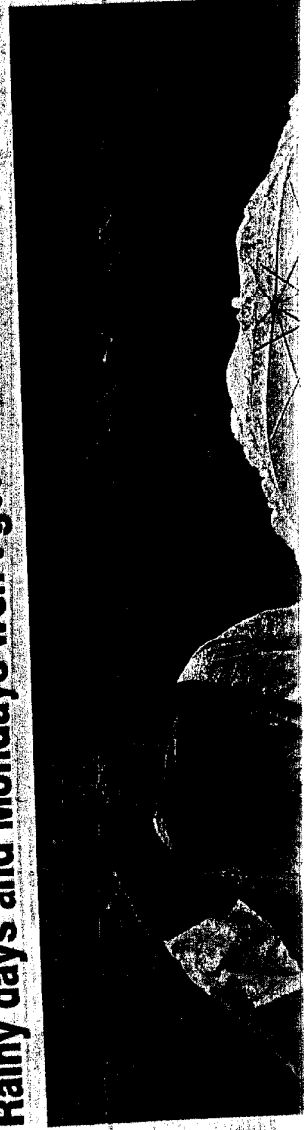
Erpenbach's tentative proposal is part of a privacy push at the Capitol. Erpenbach's committee just filed a series of hearings on what personal information is in state hands. And a task force formed by Gov. Tommy Thompson is looking into privacy concerns with a goal of issuing recommendations by early next year.

The GOP-run state Assembly later this week is poised to pass two bills to limit distribution of citizens personal information.

One, sponsored by Assembly Majority Leader Steve Foti, E-Oconomowoc, would limit distribution of personal information from driver's license and other forms sold or distributed by the state Department of Transportation.

The second sponsored by Erpenbach, would limit the rewards of "dumpster diving" by requiring better disposal of sensitive financial information.

Rainy days and Mondays won't get her down



School Board again clashes on Allied Drive

A proposed compromise aims at bringing all Allied Drive



9-27-99 spoke to Paul N.
over

~~184~~ ~~Robert. Baker~~ — Ergenbach's office

Julie — 266-6670 (top priority)

apply
▷ rules tax to data & mailing labels

mailing lists

▷ see Tax Code
Rev 11.82(1)(a)

then call Julie re the request

▷ direct marketing list — "names" or s.p.p.
- mailing list
- telemarketing list

▷ that a person owns the name — that your name is ?
personal property?

▷ a general credit to residents
evenly ?

what is the base calculation ?

**SECTION TAX 11.82
WISCONSIN ADMINISTRATIVE CODE**

Tax 11.82 Mailing lists and mailing services. (ss. 77.51 (20), 77.52 (1), 77.53 (1) and 77.54 (2), Stats.) (1) MAILING LISTS. (a) In this subsection, "mailing list" means a written or printed list, series, set, group or aggregation of names or addresses or both or other information concerning persons which is used in circulating material by mail. A mailing list may be in the form of a manuscript list, directory, Cheshire tape, Dick tape, magnetic tape, gummed labels, index cards or other similar means of identification.

(b) A mailing list is tangible personal property, except for written, typed or printed lists of names and addresses and lists stored in machine-readable form, such as microfilm and computer tapes and disks, and the sales and use tax shall apply to the gross receipts from the sale of and the storage, use or other consumption of mailing lists in the form of tangible personal property, including the rental of or the granting of a license to use those lists. Taxable mailing lists include, but are not limited to mailing lists which are physically attached to the envelopes, such as Cheshire tapes, gummed labels and heat transfers.

(c) Persons in the business of providing mailing lists are the consumers of the tangible personal property they purchase and use in producing these lists. However, any tangible personal property becoming a component part of mailing lists when the mailing lists are physically transferred to a customer by either sale, rental or license may be purchased for resale and without tax if the purchaser gives the seller a properly completed resale certificate.

(2) MAILING SERVICES. (a) In this subsection, "addressing" means the preparation of property to be mailed by writing, typewriting, printing, imprinting or affixing addresses or names and addresses to the property. Addressing includes the preparation of Cheshire tapes, Dick tapes, cards, gummed labels or similar items which are to be affixed to, or enclosed in, property to be mailed for the purpose of serving as addresses for the property. However, addressing does not include these tapes, cards or labels when they are used for some other purpose, such as reproduction or reference.

(b) The tax does not apply to charges for services rendered in preparing material for mailing, including addressing, enclosing, sealing, metering, affixing stamps, sorting, tying and sacking in compliance with postal rules and regulations, if the charges are stated separately on invoices and in accounting records. Gross receipts from charges for envelopes are taxable, but not separately stated charges for postage in the sale of prestamped envelopes.

(c) Persons in the business of providing mailing services are consumers of the tangible personal property they purchase and use in performing these services. Consequently, they shall pay the tax when purchasing the property.

Note: The interpretations in s. Tax 11.82 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) Written or typed lists of names and addresses are not tangible personal property effective January 1, 1979, pursuant to the Minnesota Supreme Court's decision in *Fingerhut Products Company et al. vs. Commissioner of Revenue*, 258 N.W.2d 606 (1977); and (b) Mailing lists stored in machine-readable form are not tangible personal property, pursuant to the Wisconsin Tax Appeals Commission decision in *A-K Corporation and Profile Publishing Co. dba Miles Kimball vs. Wisconsin Department of Revenue* (1/15/87).

History: Cr. Register, November, 1977, No. 263, eff. 12-1-77; am. (1) (b), Register, December, 1978, No. 276, eff. 1-1-79; am. (1) (b) and (c) and (2), Register, January, 1994, No. 457, eff. 2-1-94.

*Note: This administrative rule has been promulgated by the Wisconsin Department of Revenue in accordance with Ch. 227, Wis. Stats. An administrative "rule," as defined in sec. 227.01(13), Wis. Stats., means "a regulation, standard, statement of policy or general order of general application which has the effect of law and which is issued by an agency to implement, interpret or make specific legislation enforced or administered by such agency or to govern the organization or procedure of such agency."

10-14-99

49301

spoke to Julie in Egerbacher's office regarding
distribution of sales tax revenue

prefer either cutting a check to residents
or as a property tax credit

- does not want as a credit
against income taxes

prep a P/I based on lottery credit

- Sen. Eger's office will then schedule

a meeting with me, leg. council and
DOR

to discuss draft;
ask & answer questions;
discuss options.

CORRESPONDENCE/MEMORANDUM

Date: September 24, 1999
To: Sen. John Erpenbach
From: Tom Ourada *TO*
Subject: Sales and Use Tax - Mailing Lists

This is to summarize the current Wisconsin sales and use tax treatment and discuss the potential of imposing tax on certain mailing lists which

Joe
P.S. John wants to tax all state records purchased (DOT) ^{for above cost} by a for profit business in addition to other data tax

Current Treatment:

Taxable mailing lists include mailing lists that are physically attached to envelopes, such as Cheshire tapes, gummed labels and heat transfers.

Nontaxable mailing lists include written, typed, or printed lists of names and addresses and lists stored in machine-readable form, such as microfilm and computer tapes and disks. Nontaxable mailing lists also include mailing lists transferred in a non-tangible form, such as mailing lists transferred electronically.

"Mailing list" is defined in sec. Tax 11.82(1)(a), Wis. Adm. Code, January 1994 Register, to mean "a written or printed list, series, set, group or aggregation of names or addresses or both or other information concerning persons which is used in circulating material by mail. A mailing list may be in the form of a manuscript list, directory, Cheshire tape, Dick tape, magnetic tape, gummed labels, index cards or other similar means of identification". (Attachment 1)

Taxation of Additional Mailing Lists:

At the hearing of the Senate Privacy, Electronic Commerce and Financial Institutions Committee, there was some discussion of the possibility of imposing tax on mailing lists and other data sold by state agencies (driver's license and vehicle registration data, fishing and hunting license data, etc.) and also data collected by private companies (customer lists, demographic data, etc.).

Here are some issues to consider in the taxation of additional mailing lists:

- Required statutory change. Under current law and court decisions, many sales of mailing lists are nontaxable, even if they are transferred in the form of tangible personal property. See the note at the end of sec. Tax 11.82, Wis. Adm. Code, for an explanation.
- There is an exemption in current law for charges by an authority for copies of certain public records. (Section 77.54(32), Wis. Stats. (1997-98)). See the February 24, 1997 opinion of Robert C. Stellick, Jr., in which he states that a reasonable construction of sec. 77.54(32), Wis. Stats. provides for a sales tax exemption for various DOT documents (Attachment 2). This exemption would have to be amended to exclude the mailing lists and other sales of data that are to be taxed. In addition, it will be necessary to carefully draft such a proposal so that other public records do not become taxable.
- It is advisable to clearly define the types of lists that are to be taxed, possibly limiting the taxable lists to "mailing lists," as defined in sec. Tax 11.82(1)(a), Wis. Adm. Code, January

1994 Register, rather than taxing sales of "information" or "data". Taxing sales of "information" or "data" could have a broader application than intended (e.g., taxing custom computer programs, research services, accounting and legal services, etc.).

Fiscal Effect:

The department estimates the fiscal effect of taxing mailing lists that are in a tangible form at approximately \$750,000 annually. This information is contained in the revised fiscal note for Assembly Bill 390 (LRB 2438/5) which amends the definition of "tangible personal property" to include data, information, or intellectual property transferred in a tangible form. The department estimates that 10% of the sales and transfers of mailing lists are currently taxable (mailing lists physically attached to envelopes such as Cheshire labels) and that approximately 30% of the sales are occurring electronically. AB 390 would extend the sales tax only to mailing lists sold or transferred in a tangible form. Extending the tax to the electronically transferred lists would increase the revenue gain by \$375,000.

See DOR's revised fiscal estimate dated September 14, 1999 (Attachment 3).

I hope this information is helpful. We will also be providing some additional information in response to your requests from the public hearing. I intend to have that to you early next week.

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # 2438/5

Admin. Rule #

INTRODUCTION # AB 390

Subject

Define Tangible Personal Property Subject to a Sales or Use Tax

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

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringe (FTE Position Changes)	\$ (FTE)	\$ - (- FTE)
State Operations-Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$ 750,000	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$ 750,000	\$ -

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ _____	\$ _____
NET CHANGE IN REVENUES	\$ + 750,000	\$ + 47,000

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue John T. Stott, (608) 266-9706	Yeang-Eng Braun (608) 266-2700 <i>Yeang Eng Braun</i>	9/17/99

FISCAL ESTIMATE FORM

John Attachment 3
1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # 2438/5

INTRODUCTION # AB 390

Admin. Rule #

Subject

Define Tangible Personal Property Subject to a Sales or Use Tax

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

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. Type of Local Governmental Units Affected:

- Towns Villages Cities
 Counties Others SWBPD
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

The proposed bill clarifies the current statutory language with regards to the definition of tangible personal property. This bill specifies that information transferred in books, video tapes, video game cartridges, compact disks and similar media are considered tangible personal property and, as such, subject to the sales and use tax.

Most items specified by the proposed bill are currently treated by the Department as tangible personal property subject to the sales and use tax. However, the Department has identified that the sale of all mailing lists through a tangible medium (e.g., magnetic tape, diskette, etc.) would become taxable.

Based on direct mail advertising expense estimates for the U.S., taxing all mailing lists transferred in a tangible form would raise an estimated \$750,000 annually. According to the Direct Marketing Association (DMA) Statistical Fact Book, direct mail advertising expenses in the U.S. are an estimated \$36.6 billion. The DMA also estimates mailing lists account for 11% of direct mailing costs for the 35% of marketers that purchase or rent the lists. Therefore, total list sales revenue for the U.S. is an estimated \$1.4 billion (\$36.6 billion x 11% x 35%) annually. Based on Wisconsin's share of U.S. direct mail advertising revenues, the value of all mailing list sales and transfers would be \$25 million (\$1.4 billion x 1.8%) annually. Nearly 10% of these sales are currently taxable as a transfer of tangible personal property and another 30% would remain exempt from the sales tax because they are transferred electronically. Thus, an estimated \$15 million (\$25 million x 60%) of sales would become subject to the sales and use tax, and the total revenue gain associated with this proposal would be \$750,000 (\$15 million x 5%) annually.

In 1998, county and Southeastern Wisconsin Professional Baseball Park District sales tax revenues were 6.24% of state sales tax revenues. Assuming that this percentage still applies, local sales tax revenues would increase by approximately \$47,000 (\$750,000 x .0624) annually.

Long-Range Fiscal Implications:

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue John T. Stott, (608) 266-9706	Yeang-Eng Braun <i>Yeang Eng Braun</i> (608) 266-2700	7/17/99

CORRESPONDENCE/MEMORANDUM

**State of Wisconsin
Department of Revenue**

Date: February 24, 1997

To: Jack DeYoung

From: Robert C. Stellick, Jr. *resg*

Subject: Legal Opinion Request #875; are sales of certain Department of Transportation (DOT) records subject to sales tax or exempt as "public records" or "records"?

FACTS:

DOT holds a seller's permit. It routinely transfers copies of information it gathers from registration forms of automobiles to various requestors (some by subscription), including various governmental entities specified by statute to receive the copies without charge. A sales and use tax exemption exists (Section 77.54(32), Stats.) for copies of any "public record" under s. 16.61(12) or "record" under s. 19.35(1), and DOT Legal Counsel has twice expressed the opinion (June 26, 1984 and July 23, 1985) that sales taxes were not owing upon various sales of DOT records to the public, even though DOT was collecting some \$250,000 on such sales.

QUESTIONS:

Five of the six questions asked involve different aspects of one matter: is each of the various DOT documents a "public record" under s. 16.61(12) or "record" under s. 19.35(1). If so, the sale is exempt. The sixth question is whether the charge DOT makes for notifying a lienholder that its debtor has moved out of Wisconsin is subject to sales tax.

RESPONSE:

In my opinion, a reasonable construction of s. 77.54(32) would provide for a sales tax exemption for the various DOT documents. Further, in regard to the lienholder notification question, it is not clear whether DOT provides any tangible personal property in making the notification and if so, why such documentation would not also be exempt, or, if no documentation exchanges hands, what taxable service DOT is performing in making the notification.

DISCUSSION:

The Request's Analysis does make two points to which a further

Jack DeYoung
February 24, 1997
Page 2.

response is advisable. It is argued that s. 16.61(2)(b)2 defining "public record" excludes duplicate copies of records in the possession of the agency which are "... maintained only for convenience or reference and for no other substantive purpose." The Analysis argues if that the three sets of documents, whether as originals or copies, are so maintained, their sale would be taxable since they would not be "public records." In regard to s. 19.35(1), the Analysis points out that s. 19.32(2) does not include "... published materials in the possession of an authority other than a public library which are available for sale or which are available for inspection at a public library."

I would reject either analysis. Any construction of these two sections must remember the context: whether a requestor may examine and receive a copy of a document in the possession of a government entity. In the case of s. 16(2)(b)2, the requestor is seeking to examine the multiple sets of documents maintained by the entity only for reference, with the original documents available to such review--one such review is sufficient, with the demand to inspect such other sets of the same documents being unnecessary. In the case of s. 19.35(1), the requestor is seeking to inspect documents in the possession of the governmental entity which are readily available either in the marketplace or at a public library--it is not necessary that the requestor inspect the governmental entity's copy of such a document. I consider it unreasonable to maintain that because the governmental entity itself "publishes" the information it collects, that information loses its character as a "public record." Such a position would result in DOT being able to deny inspection to information it routinely sells, which is somewhat contradictory.

I am returning your materials. If you have any further questions, please contact me.

R2S932
PC: John Evans
Enc.

REPORT ON DEPARTMENT OF TRANSPORTATION'S

SALES/USE TAX COMPLIANCE REVIEW

REQUEST FOR LEGAL OPINION # 1

The Department of Transportation's sales tax charging practices are currently under review. An opinion is being requested about whether one or more of the following activities are subject to Wisconsin sales tax.

FACTS:

1. The Department of Transportation (DOT), by statute, must maintain a registry of motor vehicles primarily used in Wisconsin. This is accomplished by the receipt and recording of various documents received from the motor vehicle dealerships or from the purchaser of the motor vehicle. After processing the documents, the motor vehicle purchaser will receive a new title and license plates (if old plates were not transferred to the new vehicle). The lienholder (if any) will also be notified that their security interest was recorded on the title.
2. Section 341.17(1) (Attachment #1) requires DOT to compile a monthly list of motor vehicles registered with DOT. This list includes the name and address of each registrant and the motor vehicle's license number. DOT produces this list on microfiche and calls it their "License Number Microfiche" (Attachment #2).
3. Section 341.17(2) (Attachment #1) requires DOT to compile a monthly list, by county, of new automobile and motor truck registrations. This list contains only those motor vehicles being registered for the first time (new motor vehicle sale). This list contains the date of sale; name and address of the owner; the make, body type, and identification number of the vehicle; and the dealer license number. DOT produces this list in paper form (from computer records) and calls it their "New Vehicle Report" (Attachment #3).
4. Section 341.17(4) (Attachment #1) requires DOT to forward, at no charge, a copy of both lists (Attachment #2 and #3) upon request to various state and local governmental agencies.
5. Section 341.17(6) (Attachment #1) requires DOT to sell the above two registration lists by subscription. Both lists are sold on an annual subscriptions basis which includes monthly updates.

Cheryl Moe of DOT stated that some subscribers to the

"License Number Fiche" include hospitals, security services and dealerships. This list is also sold to a private company, located in Wisconsin, who converts the list onto a CD-ROM format for resale.

Ms. Moe also stated that subscribers to the "New Vehicle Report" include dealerships, insurance companies, campgrounds, and Stanford University. Since this report is printed by county, showing only that county's data, subscribers must identify the county or counties being requested. The subscription rate is based on the number of counties requested.

6. Section 342.20(3) (Attachment #4) requires DOT to deliver to the secured party and to the register of deeds of the county of the debtor's residence, evidence of the security interest, and thereafter, evidence of any assignment, termination, or release of the security interest. DOT produces this list on microfiche and calls it their "Register of Deeds Microfiche" (Attachment #5). This list includes the name and address of the debtor, year and make of the vehicle, vehicle identification number, and the secured party's name and post office location. Since this report is printed by county, showing only that county's data, subscribers must identify the county or counties being requested. The subscription rate is based on the number of counties requested.
7. Lienholders may send in a general request asking DOT to notify them when one of their debtors have notified DOT that they have moved out of Wisconsin. Debtors usually notify DOT that they have moved out of state when the debtor applies for a motor vehicle title in another state. The other state sends the old Wisconsin back to Wisconsin. The lienholders are charged on a per notification basis.
8. R. L. Polk and Company (Polk) purchases a complete listing of motor vehicle registrations on a yearly basis. Attachment #6 is a copy of the 1995 contract. Polk's use of this information for its own benefit is extensive. The contract also requires Polk to generate several reports for DOT.
9. Attachment #7 includes a June 26, 1984 and a July 23, 1985 DOT legal opinion on "Public Records and Sales Tax."
10. Other persons may request copies of registration information from DOT. DOT will charge a fee to provide a copy of the documents or information requested. Usually, copies of the original document or computerized data are provided to the requester.

QUESTIONS

1. Is the sale of the "License Number Microfiche" on a subscription basis subject to Wisconsin sales tax?
2. Is the sale of the "New Vehicle Report" on a subscription basis subject to Wisconsin sales tax?
3. Is the sale of the "Register of Deeds Microfiche" on a subscription basis subject to Wisconsin sales tax?
4. If the sale of any of the above three items are subject to Wisconsin sales tax, does the designation of the original material (paper documents or data base) change from being a "record" or a "public record" to something other than a "record" or a "public record." If the original materials are not considered a public record, are other requests for motor vehicle records, which are answered with the data contained on the paper documents or data base, subject to Wisconsin sales tax?
5. Is the sale of the complete vehicle registration listing to R. L. Polk & Co. subject to Wisconsin sales tax?
6. Is the charge by DOT to a lienholder for notification that one of their debtors has moved out-of-state subject to Wisconsin sales tax?

ANALYSIS:

To qualify for the sales tax exemption under sec. 77.54(32), the item sold must be considered either a "public record" or a "record." Attachment #8 is a copy of sec. 16.61(2)(b) and 19.32(2) defining "public record" and "record," respectively.

- 1-3 Concerning the "License Number Fiche," "New Vehicle Report," and the "Register of Deeds Microfiche":

The language in sec. 16.61(2)(b)2 does not appear to be very clear. I can read this section two different ways. If this section is read that the duplicate copies are maintained only for convenience or reference and for no other substantive purpose, the above three documents may not be considered a "public record." If this section is read that, the original records are maintained only for convenience or reference and for no other substantive purpose, then the above three documents may be considered a "public record." I can read the statute both ways; however, the second interpretation appears contrary to the intent of the statute as a whole.

If the above three documents are determined not to be "public records," the next question would be, is it a "record." Sec. 19.32(2) states a "'Record' does not include ...; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library." I could not find a statutory definition of the word "publish" so I looked up its definition. In Black's Law Dictionary, 6th Ed. (Attachment #9), "publish" means "to make public; to circulate; to make known to people in general ... An advertising of the public or making known of something to the public for a purpose." Based on this it does not appear that the "License Number Fiche," "New Vehicle Report," nor the "Register of Deeds Microfiche" would be considered a "record" because they are "published materials in the possession of an authority other than a public library which are available for sale."

It would appear that the above three documents are not considered a "public record" or a "record." Therefore, the sale of these documents or copies of these documents are subject to Wisconsin sales tax, unless their purchase qualifies for some other exemption.

4. If the above three reports are considered "public records" or "records" and are not subject to Wisconsin sales tax when sold, then the original documents or data base would also be considered "public records" or "records" and not subject to Wisconsin sales tax when other copies of those documents are produced and sold.

It would also appear that the original documents and data base would maintain their status as "public records" or "records" even if the three reports are not considered "public records" or "records" because it does not appear that the original documents or data base meets the criteria of what a "public record does not include" or a "record does not include" in their respective statutory definitions.

5. Concerning the sale of registration information to Polk:

Some of the records provided to Polk are contained in the "License Number Fiche," "New Vehicle Report," and the "Register of Deeds Microfiche;" however, the data transferred to Polk was from DOT's computer records (data base).

If the answer to question #4 is that the original records and data base are "public records" or "records", then the sale of the data base to Polk is the nontaxable sale of a "public record" or "record."

However, if the answer to question #4 is that the original records and data base are not "public records" or "records", then the sale of the data base to Polk is a taxable sale.

6. Concerning the charge to lienholders for notifying them that a debtor has left the state:

It appears that DOT's charge (fee) is for the searching of or the copying of a "public record" or a "record" and thus is not subject to sales tax.

341.16 REGISTRATION OF VEHICLES

(b) Upon satisfactory proof of the loss or destruction of a special plate issued under s. 341.14 (6m) (a) or (6r) (b) or a special personalized plate issued under s. 341.145 (1) (b) or (c) and upon payment of a fee of \$5 for each plate or, if the plate is for a special group specified under s. 341.14 (6r) (f) 35. to 47., \$6 for each plate, the department shall issue a replacement.

(2) Whenever a current registration plate becomes illegible, the owner of the vehicle to which the plate is attached shall apply to the department for a replacement. Except as provided in sub. (2m), upon receipt of satisfactory proof of illegibility, and upon payment of a fee of \$2 for each plate, the department shall issue a replacement. Upon receipt of a replacement plate, the applicant shall destroy the illegible plate.

(2m) Upon request therefor and payment of a fee of \$10, the department may issue an applicant for replacement plates for an automobile registered pursuant to the monthly series system registration plates of the design specified in s. 341.13 for the plate issuance cycle next succeeding the cycle under which the original plates were issued. The department may limit the receipt of requests under this subsection to applicants for a renewal registration of a motor vehicle.

(3) When issuing a replacement plate, the department may assign a new number and issue a new plate rather than a duplicate of the original if in its judgment that is in the best interests of economy or prevention of fraud. Upon receipt of a replacement plate, the applicant shall destroy all plates replaced.

(4) Any person issued replacement plates who fails to destroy the original plates as required by sub. (2) or (3) may be required to forfeit not more than \$200.

(5) This section does not apply to plates issued pursuant to the law pertaining to the registration of dealers, distributors, manufacturers or transporters.

History: 1971 c. 278; 1975 c. 39; 1999: 1977 c. 29 ss. 1421, 1654 (7) (a); 1977 c. 273; 1983 a. 511; 1985 a. 202 s. 37; 1985 a. 310; 1987 a. 112; 1989 a. 302.

341.17 Department to compile registration lists.

(1) At intervals selected by the department, the department shall compile a list of registrations made during that interval pursuant to the monthly series system of registering automobiles. The list shall give the name and address of each registrant, the registration number assigned, and other identifying information as the department deems necessary.

(2) The department shall compile a list by counties of new automobile and motor truck registrations. Registrations for other new vehicles may be included if deemed necessary by the department. Such lists shall be compiled at such intervals during the month as is deemed necessary by the department but the final list compiled each month shall include the listing of the last day of the month. Such list shall contain only those vehicles being registered for the first time after sale by a dealer. Such list shall contain the name and address of the owner, the make, body type, identification number of the vehicle, the dealer license number, if such dealer is registered in this state, and the date of sale.

(4) Upon request, the department shall distribute free of charge registration lists compiled under this section as follows:

(a) To each county clerk, one copy of each automobile registration list under sub. (1).

(c) To the sheriff of each county, one copy of each automobile registration list under sub. (1).

(d) To each chief of police, one copy of each automobile registration list under sub. (1).

(e) To each village clerk, one copy of each automobile registration list under sub. (1).

(g) To the department of revenue, the number of copies of each automobile registration list under sub. (1) as requested.

(5) Except as provided in sub. (9) (e), public officers and agencies receiving free copies of registration lists under sub. (4) shall keep such lists current and open to public inspection.

(6) The department shall sell subscriptions to the registration lists compiled under this section and may sell other registration information. In computing the charge to be made for subscriptions to the registration lists and for other registration information, the department shall determine the costs of compiling the lists and other information and shall fairly apportion the major share of those costs among the subscribers and other purchasers.

(7) The department may suspend the compilation and distribution of the registration lists during a period of national war emergency and while new registration numbers are not being issued annually, but shall continue to transmit from time to time to the persons under sub. (4) who request free copies of the lists any additions to or changes in the lists issued during the year preceding suspension which are caused by the registration of vehicles not previously registered in the state or by the issuance of new registration numbers for vehicles previously registered.

(8) The department shall charge a fee of not less than \$2 for conducting a file search of vehicle registration records.

(9) (a) In this subsection:

1. "Agent" means an authorized person who acts on behalf of or at the direction of another person.

2. "Insurer" has the meaning given in s. 600.03 (27).

3. "Personal identifier" means a name, street address, post-office box number or 9-digit extended zip code.

4. "State authority" has the meaning given in s. 19.62 (8).

(b) In providing copies under this section or s. 19.35 (1) (a) of any written information collected or prepared under this chapter or ch. 342 which consists in whole or in part of the personal identifiers of 10 or more persons, the department may not disclose a personal identifier of any person who has made a designation under s. 341.08 (1m) or 342.06 (1) (i) that his or her personal identifiers may not be disclosed as provided in this subsection.

(c) Paragraph (b) does not apply to any of the following:

1. A person receiving a registration list under sub. (4) to perform a legally authorized function.

2. A law enforcement agency, a state authority or a federal governmental agency to perform a legally authorized function.

3. An insurer authorized to write property and casualty insurance in this state or an agent of the insurer, if the insurer or agent uses the personal identifiers designated for nondisclosure under s. 341.08 (1m) or 342.06 (1) (i) for purposes of issuing or renewing a policy and related underwriting, billing or processing or paying a claim.

4. A person obtaining registration or title information for use in the conduct of a vehicle recall by the manufacturer of the vehicle or an agent of the manufacturer, if the person uses the personal identifiers designated for nondisclosure under s. 341.08 (1m) or 342.06 (1) (i) for vehicle recalls.

(d) 1. The department shall establish by rule a reasonable period for the processing of a designation under s. 341.08 (1m) or 342.06 (1) (i) and for complying with a designation under par. (b).

2. If an unanticipated number of designations results in the department not being able to process with a reasonable effort the designations within the period established by the department by rule under subd. 1., the department may determine that the preservation of public welfare necessitates the temporary extension of the period and establish the temporary extension by rule, using the procedure under s. 227.24.

(e) Any person who has received under par. (c) a personal identifier of any person who has made a designation under s. 341.08 (1m) or 342.06 (1) (i) shall keep the personal identifier confidential and may not disclose it except for a purpose applicable to that person under par. (c).

(f) 1. Any person who wilfully discloses a personal identifier in violation of this subsection may be required to forfeit not more than \$500 for each violation.

License # microfiche

sample of what is #2 on microfiche

PLATE #	NAME	ADDRESS
ANG22	WAGNER SANDRA S	312 CEDAR ST SOMERSET 54025
ANG23	GRATZ MOTORS INC	151 S MEINERL POINT 53565
ANG24	JANVIS CLEGG	W 3821 S 53RD ST MILWAUKEE 53220
ANG25	JACOBS DAVID A	41605 ST HELFA RD JUREAU 53059
ANG26	ORCONEZ ANGELINA	2755 S 70TH ST MILWAUKEE 53219
ANG27	SCHULTZ CARL H	2005 HORTON AVE WAUKESHA 53188
ANG28	MEDVED PAUL L	4521 W VAN BUREK AV GREENFIELD 53220
ANG29	GRABER NANCY A	W9915379 GOLDEN ROD DR MENOMONEE F 53051
ANG30	WITZ CHERYL A	212 14TH ST BARRABOO 53913
ANG31	WAPBREGHT ELIZABETH A	1722 DELAWARE DR SWI PRAIRIE 53590
ANG32	WIRCHEL DENNIS L	RT 5 BOX 2680 TOMAS 54560
ANG33	CRITLMS DEBRAH S	2507 GOLDFROD RD WAUSAU 54401
ANG34	MILESKI LOUISE	4418 MADRAKE MADISON 53704
ANG35	WIC WIRE AND CABLE	66322619 MAIN ST SUSSEX 53089
ANG36	ROTHFEL ANGELYN R	4044 N 92ND ST #2 MILWAUKEE 53222
ANG37	ANGELINI FRANCES O	2722 HICORY RD RACINE 53406
ANG38	MOELLER ANGELA S	139 N 4TH AVE APT 2 STURGEON BAY 54235
ANG39	ST JOHN ANGELA M	7815 BRULE ST MADISON 53717
ANG40	BANASZYNSKI ANGELA M	1285 BOYD ST GREEN BAY 54503
ANG41	HANAWAY ANGELA M	5160 N LYDELL AV WHITEFISH BAY 53217
ANG42	SMAAT ANGELA L	1108 N PINE ST JAMESVILLE 53545
ANG43	SCHUB DEBRA L	45581 E IRELANE 12 MENASHA 54952
ANG44	VAIL LARRY S	554 COACHLAMP DR RACINE 53406
ANG45	KORTENICK ANGELA K	8605 HORTWESTERN AVE PACINE 53406
ANG46	NOVITSKY THOMAS J	618 60FF ST WAUSAU 54401
ANG47	SGAMERBURG ELDER E	200 E GARTFIELD APT 5 HOUT MORE 53572
ANG48	YOUNG JAMES S	924 MICHIGAN AV NORTH FOND DU LAC 54937
ANG49	HOLCOMB ANGELA C	765 S VANDURAN ST LOUGHTON 53589
ANG50	YOYAK THOMAS J	10591 W ROST LAKE RD COLEMAN 54112
ANG51	MITCHELL ANGELA M	4472 N SHERMAN BLVD MILWAUKEE 53209
ANG52	ZEMPER ANGELA MARIE	440 FREDERICK ST N STEVENS POI 54481
ANG53	ANGOVE CARMEN L	21501 W CLEVELAND AVE NEW BERLIN 53146
ANG54	TURDO ROCHELLE	49950 ELMORE DR CAMPBELLSPORT 53910
ANG55	PESKE THOMAS M	8900 W PLATFIELD GREENFIELD 53228
ANG56	WICRMAN SONYA R	3210 W WELLS ST NO 223 MILWAUKEE 53208
ANG57	SCHMIDT CORAL	2235 S 20TH ST MILWAUKEE 53215
ANG58	KENNEY DAVID G	334 MAPLE TERRIS OF ORGANOLOC 53066
ANG59	LACHR JEFFERY C	BOX 21 GILMANTON 54743
ANG60	PETTY WERRY S	9431 W BELLOTT RD MILWAUKEE 53227
ANG61	GEISE RICHARD G	1632 11TH AVE GRAFTON 53024
ANG62	SMITH THOMAS E	3259 FIRWOOD LAKE GREENFIELD 53129
ANG63	VEY ANGELA A	1016 HARBOUR LIGHTS LN LITTLE SUAN 54111
ANG64	PEARSE ANGELA J	1295 COUNTY 5 MONTFORT 53569
ANG65	SLEG ANGELA S	RT 2 BOX 199 OSSEO 54758
ANG66	BEASTER CLAUDIA T	98 W DIVISION FOND DU LAC 54935
ANG67	DAMON ANGELA LEE	709 N FAIR OAKS AVE MADISON 53714
ANG68	ALEXANDER ANGELA K	BOX 453 501 4TH ST ALBANY 53502
ANG69	PADILLA DAVID	5527 S 13TH ST MILWAUKEE 53221
ANG70	NGUYEN PHILLIP	238 N STATE ST CHILTON 53014
ANG71	NGUYEN KRANH H	10351 S HUNTINGBIRD LN CAK CREEK 53154
ANG72	GREDE TIMOTHY A	1494 LAKE SHORE DR GRAFTON 53024
ANG73	KINCAD JERRY	4238 N 29TH ST MILWAUKEE 53216
ANG74	COULSON JIHDA F	1742 N 9TH ST SHEBOYGAN 53081
ANG75	KROLL JOHN P	3569 S 16 ST MILWAUKEE 53221
ANG76	HALL SOUIRE JR	2717 N GRANT BL MILWAUKEE 53210
ANG77	SELIG EXECUTIVE LEASING	2510 S 108TH ST WEST ALLIS 53227
ANG78	SADOWSKI MARK W	83 CEDAR ST HARTFORD 53027
ANG79	MOELLER SANDRA A	1618 N 7TH ST SHEBOYGAN 53081
ANG80	SCHROEDER SHIRLEY M	613 PARK CREST DR THIENSVILLE 53092
ANG81	RABIEGA RICHARD G	3909 W BRIDGE ST GREENFIELD 53221
ANG82	FINNIN FINANCIAL SERVICE	990 W 190 ST TORRANCE CA 90502
ANG83	BARYS ADLEBUSH ANNA D	PO BOX 554 FLORENCE 54121
ANG84	WAGNYCKI EWA M	4024 W ANTHONY DR GREENFIELD 53219
ANG85	STEWART HEIMANN JACQUELINE M	105 BOWMAN ST BROOKLYN 53521
ANG86	GYBETIC ANA	4621 N 70TH ST MILWAUKEE 53218
ANG87	MAUER WAGS J	1637 GURRIT AV PACINE 53404
ANG88	MACEK ANNE G	16216 MEMORIAL DR NEW BERLIN 53172
ANG89	ROSE JAMES L	1625 S SHERWOOD DR NEW BERLIN 53151
ANG90	XOPP DIANE J	1604 DUFFY ST WATERLOO 53094
ANG91	FUTCHER AVE	4425 S NEW YORK AV SAINT FRANCIS 53235
ANG92	QUILING BRITTA M	88 W WATER ST BEAVER DAM 53916
ANG93	WIESMAN FUHARR	20179 W GODDHOPE RD APT H7 LARSON 53046
ANG94	REABE ANITA A	BOX 534 SAINT GERMAIN 54518
ANG95	HUGHES EDWARD	5931 N 42ND ST MILWAUKEE 53209
ANG96	BRUSA TED A	47198 GOPHER HILL RD JADINA 53036
ANG97	DRAT ISAAC	5409 N 34TH ST MILWAUKEE 53216
ANG98	KARAU GABRIEL M	2552 W WENIGING DR MILWAUKEE 53209
ANG99	CISNEROS JUST A	2837 W MAPLE ST MILWAUKEE 53204
ANG00	DURGAN WILHELMINA	5552 N 73 ST MILWAUKEE 53223
ANG01	SCANNY TIMOTHY J	1609N1546 WESTMINSTER GERMANIAWML 53022
ANG02	PETERSO HAROLD J	5811 59 AV KENOSHA 53144
ANG03	HEIS SARNA M	5437 E THOMAS ST MILTON 53563
ANG04	JURIG ROSEANNE L	267 WILLOW DR HARTLAND 53029
ANG05	SAYDERS SUSAN J	5576 STOREY FLD RD GREEN BAY 54313
ANG06	HILL DONALD L	2961 FERRARIE DR GREEN BAY 54313
ANG07	LAKES HEIDI B	16741 SHOREWOOD HILLS RE LAKE MILLS 53551
ANG08	GOLSTEIN GAIL P	2245 SANTA BARBARA DR GREEN BAY 54313
ANG09	BRGAN JULIE A	157 WOLF BAY AP 7 MUKWONAGO 53149
ANG10	SEANDOR HOLLY L	1654 SWANIT DR CEDARBURG 53012
ANG11	STITTNAUER MICHAEL L	523 S HIGHLAND S WALES 53185
ANG12	CHAGANI ABDULAZIZ H	5166 N LOPEZ LA S MILWAUKEE 53225
ANG13	ROBERTSON ARISSIA L	4685 N 18TH ST MILWAUKEE 53209
ANG14	DI MODICA ANITA M	PO BOX 291 SAN PRAIRIE 53590
ANG15	HALBEB ANITA M	3208 RIVERVIEW DR EAU CLAIRE 54705
ANG16	LAARS LAWRENCE J	1416 EDER LA WEST BEND 53095
ANG17	CAGE FREE LEASING INC	2421 N MAYFAIR RD WAUKESHA 53226
ANG18	SCHULTZ ANITA M	4691 HWY 61 SOUTH FOTOSI 53820
ANG19	REINERIO MICHAEL E	5889 W BETTY LA BROWN DEER 53225
ANG20	MICHEL ANITA	1728 W SHORE DR DELAFIELD 53018
ANG21	HALL FURNITURE OF MARSH	113 W 9TH STREET MARSH FLD 54449
ANG22	LEGHER ANITA M	6894 W ACACIA ST MILWAUKEE 53212
ANG23	LOMBESS ANITA M	11029 W LUTHER AV MALES CORREAS 54150
ANG24	BRUCH ANITRA R	RT 3 BOX 264 FALL CREEK 54742
ANG25	BRUCHELLER MARY L	18210 COUNTY LINE RD ELKHART LAK 53020
ANG26	LAMBRECHT KEVIN M	465 W6445 CLEVELAND CEDARBURG 53012
ANG27	RYBATY RICHARD A	1226 CHESTNUT ST WATERLOO 53594
ANG28	GILBERTSON HENRY C	13420 10TH AVE HURLEY 54534
ANG29	IBING DENNIS W	4545 S 114TH ST GREENFIELD 53228
ANG30	HUBBARD DONALD E	451434220 ROAD P OKAUCHEE 53059
ANG31	AGUIRO DUAR B JR	2234 S 11TH ST MILWAUKEE 53215
ANG32	CHOTHIANI ANITA A	19100 KILLARNEY WAY BROOKFIELD 53045
ANG33	WURSHEL ALVA K	130 ELLEN CT OREGON 53575
ANG34	SRIDHARAN BHAVANI H	326 CHEYENNE TRL MADISON 53705
ANG35	MACL ANJANETTE L	RT 3 BOX 610 SAUTONKA 54782
ANG36	VAN DOREN ANGELA M	1504 LUERNE DR #E6 MEMASHA 54952
ANG37	ROCHBERN ANGELA M	1416 BEVERLY LANE WEST BEND 53095
ANG38	CHRISTENSEN ANGELA L	685 S MAIN ST APT 4 OREGON 53575
ANG39	MAYER ANGELA C	3227 A S 8TH ST MILWAUKEE 53215
ANG40	MC CARTHY ANGELA M	2332 W GOLDREST AV MILWAUKEE 53221
ANG41	GELHARR JEFFREY A	8894 N GREENBROOK CT BROWN DEER 53223
ANG42	LAYSEN PAMILE K	7220 KIRKIE AV RACINE 53406
ANG43	BROGAN ANNE M	1505 S 10TH ST MARITONIC 54220
ANG44	KEALEY BARBARA J	856 FRANKLIN ST OF ZOSH 54901
ANG45	HAUKE JILL A	2917 FOREST AV TWO P ERS 54241
ANG46	SCHROETER J SUSAN	350 FOREST BLVD EDDYGAN FALLS 53085

Motor Vehicle Registration License Number Microfiche

The Division of Motor Vehicles provides license plate information from its vehicle registration computer system. This information is produced on microfiche, and includes the following license plate types:

AMA	amateur radio	DPV	dual purpose vehicle
ANT	antique	FRM	farm
ATK	privately-owned small trucks	HEG	higher education group
AUT	automobile	MLG	military special group
CLS	collector special	MTM	motor home (all gross weights)
CVG	civilian special group	TRK	trucks, 8,000 pounds gross weight, or less
CYC	motorcycle	VET	disabled veteran
DEV	driver education	WNG	Wisconsin National Guard
DIS	disabled	XPW	ex-prisoner of war
DPF	dual purpose farm		

Microfiche is a data storage medium, similar to microfilm, on which printed information is greatly reduced in size. One page of microfiche, 4" by 6", holds the equivalent of 270 pages of typewritten material. Information stored on microfiche is readable only by using special equipment which magnifies the images.

We use 42X Computer-Output-Microfiche format which can be read with either a 100% or 75% magnification reader. The equipment is called a microfiche reader, and can be obtained from various suppliers for about \$200. Less expensive, hand held equipment is also available; equipment which prints the image is available for a somewhat higher cost.

Information on each set of microfiche is grouped by the plate types listed above, with plate numbers listed in alpha/numeric sequence. Personalized plates are included in the various license plate type groupings. Each record provides the owner's name, street address, post office and zip code. If there are multiple owners only one owner name is given.

A basic set of the Motor Vehicle Registration License Number microfiche is issued in July and January. Supplements are issued in October and April. It is necessary to retain only the most recent basic set and the accompanying supplement since each new basic set shows current information and is cumulative from the first microfiche produced in July 1987.

The microfiche is available only by subscription. Sets are not sold individually, nor are they broken to provide one group of plates. Subscriptions are accepted for a one year period only. A one year subscription is \$60 + 5.5% sales tax. A subscription year begins in July and ends in June of the following year, and includes a total of two basic microfiche and two supplements. Renewal notices are sent to subscribers about 30 days prior to the expiration of their subscription.

Current subscribers are permitted to call the division's Vehicle Record Information Unit, at (608) 266-3666, for plates issued, but not yet available on the microfiche. This service is limited to the plates groups listed above.

If you need further information, please call (608) 266-1757 or 266-0666, or write to:

Wisconsin Department of Transportation
Registration Record Sales-Room 100
PO Box 7911
Madison, WI 53707-7911

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make vin

photos

books

3411102

	make	vin #	name	address	
0008	BUICK	4DR 1G4NJS2M9TC405904	ABING MICHAEL P	1520 FOXMOOR DR	FENNIMORE 53809
0400	BUICK	4DR 1G4HP52K8TH445564	MC CABE VELMA L	310 LAKE VIEW LA	BAGLEY 53801
0820	BUICK	4DR 1G4HP52K8TH414459	COTTINGHAM KATHERINE	470 GRANDVIEW LA	PLATTEVILLE 53818
0820	BUICK	4DR 1G4NJS2T2TC400373	SHINKO LOLA M	425 JEWETT ST	PLATTEVILLE 53818
0400	CHEV	CPE 1G1LY13M7S1287317	MEIER LAURIE A	8441 ADAMS LN	CASSVILLE 53806
0545	CHEV	CPE 1G1JF12D0S7186157	PETERSON CAROLE J	4668 HIGHWAY 81 N	LANCASTER 53813
0545	CHEV	4DR 2G1WLS2M6T9142869	WUNDERLIN KATHY J	8012 PRIDE RD	GLEN HAVEN 53810
0709	CHEV	CPE 1G1JC1246SM108791	READY KIM A	408 1/2 JONES PL	CUBA CITY 53807
1253	CHEV	4DR 1G1JF52T2T7227170	COPUS COLLEEN	304 CENTER ST	BOSCOBEL 53805
1367	CHEV	2DR 2C1MR2234T0747446	TRAVIS ELEANOR W	350 N WATER ST	PLATTEVILLE 53818
1602	CHEV	4DR 2G1WLS2M4T1144974	CUCHNA JOSEPH E	RR 2	PRAIRIE DU CHIEN 53821
IA	CHEV	4DR 1G1JCS243T7218978	WUNDERLIN TERRY J	175 W MADISON ST	PLATTEVILLE 53818
IA	CHEV	4DR 1G1JCS249T7154462	SINSINAWA DOMINICANS		SINSINAWA 53824
IL	CHEV	4DR 1G1JF5246S7227311	KERKEL LINDA A	2016 BLUFF RD	HAZEL GREEN 53811
IA	CHEV	4DR 1G1JF5246T7144545	DIETZEL SARAH L	3707 W SKELLY ST	CUBA CITY 53807
IL	CHEV	4DR 2G1WLS2MXT1118802	HOLMBERG LUCILLE E	1169 BLUFF RD	HAZEL GREEN 53811
IA	CHEV	CPE 3G1JJC1241T5846581	OTTEN MARY T	407 MULBERRY LN	LANCASTER 53813
0506	DODGE	4DR 2B3HD46T3TH184609	CRIPPES RAYMOND E	3737 SPRUCE ST PO B0	KIELER 53812
0952	DODGE	4DR 1B3EJ46X9TN180392	SOMMERS JO E	103 W PRAIRIE ST	BOSCOBEL 53805
0952	DODGE	4DR 1B3ES47CST0551157	RICHTER TINA MARIE	1020 6TH ST	FENNIMORE 53809
2415	DODGE	4DR 1B3EJ46X0TN230340	SHERMAN TAMMI J	237 N 4TH ST	PLATTEVILLE 53818
IA	DODGE	4DR 1B3ES47C9TD504584	KEARNEY CAROL M	80X 430	HAZEL GREEN 53811
IA	DODGE	4DR 1B3ES67CSD0330913	WILBERDING ANNABEL T	818 S JACKSON ST	CUBA CITY 53807
IL	DODGE	2DR 4B3AU52N5TE338547	LAU KELLI M	1195 W MAIN	PLATTEVILLE 53818
0233	FORD	2DR 1ZVLT20A333120421	FORD KATHIE R	646 BADGER RD NO 20	HAZEL GREEN 53811
0233	FORD	4DR 2FALP71W3SX176331	GRANT COUNTY OF SHERIFF D	PO BX 506 1000 N ADA	LANCASTER 53813
0233	FORD	4DR 2FALP71W7SX176333	GRANT COUNTY SHERIFF DEPT	1000 N ADAMS ST PO B	LANCASTER 53813
0233	FORD	4DR 2FALP71W9SX176334	GRANT COUNTY SHERIFF DEPT	1000 N ADAMS ST PO B	LANCASTER 53813
0784	FORD	4DR 1FALP52U8TG171649	RUCHTI JUNE K	500 S WASHINGTON	LANCASTER 53813
1563	FORD	4DR 1FALP52U8TG104381	PLACE MARY LOU	733 W WALNUT ST	LANCASTER 53813
1563	FORD	4DR 2FALP71W4TX171429	LANCASTER CITY OF POLICE	206 S MADISON ST	LANCASTER 53813
IA	FORD	2DR 1FALP52W8TH140905	BUTSON JERRY E	1853 BUTSON RD	PLATTEVILLE 53818
0008	HONDA	4DR 1HGCD5633TA161961	AMERICAN HONDA FIN CORP	601 CAMPUS DR SUITE	ARLINGTON HEIGHT 60004
0126	MERC	4DR 3MESM10J1TR605546	WILLIS SHRIE D	405 CLINTON ST	BLUE RIVER 53518
0493	OLDS	4DR 1G3HM52K134630093	STICH GWYNDOLENE L	6615 CTH A W	LANCASTER 53813
0493	OLDS	4DR 1G3HM52K4T4807117	DIETRICH CHARLOTTE E	417 W AMELIA ST	CASSVILLE 53806
0493	OLDS	4DR 1G3HY52K15H304532	MC WILLIAMS MARY M	308 W YUBA	CUBA CITY 53807
0820	OLDS	4DR 1G3HY52K5T4808008	BENSON DORIS BETTY	149 STATE ROAD 81	PLATTEVILLE 53818
0952	PLYM	4DR 1P3EJ46C6TN189952	COMMUNITY FIRST BANK	925 WISCONSIN AV	BOSCOBEL 53805
0493	PONT	4DR 1G2HX52K6T4214227	WIELAND DIANE A	9251 HIGHWAY 100	CASSVILLE 53806
0493	PONT	CPE 1G2JB1248T7540989	WHITEAKER REBECCA A	1420 10TH ST	FENNIMORE 53809
2338	PONT	CPE 1G2NE12T5TC706327	MONAHAN STEVEN D	970 UNION ST APT 101	PLATTEVILLE 53818
2338	PONT	4DR 1G2NE52M1TC739017	INSIGHT INFORMATION INC	1 INSIGHT DR	PLATTEVILLE 53818
2338	PONT	4DR 1G2WJ52M0TF233676	PEDLEY NORMA J	16231 AETNA RD	CUBA CITY 53807
2338	PONT	4DR 1G2WJ52M4SF325887	STEINER DOWNS TAMMY J	122 S MAIN ST	POTOSI 53820
IA	PONT	CPE 1G2JB1247T7532379	WAND STEVE F	300 HILLSIDE	DICKEYVILLE 53808
0106	SATRN	4DR 1G8ZK5277TZ254825	MC GAW ALICE L	S OHIO ST	MUSCODA 53573
IA	TOYOT	4DR 4T1BG12K4TU726946	WANG JUDITH J	375 PITT ST	PLATTEVILLE 53818
0099	VOLVO	STW YV1LW555XT2223419	GULER RENEE M	640 PIONEER RD	PLATTEVILLE 53818
0009	CHEV	TRK 1GNDU06L6S1111707	MURKIS MARGARET L	763 SICKLE ST	PLATTEVILLE 53818
0034	CHEV	TRK 1GCEK14M6TZ136491	DONAR SCOTT J	415 E ROOSEVELT ST	CUBA CITY 53807
0198	CHEV	TRK 1GNDT13W7T2109330	GENERAL MOTORS ACCEPTANCE	8401 GREENWAY CROSS	MIDDLETON 53562
0400	CHEV	TRK 1GCCS19X2TK108464	HOLZINGER DAVID J	7954 PORTER HILL RD	LANCASTER 53813
0400	CHEV	TRK 1GCEK19R6TE153187	BOWEN LAVERN R	754 S HARRISON	LANCASTER 53813
0400	CHEV	TRK 2GCEK19R3T1154153	KOYARS DALE	14201 HWY 61	FENNIMORE 53809
0400	CHEV	TRK 2GCEK19W1T1111789	HIRSH JERRY E.	304 NORTH ST	BOSCOBEL 53805
0820	CHEV	TRK 1GCEK14M3TZ136786	KUHL'S LOIS J	4494 HWY 80 SOUTH	PLATTEVILLE 53818
0820	CHEV	TRK 1GCEK14M3TZ139896	KLECKNER AMY S	4637 HIGHWAY 151	PLATTEVILLE 53818
0820	CHEV	TRK 1GCEK14R9TZ142104	TRUMBLE STEVEN R	BOX 164	KIELER 53812
0820	CHEV	TRK 1GCEK19M5TE116507	TRENTZ JANIS L	465 RIDGE AV	PLATTEVILLE 53818
MFR	CHEV	TRK 1GBEL19W0SB224634	PULS MARY LOU	2484 COON RD	CUBA CITY 53807
IL	CHEV	TRK 1GCCS1441TK165963	DROESSLER CHRIS	4138 HWY 61	POTOSI 53820
IL	CHEV	TRK 1GCCT19W6T8166420	DOSER DANIEL W	114 BUNKER HILL ST	POTOSI 53820
IA	CHEV	TRK 1GCEC14W6TZ129202	SUNDERLAND JOYCE M	1591 HARRY ST	HAZEL GREEN 53811
IA	CHEV	TRK 1GNDT13W1T2120291	LEIFKER RITA M	413 W CLEMENS	CUBA CITY 53807
IA	CHEV	TRK 1GNDU06D8ST140547	BENKEL INC	BOX 298	KIELER 53812
IL	CHEV	TRK 1GNEK13R8TJ347288	SLAATS CAROL M	653 MODEL RD	CUBA CITY 53807
0056	DODGE	TRK 1B7HC16Y3SS377183	GRINDEMAN DAVID P	18991 OTTER TRAIL PO	MUSCODA 53573
0429	DODGE	TRK 2B7HB21ZXTK111406	KRATTIGER ARTHUR	6756 8TH ST	PLATTEVILLE 53818
0506	DODGE	TRK 1B4GP54LXTB324087	SAAM ANN M	PO BX 491	CASSVILLE 53806
0649	DODGE	TRK 1B7HC16Y4TS647006	MATHEWS MARTIN R	519 S WISCONSIN AVE	MUSCODA 53573
0880	DODGE	TRK 2B7HB21Y2TK140681	ROSE LOTTIE E A	PO BX 308 2239 ELM S	KIELER 53812
1527	DODGE	TRK 1B7HF16ZXTS564633	EVANS RALPH E JR	RR 2 PO BX 152	MUSCODA 53573
1577	DODGE	TRK 1B7HF16ZXTS565145	HEADINGS CHARLES	RT 2 BOX 16	MUSCODA 53573
2415	DODGE	TRK 1B7GG23X4TS526297	JENTZ JULIE A	495 MAY ST	PLATTEVILLE 53818
2415	DODGE	TRK 1B7GG23X8TS643851	KLINGER JOSEPH J	1055 EASTMAN ST	PLATTEVILLE 53818
2415	DODGE	TRK 2B4GP44RBTR678786	DYMOND VALERIE J	1292 WALNUT DELL RD	PLATTEVILLE 53818
2415	DODGE	TRK 2B7HB21Y5TK141940	BRODBECK ENTERPRISES	1035 E HWY 151	PLATTEVILLE 53818
2415	DODGE	TRK 3B7HF13Z1TG139765	SCHMITZ WILLIAM J	6211 BROVILLARD HILL	POTOSI 53820
IA	DODGE	TRK 1B7GL23X6TS554047	SCHNEIDER BRENDA L	9891 NORTH RD	BLOOMINGTON 53804
IA	DODGE	TRK 2B4GH25K2SR379599	ARNOLD PAMELA J	5404 DUTCH HOLLOW RD	POTOSI 53820
0028	FORD	TRK 1FTDX1861VKA12133	BODE ROBERT L	178 EAST ST PO BOX 7	POTOSI 53820
0028	FORD	TRK 2FTHF36F9TCA19481	MAAHS DOUGLAS F	9512 IRISH RIDGE RD	CASSVILLE 53806
0140	FORD	TRK 1FMDU34X4TZA77934	H JAMES AND SONS INC	PO BOX 40 IDEAL RD	FENNIMORE 53809
0140	FORD	TRK 1FTCR15X4TPA20195	ENKE STEVEN C	414 MAIN ST PO BOX 2	PATCH GROVE 53817
0140	FORD	TRK 1FTEE14Y2THA68433	FRANCE BRUCE M	309 CENTER ST	BOSCOBEL 53805
0233	FORD	TRK 2FMDA5146TBA87124	FINNEGAN BRIAN E	680 N WATER ST	PLATTEVILLE 53818
1563	FORD	TRK 1FTCR15X0SPA40216	LEAMY STACY L	251 S POLK ST	LANCASTER 53813
MN	FORD	TRK 1FDKF38F8TEA93158	CENEX LAND O LAKES AGRONO	MS 1030 4001 LEXINGT	ARDEN HILLS MN 55126
MN	FORD	TRK 2FTHF26FOSCA68657	JONES VICKIE A	1135 ROCKCUT RD	HAZEL GREEN 53811
0493	GMC	TRK 1GTEK14RXTE518798	KABELLE SANDRA	8434 SLABTOWN RD	LANCASTER 53813
0493	GMC	TRK 1GTEK14W9TZ513042	LONDON VIRGIL	7245 GOVIER RD	LANCASTER 53813

1 new volume report

040001 1702 6/27/91

342.20 Duties on creation of security interest. If an owner creates a security interest in a vehicle, unless the name and address of the secured party already is contained on the certificate of title for the vehicle:

(1) The owner shall immediately execute, in the space provided therefor on the certificate of title or on a separate form prescribed by the department, an application to name the secured party on the certificate, showing the name and address of the secured party, and cause the certificate, application and the required fee to be delivered to the secured party.

(2) The secured party shall immediately cause the certificate, application and the required fee to be mailed or delivered to the department.

(3) Upon receipt of the certificate of title, application and the required fee, the department shall issue to the owner a new certificate containing the name and address of the new secured party. The department shall deliver to such new secured party and to the register of deeds of the county of the debtor's residence, memoranda, in such form as the department prescribes, evidencing the notation of the security interest upon the certificate; and thereafter, upon any assignment, termination or release of the security interest, additional memoranda evidencing such action.

(4) The registers of deeds may record, and maintain a file of, all memoranda received from the department under sub. (3). Such recording, however, is not required for perfection, release or assignment of security interests, which shall be effective upon compliance with ss. 342.19 (2), 342.21 and 342.22 (1) and (2).

History: 1975 c. 286; 1977 c. 29 s. 1654 (7) (a); 1981 c. 20; 1985 a. 202 s. 37; 1993 a. 301.

342.21 Assignment of security interest. (1) A secured party may assign, absolutely or otherwise, the party's security interest in the vehicle to a person other than the owner without affecting the interest of the owner or the validity of the security interest, but any person without notice of the assignment is protected in dealing with the secured party as the holder of the security interest and the secured party remains liable for any obligations as a secured party until the assignee is named as secured party on the certificate.

(2) The assignee may but need not, to perfect the assignment, have the certificate of title endorsed or issued with the assignee named as secured party, upon delivering to the department the certificate and an assignment by the secured party named in the certificate in the form the department prescribes.

History: 1977 c. 29 s. 1654 (7) (a); 1991 a. 316.

342.22 Release of security interest. (1) Within one month or within 10 days following written demand by the debtor after there is no outstanding obligation and no commitment to make advances, incur obligations or otherwise give value, secured by the security interest in a vehicle under any security agreement between the owner and the secured party, the secured party shall execute and deliver to the owner, as the department prescribes, a release of the security interest in the form and manner prescribed by the department and a notice to the owner stating in no less than 10-point boldface type the owner's obligation under sub. (2). If the secured party fails to execute and deliver the release and notice of the owner's obligation as required by this subsection, the secured party is liable to the owner for \$25 and for any loss caused to the owner by the failure.

(2) The owner, other than a dealer holding the vehicle for resale, upon receipt of the release and notice of obligation shall promptly cause the certificate and release to be mailed or delivered to the department, which shall release the secured party's rights on the certificate and issue a new certificate.

(3) The department may remove information pertaining to a security interest perfected under s. 342.19 from its computerized records when the following applicable period of time after the original perfection has elapsed unless the security interest is

renewed in the same manner as provided in s. 342.19 (2) for perfection of a security interest:

(a) For a mobile home, 16 years.

(b) For a truck tractor, 8 years.

(c) For any other vehicle, 6 years.

(4) Removal of information pertaining to a security interest from the records of the department under sub. (3) does not affect any security agreement between the owner of a vehicle and the holder of security interest in the vehicle.

History: 1977 c. 29 s. 1654 (7) (a); 1977 c. 217, 447; 1985 a. 202.

342.23 Secured party's and owner's duties. (1) A secured party named in a certificate of title shall, upon written request of the owner or of another secured party named on the certificate, disclose any pertinent information as to the party's security agreement and the indebtedness secured by it.

(2) (a) An owner shall promptly deliver the owner's certificate of title to any secured party who is named on it or who has a security interest in the vehicle described in it under any other applicable prior law of this state, upon receipt of a notice from such secured party that the security interest is to be assigned, extended or perfected.

(b) No secured party may take possession of any certificate of title except as provided in par. (a). Any person who violates this paragraph may be required to forfeit not more than \$1,000.

(3) Any secured party who fails to disclose information pursuant to sub. (1) shall be liable for any loss caused to owner thereby.

(4) Any owner who fails to deliver the certificate of title to a secured party requesting it pursuant to sub. (2) (a) shall be liable to such secured party for any loss caused to the secured party thereby and may be required to forfeit not more than \$200.

History: 1971 c. 278; 1991 a. 316; 1993 a. 159.

342.24 Method of perfecting exclusive. The method provided in this chapter of perfecting and giving notice of security interests subject to this chapter is exclusive. Security interests subject to this chapter are hereby exempted from the provisions of law which otherwise require or relate to the filing of instruments creating or evidencing security interests.

The motor vehicle law provisions relating to security do not apply to a mobile home once it has become a fixture. *George v. Commercial Credit Corp.* 440 F (2d) 551.

342.25 Suspension or revocation of certificate.

(1) The department shall suspend or revoke a certificate of title if it finds any of the following:

(a) The certificate of title was fraudulently procured, erroneously issued or prohibited by law.

(b) The vehicle has been scrapped, dismantled or destroyed.

(c) A transfer of title is set aside by a court of record by order or judgment.

(d) The vehicle's odometer has been subjected to tampering and return of the certificate of title to the department is considered necessary to make a notation of that information on the certificate.

(2) Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

(3) When the department suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the department.

(4) The department may seize and impound any certificate of title which has been suspended or revoked.

History: 1977 c. 29 s. 1654 (7) (a); 1993 a. 159.

342.255 Cancellation of title or registration. The department shall cancel a title or registration whenever:

(1) A transfer of title is set aside by the court by order or judgment; or

(2) Fraud on the department is discovered by the department; or

AGREEMENT

This agreement is made and entered into this 19th day of April, 1994, by and between the State of Wisconsin, acting by and through the Department of Transportation, Division of Motor Vehicles, (from now on called "Department") and R. L. Polk & Co., (from now on called "POLK"), a Delaware corporation, authorized to do business in the State of Wisconsin, with principal offices in the City of Detroit, County of Wayne, State of Michigan. This agreement shall remain in effect until canceled or revised by either party.

STATEMENT OF INTENDED USE

The title and registration records are used in the compilation of a variety of statistical reports for automotive manufacturers and related industries. These statistics are frequently used by many Department and federal agencies. These records are also used for vehicle fraud prevention reports and market research studies.

This information is also used in connection with recall programs which include consumer-oriented notifications apprising owners of existing or potential problems with their vehicles. Finally, Polk uses motor vehicle information for selective marketing programs. Polk maintains control to assure that such programs do not violate public morals or welfare and additionally will not offend reasonable standards of good taste.

IT IS MUTUALLY AGREED AS FOLLOWS:

- (1) The DEPARTMENT agrees to furnish POLK a copy of all motor vehicle title and registration transactions, including records of those vehicles registered under the International Registration Plan with a plate number which expires on December 31 of each year, on a weekly basis or other mutually agreeable schedule. The record format and method of data transmittal shall be mutually agreed upon.
- (2) Polk agrees to reimburse the Department for the above records upon receipt on each annual invoice. The annual charge shall be reviewed by the Department and Polk prior to issuance of the invoice.
- (3) The DEPARTMENT agrees to label all shipments as to contents and to direct the information described in Paragraph (1) to: R. L. Polk & Co., 6400 Monroe Blvd., Taylor, Michigan, 48180-1884, Attention: Tape Library.
- (4) Polk agrees to furnish all data transmittal materials and shipping supplies and shall assume all costs for shipping the information to it's Taylor, Michigan office via United Parcel Service (UPS).
- (5) POLK agrees to furnish the following items to the Department without charge:

*From Jan Truckler
6/27/96*


- a.) National Vehicle Population Profile (NVPP) each July 1, for both passenger cars and trucks, all levels.
- b.) Services A, New Passenger Car Registrations by make, series, by county.
- c.) Services D, New Passenger Car Registrations by make, series, by state.
- d.) Services E, New Passenger Car Registrations by make, series, for the United States.
- e.) Services F, New Truck Registrations by make, GVW, by county.
- f.) Services G, New Truck Registrations by make, GVW, by state.
- g.) Services H, New Truck Registrations by make, GVW, for the United States.
- h.) VIN Schematic Pattern Books, one each for passenger cars and trucks.
- i.) Monthly Pocket Summary of Registrations for New Cars and Trucks, one each month.

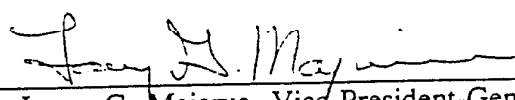
GENERAL PROVISIONS

- (1) Polk agrees to indemnify the State of Wisconsin, its officers, agents and employees, with respect to any claims asserted against the State of Wisconsin, its officers, agents and employees under either or both the Federal Fair Credit Reporting Act (Public Law 91-508) and the Federal Privacy Act of 1974 (Public Law 93-579) arising out of furnishing of motor vehicle records to Polk by the Department.
- (2) Polk will delete the personal identifiers (name, street address, post office box and 9 digit extended zip-code) of any person who directly requests that their name and address be deleted from the information used for mailing purposes. Before the Wisconsin file is used for direct mail, Polk will delete the personal identifiers of all persons whose names have been coded by coded by the Department to indicate that these persons do not want their names and addresses used for that purpose. However, such names will be retained for vehicle recall programs and may be used in statistics that do not disclose personal identifiers.
- (3) The Department and Polk mutually agree that the Department shall not be responsible for omissions or errors in the copies of records furnished to Polk.
- (4) Polk shall not use any information provided under this agreement for any purpose not listed in the "Statement of Intended Use" without prior written approval of the Department.
- (5) Polk shall not sell, assign or otherwise transfer any of the information provided thereof to any person, firm, association, corporation or governmental agency unless it be within the "Statement of Intended Use" or for the safety of public highways.

- (6) This agreement shall be effective when signed and supersedes any and all previous agreements. The agreement may be revised or amended in writing upon mutual consent of both parties.
- (7) This agreement may be canceled by either party upon sixty (60) days written notice or anytime with the mutual consent of both parties.

The following parties agree to all stated terms.

BY:  Date: 4/14/94
Roger D. Cross, Administrator
Wisconsin Department of Transportation
Division of Motor Vehicles

BY:  Date: 4/19/94
Larry G. Majerus, Vice President-General Manager
R. L. Polk & Co.
Motor Vehicle Registrations Div.



Wisconsin Department of Transportation

DIVISION OF MOTOR VEHICLES
Bureau of Vehicle Services
4802 Sheboygan Avenue
P. O. Box 7909
Madison, WI 53707-7909

Telephone (608) 266-2235
FAX (608) 267-6974

INVOICE

Wisconsin Department of Transportation
Division of Motor Vehicles
BVS: Jan Theobald
P O Box 7911
Madison, WI 53707-7911

*Div. Sec. to Public
0106-02-83
9400*

Date: May 2, 1995

Sold To: R. L. Polk and Company
1155 Brewery Park Blvd.
Detroit, MI 48207-2864

Quantity Ordered:

Description: 1995 contract between R. L. Polk and Company and the Wisconsin Department of Transportation, Division of Motor Vehicles, to provide vehicle registration information on all vehicles registered and titled in the state of Wisconsin.

Total Amount Due: \$37,923 upon receipt of invoice. Make check payable to the Wisconsin Department of Transportation. Send remittance to the address shown above.

Taxable?

Source # 92120

*5/31/95
ck # 307966 for \$37,923
to Revenue Accounting*

RESPONDENCE/MEMORANDUM

STATE OF WISCONSIN #

Date June 26, 1984

File Ref: OGC 84-123
DMV 84-30To: Norbert Anderson, Administrator
Division of Motor VehiclesFrom: Joe Maassen, Assistant General Counsel
Office of General CounselSubject: 1983 Wisconsin Act 287, Public Records
Fees Exempt From Sales Tax

Annual subscription fee to
Registration Licenses & Subcar
New Vehicle Reg. etc.
is taxable. 100 pages of
on the reports
in the book are not taxable.

You have indicated that the Division of Motor Vehicles currently collects sales tax on fees charged for driver record information pursuant to sec. 343.24(2), Stats., and vehicle registration information pursuant to sec. 341.17(6) and (8), Stats. It is my understanding that the total annual sales tax collected on the above-mentioned items approximates \$250,000.

You ask whether 1983 Wisconsin Act 287, which exempts charges for public records from sales tax, extends to the charges set forth in secs. 343.24(2) and 341.17(6) and (8), Stats.

The charges set forth in secs. 343.24(1) and 341.17(8), Stats., are, by statute, charges for conducting searches of vehicle operator records and vehicle registration records.

On February 17, 1984, the Attorney General, in OAG 9-84, addressed the question of collecting sales tax on charges for searching records. The Attorney General stated:

[S]earching records is not furnishing of tangible personal property, and thus fees charged for such searches are not subject to a sales tax.

In light of this opinion, it is my belief that the search fees set forth in secs. 343.24(1) and 341.17(8), Stats., are not subject to collection of sales tax.

However, the annual subscription fee for a motor vehicle registration list, as set forth in sec. 341.17(6), Stats., is a separate matter. 1983 Wisconsin Act 287 exempts fees imposed for copying public records from collection of sales tax. Section 77.54, Stats., with the newly created subsection reads as follows:

77.54 General exemptions. There are exempted from the taxes imposed by this subchapter:

...

(32) The gross receipts from charges including charges for a search imposed by an authority as defined in s. 19.32(1), for copying a public record under s. 16.61(12) or 19.35(1).

The annual subscription fee is set forth in sec. 341.17(6), Stats., and is not imposed for copying a public record under sec. 16.61(12) or 19.35(1), Stats. Therefore, when motor vehicle registration lists are sold on a subscription basis, the exemption created by 1983 Wisconsin Act 287 appears to be nonapplicable.

It is my opinion, however, that the motor vehicle registration list is a public record. Therefore, when all or a part of the vehicle registration list is provided pursuant to a public records request and a public records copying fee is charged, then the exemption in 1983 Wisconsin Act 287 applies.

I note that Chapter MVD 15, Wisconsin Administrative Code, sets forth a schedule of fees for searching and copying records maintained by the Division of Motor Vehicles. You may want to amend MVD 15 so that the fees promulgated there are consistent with current statutory requirements.

LJM:hml

cc: Bob Kindschi
Eldon Schimming ✓
Dean Davis
Betty Rayburn

CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN
RECEIVED

Date: July 23, 1985

File Ref:

JUL 24 1985

To: ~~L~~Norbert K. Anderson
Mike Bacon
Doug Haist

James Van Sistine
Marvin Schaeffer
Roger Schrantz

MOTOR VEHICLE
ADMINISTRATOR'S OFFICE

From: Joe Maassen *JM*
Assistant General Counsel
Office of General Counsel

7/29/85: Gen Joe Maassen to Bill Slighter
via phone call - This memo does not
affect our current practice of charging
sales tax on subscriptions to the
Lic # Books - NJR on the sale of the file
analysis on tape (complete file).

Subject: Public Records and Sales Tax

I was recently made aware of the fact that sales tax is continuing to be imposed on various records that DOT routinely sells to the public. Apparently the tax has been being charged on everything from aerial photographs to audio tape recordings of Administrative Rule Hearings.

It is my opinion that anything that meets the definition of public record under s. 19.32(2), Stats., is exempt from sales tax. I base this opinion on the following statutory provision:

77.54 General Exemptions. There are exempt from the taxes imposed by this subchapter:

....
(32) The gross receipts from charges, including charges for a search, imposed by an authority, as defined in s. 19.32(1), for copying a public record under s. 16.61(12) or 19.35(1).

19.32(2) and (3) define record and requester as follows:

(2) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority....

(3) "Requestor" means any person who requests inspection or copies of a record.

It appears to me that any person who asks to inspect or copy material which meets the public record definition has, without more, made a request under the public records law.

I believe that the appropriate approach is that sales tax should not be charged for copies of materials that are public record; that includes aerial photographs, driver license records, audio tapes, video tapes, computer tapes, anything else in the public domain that has been created for or is retained by this department.

July 23, 1985
Memo continued
Page Two

I note that this does not apply to materials to which access is limited by copyright or patent, or published materials in the possession of the department which are available for sale. It is my belief that aerial photographs, video tapes, etc., are not published materials.

If you or any other DOT employees have questions regarding this matter please do not hesitate to contact me.

JM:dlm

CC: Bob Baker
Judy Rendall
Jim Thiel
Don Courtney

16.61 Records and forms of state offices and other public records. (1) PUBLIC RECORDS AND FORMS BOARD. The public records and forms board shall preserve for permanent use important state records, provide an orderly method for the disposition of other state records and rationalize and make more cost-effective the management of forms and records by state agencies.

(2) DEFINITIONS. As used in this section:

(a) "Board" means the public records and forms board.

(ad) "Form" means any written material, by whatever means printed, generated or reproduced, with blank spaces left for the entry of additional information to be used for the purpose of providing information, collecting information or requiring action in any transaction involving this state.

(ah) "Forms management" means the system of providing forms to accomplish necessary operations efficiently and economically, including analysis and design of forms, improvement of methods of procurement, distribution and disposition of forms and improvement of methods to keep to a reasonable level the public's duty to report. "Forms management" includes the elimination of unnecessary forms and of unnecessary data collection and standardizing, consolidating and simplifying forms and related procedures.

(am) "Microfilm reproduction" means any manner by which an image is reduced in size and reproduced on fine-grain, high resolution film.

(an) "Personally identifiable information" has the meaning specified in s. 19.62 (5).

(ao) "Privacy advocate" means the person designated under s. 19.625 (1).

(a) "Public contact form" means a form generated and used by any state agency in transactions between the state agency and a member of the public.

(b) "Public records" means all books, papers, maps, photographs, films, recordings, optical disks or other documentary materials, regardless of physical form or characteristics, made, or received by any state agency or its officers or employees in connection with the transaction of public business, and documents of any insurer that is liquidated or in the process of liquidation under ch. 45. "Public records" does not include:

1. Records and correspondence of any member of the legislature.
- 1m. Any state document received by a state document depository library.
2. Duplicate copies of materials the original copies of which are in the custody of the same state agency and which are maintained only for convenience or reference and for no other substantive purpose.
3. Materials in the possession of a library or museum made or acquired solely for reference or exhibition purposes.
4. Notices or invitations received by a state agency that were not solicited by the agency and that are not related to any official action taken, proposed or considered by the agency.
5. Drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working.
6. Routing slips and envelopes.

19.32 Definitions. As used in ss. 19.33 to 19.39:

(1) "Authority" means any of the following having custody of a record: a state or local office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation, local exposition district under subch. II of ch. 229; any public purpose corporation, as defined in s. 181.79 (1); any court of law; the assembly or senate; a nonprofit corporation which receives more than 50% of its funds from a county or a municipality, as defined in s. 59.001 (3), and which provides services related to public health or safety to the county or municipality; a nonprofit corporation operating the Olympic ice training center under s. 42.11 (1); or a formally constituted subunit of any of the foregoing.

(1m) "Person authorized by the individual" means the parent guardian, as defined in s. 48.02 (8), or legal custodian, as defined in s. 48.02 (11), of a child, as defined in s. 48.02 (2), the guardian as defined in s. 880.01 (3), of an individual adjudged incompetent as defined in s. 880.01 (4), the personal representative or spouse of an individual who is deceased or any person authorized, in writing, by the individual to exercise the rights granted under this section.

(1r) "Personally identifiable information" has the meaning specified in s. 19.62 (5).

(2) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed page maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

public generally, or that part of it which has been served and which has accepted the service, has the legal right to demand that that service shall be conducted, so long as it is continued, with reasonable efficiency under reasonable charges. The devotion to public use must be of such character that the product and service is available to the public generally and indiscriminately, or there must be the acceptance by the utility of public franchises or calling to its aid the police power of the state.

Public Utility Holding Company Act. Federal statute enacted in 1935 to protect public, investors and consumers from economic effect of complex, unwieldy and dishonest organization of public utilities and particularly from effect of false, misleading and irresponsible security advertising. In re Com. & Southern Corp., C.A.Del. 951, 186 F.2d 708. 15 U.S.C.A. §§ 79-79Z.

Public vessel. See Vessel.

Public Vessels Act. Federal law which provides for libel in personam against the United States or a petition compelling the United States for damages caused by public vessels of the United States. 46 U.S.C.A. 781-790.

Public way. See Highway (*Public highway*).

Public welfare. The prosperity, well-being, or convenience of the public at large, or of a whole community, is distinguished from the advantage of an individual or limited class. It embraces the primary social interests of safety, order, morals, economic interest, and non-material and political interests. In the development of our civic life, the definition of "public welfare" has also developed until it has been held to bring within its purview regulations for the promotion of economic welfare and public convenience.

Publish. To make public; to circulate; to make known to people in general. To issue; to put into circulation. To utter; to present (e.g. a forged instrument) for payment. To declare or assert, directly or indirectly, by words or actions, that a forged instrument is genuine. In advising of the public or making known of something to the public for a purpose. *Estill County v. Noland*, 295 Ky. 753, 175 S.W.2d 341, 346. See also Publication; Letter.

Publisher. One who by himself or his agent makes a thing publicly known. One whose business is the manufacture and sale of books, pamphlets, magazines, newspapers, or other literary productions. One who publishes, especially one who issues, or causes to be issued, from the press, and offers for sale or circulation matter printed, engraved, or the like.

U.C. Public Utilities Commission.

U.C.D. Planned Unit Development. In zoning, a device which has as its goal a self-contained mini-community, built within a zoning district, under density and use rules controlling the relation of private dwellings to open space, of homes to commercial establishments, and of high income dwellings to low and moderate income housing. See Planned unit development.

Pudicity /pyuwdisətiy/. Chastity; purity; continence; modesty; the abstaining from all unlawful carnal commerce or connection.

Pudgeld /wüdgeld/. In old English law, supposed to be a corruption of the Saxon "*wudgeld*" (woodgeld), a freedom from payment of money for taking wood in any forest.

Pueblo /p(yu)wé(y)blow/. In Spanish law, people; all the inhabitants of any country or place, without distinction. A town, township, or municipality. A small settlement or gathering of people, a steady community; the term applies equally whether the settlement be a small collection of Spaniards or Indians. *Pueblo of Santa Rosa v. Fall*, 56 App.D.C. 259, 12 F.2d 332, 335. This term "*pueblo*," in its original signification, means "people" or "population," but is used in the sense of the English word "town." It has the indefiniteness of that term, and, like it, is sometimes applied to a mere collection of individuals residing at a particular place, a settlement or village, as well as to a regularly organized municipality. *Trenouth v. San Francisco*, 100 U.S. 251, 25 L.Ed. 626.

Community dwelling, constructed of stone or adobe, resided in by Indian tribes of the southwestern United States. Term may also refer to inhabitants of such dwelling or of the entire village.

Puer /pyúwər/. Lat. In the civil law, a child; one of the age from seven to fourteen, including, in this sense, a girl. But it also meant a "boy," as distinguished from a "girl;" or a servant.

Puerility /pyúwərilətiy/. In the civil law, a condition intermediate between infancy and puberty, continuing in boys from the seventh to the fourteenth year of their age, and in girls from seven to twelve.

Pueri sunt de sanguine parentum, sed pater et mater non sunt de sanguine puerorum / pyúwəray sɔnt diy sǎngwəniy pərəntəm, sɛd pɛytər ɛt meytər nɔn sɔnt diy sǎngwəniy pyuwərórəm/. Children are of the blood of their parents, but the father and mother are not of the blood of the children.

Pueritia /p(y)úwərish(iy)ə/. Lat. In the civil law, childhood; the age from seven to fourteen. The age from birth to fourteen years in the male, or twelve in the female.

Puffer. A person employed by the owner of property which is sold at auction to attend the sale and run up the price by making spurious bids. See also Puffing.

Puffing. An expression of opinion by seller not made as a representation of fact. *Gulf Oil Corp. v. Federal Trade Commission*, C.C.A.5, 150 F.2d 106, 109. Exaggeration by a salesperson concerning quality of goods (not considered a legally binding promise); usually concerns opinions rather than facts. Advertising which merely states in general terms that advertiser's product is superior is only "puffing" and is not actionable in action by competitor. *Smith-Victo Corp. v. Sylvania Elec. Products, Inc.*, D.C.Ill. 242 F.Supp. 302, 308.

14TH CASE of Level 1 printed in FULL format.

FINGERHUT PRODUCTS COMPANY, et al., Relators, v. COMMISSIONER OF REVENUE, Respondent

No. 46906

Supreme Court of Minnesota

258 N.W.2d 606; 1977 Minn. LEXIS 1379

September 23, 1977

DISPOSITION: [**1]

Affirmed in part, reversed in part, and remanded.

CORE TERMS: mailing, tangible, taxable period, labels, intangible, subscriber, typed, medium, broker, tapes, mail, use tax, gummed, heat, tangible personal property, supplied, transmitted, personalty, incidental, telephone, subject to taxation, tangible property, confidential information, computer program, reference book, rendition, seller, use of tangible property, useful life, contemplation

SYLLABUS:

Typed mailing lists used by a direct-mail merchandiser are not subject to taxation under Minn.St. 297A.14, which imposes a use tax for the privilege of using tangible personal property. However, mailing lists in the form of Cheshire tapes, gummed labels, and heat transfers which are attached to envelopes and placed in the mail by the taxpayer do constitute tangible personal property subject to the use tax.

COUNSEL: Faegre & Benson and Erwin N. Goldstein, Minneapolis, for Relators.

Warren Spannaus, Atty.Gen., C. H. Luther, Deputy Atty.Gen., Dept. of Revenue, St. Paul, for Respondent.

JUDGES: Heard before Sheran, C.J., and MacLaughlin and Scott, JJ., and reconsidered and decided by the court en banc. Rogosheske, J., took no part in the consideration or decision of this case. MacLaughlin, J., following oral argument, took no part in the consideration or decision of this case.

OPINIONBY: SHERAN

OPINION: [*607] The commissioner of revenue determined that the taxpayers were liable for additional use taxes assessed against the value of various mailing lists used by them in their mail order business. Taxpayers

appealed this determination to [**2] the tax court, which affirmed. Upon certiorari to this court to review the decision of the tax court, we affirm in part and reverse in part.

On December 23, 1971, the commissioner of revenue filed four orders assessing additional sales and use taxes for the taxable period of August 1, 1967, to June 30, 1968. The four corporations which were affected by these orders were all part of the Fingerhut group of companies. n1 Appeals were thereafter taken to the tax court, where all but one of the contested issues were resolved under two joint stipulations. The sole remaining issue concerns the taxability under Minn.St. 297A.14 of various mailing lists that during the taxable period were used by the Fingerhut Manufacturing Company and the Fingerhut Products Company. n2 For simplicity, both of these taxpayers will hereafter be referred to as "Fingerhut."

n1 In addition to the two companies involved in the present case, the commissioner's orders affected Wiman Manufacturing Company and Mastercraft Engineering Company.

n2 Subsequent to the assessment but prior to trial, Fingerhut Manufacturing Company was merged into the Fingerhut Corporation. The title of the present case was therefore amended to reflect this change in corporate identity.

[**3]

Fingerhut is a Minneapolis-based direct mail merchandiser of a wide range of consumer products. Most of the items sold by Fingerhut are intended for use in the home, and include such articles as luggage, power tools, dishes, cookware, and automobile seat covers. During the taxable period, Fingerhut both solicited its customers and sold its products exclusively by mail. The typical mailing sent to a prospective customer contained an advertisement listing a single product for sale, an offer for extended payment terms, a product trial period, and merchandise premiums

for placing an order and trying the advertised product. Approximately 98 percent of these mailings were sent to specific persons living outside Minnesota. All of this material was sent through the United States mail. It was estimated by one of Fingerhut's executives that close to 190 million separate mailings [*608] were made during the taxable period and that about 2.4 percent of these mailings resulted in sales of merchandise.

To enhance the success of its mailing operation, Fingerhut attempts to solicit business only from selected individuals. Thus, roughly one-half of the sales literature is sent to persons who [**4] have previously purchased items by mail from Fingerhut. The remainder of the names and addresses are obtained from mailing lists that are rented from mailing-list brokers. These lists reflect a broad spectrum of demographic data related to buying patterns, such as a person's average income, family size, geographical location, and previous history of buying products through the mail. The actual names and addresses supplied by the broker are intended for one-time use only and during the taxable period came in the form of Cheshire tapes, gummed labels, heat transfers, and typed mailing lists. For this service Fingerhut paid a rental fee of \$17.50 to \$25 per thousand names. The aggregate amount expended by Fingerhut for mailing lists during the taxable period was \$1,396,702.10.

Fingerhut filed timely sales and use tax returns for the taxable period, but it did not report in those returns the amounts expended for the Cheshire tapes, gummed labels, heat transfers, or typed mailing lists. Subsequently, the commissioner levied a deficiency assessment of \$41,901.06 plus interest, representing 3 percent of the amount expended by Fingerhut for these lists during the taxable period. n3

n3 For the taxable period in question, Minn.St. 1969, § 297A.14 imposed a use tax rate of 3 percent. The rate of taxation has since been increased to 4 percent. Ex.Sess.L. 1971, c. 31, art. 1, § 4.

[**5]

On appeal to the tax court, the assessment was affirmed, on the ground that the mailing lists obtained by Fingerhut were tangible personal property subject to taxation within the contemplation of the statute. Upon the petition of Fingerhut, we granted review by certiorari. Minn.St. 271.10, subd. 1.

The parties are in agreement that the tax, if any, applicable to the procurement of these mailing lists is that provided by Minn.St. 297A.14, which imposes a use tax "for

the privilege of using, storing or consuming in Minnesota tangible personal property." The sole issue here is whether the mailing lists are "tangible personal property" within the meaning of the statute so that their use may be taxed. n4

n4 Fingerhut attempts to raise on appeal certain issues which were not raised before the tax court. We have repeatedly held that we will not consider issues raised for the first time on appeal. See, *Elwell v. County of Hennepin*, 301 Minn. 63, 221 N.W.2d 538 (1974); *Rathbun v. W. T. Grant Co.* 300 Minn. 223, 219 N.W.2d 641 (1974). We decline to deviate from that rule in this case.

[**6]

The focus of Fingerhut's argument to the tax court and on this appeal is that the mailing lists rented from its brokers were not tangible personalty subject to taxation under the statute. There is no dispute that during the taxable period the vast percentage of the names and addresses supplied came in the form of actual mailing labels. When Fingerhut contracted for Cheshire tapes, gummed labels, or heat transfers, it received names and addresses that had to be mechanically separated and placed on its mailings. Fingerhut advances the theory, however, that the essence of what it received from the brokers was not a physical list of names but rather a service which supplied highly sophisticated advertising information which was an intangible commodity.

To support this argument, Fingerhut principally relies on *Dun & Bradstreet v. City of New York*, 276 N.Y. 198, 11 N.E.2d 728 (1937), where the New York Court of Appeals considered the applicability of a local sales tax law in relationship to the rendition of professional services. The taxpayer was in the business of supplying to its subscribers highly confidential information dealing with the financial standing of persons engaged in [**7] various businesses. As an incident to this service, each subscriber received for his own personal use a reference book at no extra charge. In refusing to [*609] allow the city of New York to tax the value of this reference book, the court articulated two factors that have since been used by other courts to distinguish tangible personalty from intangibles. First, the subscriber was able to make only a limited use of the books. Under the subscription contracts, title to the books remained in the taxpayer and the subscriber was expressly forbidden to share the confidential information contained therein with the public. Second, and more important, the physical properties of the reference book were merely incidental to the services performed. As explained by the court (276 N.Y. at 205,

11 N.E.2d at 731):

"* * * The information furnished is of value to the subscribers and for it they pay but not for the paper upon which the information is conveyed or for the reference books which are only guides to assist in the rendition of appellant's service. One does not think of a telephone company as a seller of books to its subscribers. It renders a service. To make that service efficient, [**8] it furnishes its subscribers with books containing a list of its subscribers with their call numbers. The paper is a mere incident; the skilled service is that which is required."

Fingerhut maintains that its procurement and use of the mailing lists supplied by its brokers satisfy both of these criteria. As in *Dun & Bradstreet*, the use that may be made of the lists is sharply restricted. Ordinarily, the brokers permit the lists to be used only once, and Fingerhut is required to make its mailings between rigidly set dates. Moreover, the value of the tangible format containing the names and addresses, estimated at approximately 80 cents per thousand names, is slight when compared to the \$17.50 to \$25 price of a corresponding number of names. Many of the lists also have a limited useful life. For instance, a list that would be useful in selling seat covers to new car owners may have a useful life expectancy of only 6 months. Lastly, it would have been possible for Fingerhut to obtain the information on the mailing lists, albeit with considerable inconvenience, without the interference of a tangible medium. The names and addresses could have been transmitted orally by telephone, [**9] or someone could have contacted the broker and manually copied the information from the broker's lists.

The commissioner advances the argument, however, that in this case the taxpayer acquired a tangible commodity, i.e. tapes, labels, etc., which were used when they were physically attached to the mailings. The fact that these labels were more valuable because of the information they contained does not, in the view of the commissioner, alter their nature as tangible personal property.

Subsequent to the *Dun & Bradstreet* case, a number of courts struggled to develop meaningful tests to distinguish the sale or use of intangible services from personality. Some courts have looked to the value of the tangible format used as contrasted to the value of the item sold. For example, in *Commerce Union Bank v. Tidwell, Tenn.*, 538 S.W.2d 405 (1976), the court based its finding that the sale of a computer program was not subject to sales tax in part on the fact that the value of the cards containing the program was only a small fraction of the total cost. Another approach that has been used is to assess whether or not the transaction has a temporary or transitory value. If what is sold [**10] is something like marketing or research data that has a very short useful life, there is a greater likelihood

that the transaction is a nontaxable service. See, *Williams & Lee Scouting Service, Inc. v. Calvert*, 452 S.W.2d 789 (Tex. Civ.App. 1970). A final consideration is whether the transaction can be achieved without the intervention of a tangible medium. Returning to the computer program example discussed in *Commerce Union Bank v. Tidwell*, *supra*, there can be no taxable transfer when a program is transmitted by the seller to the buyer's computer electronically, as by transmission through a telephone line. Motion pictures, on the other hand, cannot exist without the tangible celluloid medium, and therefore courts have [**610] uniformly subjected their rental value to use tax. See, *Florida Assn. of Broadcasters v. Kirk*, 264 So.2d 457 (Fla. Dist.App. 1972); *Crescent Amusement Co. v. Carson*, 187 Tenn. 112, 213 S.W.2d 27 (1948).

In our view, the question presented in the instant case is extremely close, and we do not find the resolution easy. Intangible property, such as information, may be transferred with or without the use of a tangible medium. When a tangible medium [**11] is used, it is often the case that such use is merely incidental to the substance of the transaction between the supplier and the consumer of the intangible. Yet our taxing statute makes no distinction regarding the nature of the tangible property subject to taxation; if tangible property is used or consumed, such use or consumption is taxed. Our statute does not, however, impose a tax on the use or consumption of intangible personal property. The line of demarcation between the use of intangible property and the use of its tangible manifestation is not a clear one.

Based upon the record before us, we conclude that the tax court erred in holding that the use by Fingerhut of the typed mailing lists constituted the taxable use of tangible property. Like the transfer of computer programs through the use of punch cards, the use of the tangible medium of typed mailing lists is merely incidental to the use of the incorporeal information contained in those lists. The typed lists themselves were not used within the contemplation of the statute; what was used was the information contained in the lists. Such use, in our opinion, is not taxable under the current statute. n5

n5 In reaching this conclusion, we are aware that other jurisdictions have imposed a tax on such lists. We do not intimate that our legislature could not, if it chose to do so, tax the use of mailing lists or similar information, no matter how transmitted. However, under the present statute, the tax is applied only to the use of tangible property, and the valid imposition of the tax is limited by that fact.

[**12]

We feel that the use of the Cheshire tapes, gummed labels, and heat transfers is, however, sufficiently distinguishable from the use of the typed mailing lists to justify imposition of the use tax. In these instances there is a use of the tangible property of the medium distinct from the use of the typed mailing lists, in that the tapes and labels are physically separated and attached to the envelopes. In such a case, the physical manifestation of the property is itself used - not merely the intangible information. This distinction is, in our opinion, sufficiently great to justify

a different treatment for tax purposes of the typed mailing lists and the other rental mailing lists in the form of Cheshire tapes, gummed labels, and heat transfers.

Affirmed in part, reversed in part, and remanded.

ROGOSHESKE, J., took no part in the consideration or decision of this case.

MacLAUGHLIN, J., following oral argument, took no part in the consideration or decision of this case.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3675/⁸¹dn
JK:.....

cm #

October 15, 1999

Senator Erpenbach:

Please review this draft carefully to ensure that it is consistent with your intent. As per my conversation with Julie, the bill uses the taxes collected from the sales of mailing lists for property tax relief. The bill creates a property tax credit similar to the school levy tax credit under current law. If you have any questions, please contact me.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-36757
JK:.....

PI
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

10-19-99

SOON

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D-N

1 AN ACT...; relating to: the sales tax on sales of mailing lists, using the sales tax
2 on mailing lists for property tax relief and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a sales tax is imposed on the sale of tangible personal property. Under current law, the definition of tangible personal property, for sales tax purposes, does not specify that a mailing list is tangible personal property. The tax appeals commission has determined that a mailing list that is stored in machine-readable form is not tangible personal property and, therefore, the sale of a mailing list in machine-readable form is not subject to the sales tax. See *A-K Corporation and Profile Publishing Co. v. Wisconsin Dept. of Revenue* (January 15, 1987). Courts in other states have also limited the application of a sales tax with regards to the sales of a mailing list. For example, the Minnesota Supreme Court has held that a written or printed list of names and addresses is not tangible personal property and, therefore, not subject to a sales tax, unless the state law specifies that a written or printed list of names and addresses is tangible personal property for sales tax purposes. See *Fingerhut Products Co. et al. v. Commissioner of Revenue*, 258 N.W. 2d 606 (1977).

Under this bill, a mailing list that is used to circulate material or for commercial purposes is tangible personal property and, therefore, the sale of a mailing list is subject to the sales tax. Under the bill, for sales tax purposes, a mailing list includes a written or printed list of names and addresses; a list that is stored in a machine-readable form; a list that is stored or transferred in an intangible form; and a list of information about ~~persons~~ that is sold by the department of transportation.

individuals

taxes from the sales of mailing lists

Under the bill, the taxes that are collected from the sales of mailing lists are distributed to municipalities for property tax relief. A property owner receives a property tax credit in an amount determined by applying the percentage of the value of the property owner's property, as compared to the value of all property located in the municipality, to the amount of the collected taxes that are distributed to the municipality.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 20.835 (3) (c) of the statutes is created to read:

2 20.835 (3) (c) *Mailing list sales tax credit.* A sum sufficient equal to the amount
3 determined under s. 77.61 (15) to make the payments under s. 79.10 (4m).

4 SECTION 2. 74.09 (3) (b) 6m. of the statutes is created to read:

5 74.09 (3) (b) 6m. The amount of the credit under s. 79.10 (4m) allocable to the
6 property for the previous year and the current year, and the percentage change
7 between those years.

8 SECTION 3. 74.09 (3) (b) 7. of the statutes is amended to read:

9 74.09 (3) (b) 7. The amount obtained by subtracting the ~~amount~~ sum of the
10 amounts under ~~subd. subds. 6. and 6m.~~ 6. and 6m. from the amount under subd. 5., for the
11 previous year and the current year, and the percentage change in that amount
12 between those years.

13 SECTION 4. 77.51 (7m) of the statutes is created to read:

14 77.51 (7m) "Mailing list" means a list of information about ~~persons~~ *individuals* that is used
15 to circulate materials or for commercial purposes ~~and includes~~ *including* a written or printed
16 list of names ~~and~~ *or* addresses *or both* a list that is stored in a machine-readable form *or* a list
17 that is stored or transferred in an intangible form *and* a list as provided under s.
18 341.17 (6). *registration*

1 **SECTION 5.** 77.51 (20) of the statutes is amended to read:

2 77.51 (20) "Tangible personal property" means all tangible personal property
3 of every kind and description and includes electricity, natural gas, steam and water
4 and also leased property affixed to realty if the lessor has the right to remove the
5 property upon breach or termination of the lease agreement, unless the lessor of the
6 property is also the lessor of the realty to which the property is affixed. "Tangible
7 personal property" also includes a mailing list, coins and stamps of the United States
8 sold or traded as collectors' items above their face value and computer programs
9 except custom computer programs.

10 **SECTION 6.** 77.54 (32) of the statutes is amended to read:

11 77.54 (32) The gross receipts from charges, including charges for a search,
12 imposed by an authority, as defined in s. 19.32 (1), for copies of a public record that
13 a person may examine and use under s. 16.61 (12) or for copies of a record under s.
14 19.35 (1), except this subsection does not apply to the sale of a mailing list.

15 **SECTION 7.** 77.61 (15) of the statutes is created to read:

16 77.61 (15) Annually by December 1, the department of revenue shall determine
17 the amount of the taxes collected under this subchapter on the sales of mailing lists
18 in the year preceding the distribution under s. 79.10 (7m) (c) and shall certify the
19 amount to the department of administration.

20 **SECTION 8.** 79.10 (2) of the statutes, as affected by 1999 Wisconsin Act 5, is
21 amended to read:

22 79.10 (2) NOTICE TO MUNICIPALITIES. On or before December 1 of the year
23 preceding the distribution under sub. (7m) (a) and (c), the department of revenue
24 shall notify the clerk of each town, village and city of the estimated fair market value,
25 as determined under sub. (11), to be used to calculate the lottery and gaming credit

1 under sub. (5) and of the amount to be distributed to it under sub. (7m) (a) [✓]and (c)
2 on the following 4th Monday in July. The anticipated receipt of such distribution
3 shall not be taken into consideration in determining the tax rate of the municipality
4 but shall be applied as tax credits.

5 SECTION 9. 79.10 (4m) [✓]of the statutes is created to read:

6 79.10 (4m) MAILING LIST SALES TAX CREDIT. The amount appropriated under s.
7 20.835 (3) (c) shall be distributed to municipalities in proportion to their share of the
8 sum of the average school tax levies for all municipalities.

9 SECTION 10. 79.10 (7m) (c) of the statutes is created to read:

10 79.10 (7m) (c) *Mailing list sales tax credit*. 1. The amount determined under
11 sub. ~~(7m) (c)~~ shall be distributed by the department of administration on the 4th
12 Monday in July. (2)

13 2. The town, village or city treasurer shall settle for the amounts distributed
14 under this paragraph [✓]in the manner specified under par. (a) 2. [✓]

15 SECTION 11. 79.10 (9) (b) of the statutes is amended to read:

16 79.10 (9) (b) *Property tax relief credit*. Except as provided in ss. 79.175 and
17 79.18, every property taxpayer of the municipality having assessed property shall
18 receive a tax credit in an amount determined by applying the percentage of the
19 amount of the value of property assessed to the taxpayer to the amount of the
20 distribution to be made to the municipality under sub. (7m) (a) [✓]and (c), as stated in
21 the December 1 notification from the department of revenue, except that no taxpayer
22 may receive a credit larger than the total amount of property taxes to be paid on each
23 parcel for which tax is levied for that year by that taxpayer.

24 SECTION 12. 79.10 (6m) of the statutes is amended to read:

1 79.10 (6m) CORRECTIONS OF STATE PROPERTY TAX CREDIT PAYMENTS. If the
2 department of administration or the department of revenue determines by October
3 1 of the year of any distribution under subs. (4), (4m) and (5) that there was an
4 overpayment or underpayment made in that year's distribution by the department
5 of administration to municipalities, as determined under subs. (4), (4m) and (5),
6 because of an error by the department of administration, the department of revenue
7 or any municipality, the overpayment or underpayment shall be corrected as
8 provided in this subsection. Any overpayment shall be corrected by reducing the
9 subsequent year's distribution, as determined under subs. (4), (4m) and (5), by an
10 amount equal to the amount of the overpayment. Any underpayment shall be
11 corrected by increasing the subsequent year's distribution, as determined under
12 subs. (4), (4m) and (5), by an amount equal to the amount of the underpayment.
13 Corrections shall be made in the distributions to all municipalities affected by the
14 error. Corrections shall be without interest.

15 **SECTION 13. Initial applicability.**

16 (1) MAILING LIST SALES TAX CREDIT. The treatment of sections 20.835 (3) (c), 74.09
17 (3) (b) 77.61 (15), 79.10 (2), 79.10 (4m), 79.10 (6m), 79.10 (7m) (c) and 79.10 (9) (b)
18 of the statutes first applies to property tax credits that are allocated to the property
19 tax assessments as of January 1, 2000.

20 **SECTION 14. Effective date.**

21 (1) MAILING LIST. The treatment of sections 77.51 (7m) and (20) and 77.54 (32)
22 of the statutes takes effect on the first day of the 2nd month beginning after
23 publication.

24 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3675/P1
JK:cmh:mrc

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

in 1-18-2000

SOON

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1 AN ACT to amend 74.09 (3) (b) 7., 77.51 (20), 77.54 (32), 79.10 (2), 79.10 (6m) and
 2 79.10 (9) (b); and to create 20.835 (3) (c), 74.09 (3) (b) 6m., 77.51 (7m), 77.61
 3 (15), 79.10 (4m) and 79.10 (7m) (c) of the statutes, relating to: the sales tax on
 4 sales of ~~mailing~~ lists ~~using the sales tax on mailing lists for property tax relief~~
 5 and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a sales tax is imposed on the sale of tangible personal property. Under current law, the definition of tangible personal property, for sales tax purposes, does not specify that a ~~mailing~~ list is tangible personal property. The tax appeals commission has determined that a ~~mailing~~ list that is stored in machine-readable form is not tangible personal property and, therefore, the sale of ~~mailing~~ list in machine-readable form is not subject to the sales tax. See *A-K Corporation and Profile Publishing Co. v. Wisconsin Dept. of Revenue* (January 15, 1987). Courts in other states have also limited the application of a sales tax with regards to the sales of a ~~mailing~~ list. For example, the Minnesota Supreme Court has held that a written or printed list of names and addresses is not tangible personal property and, therefore, not subject to a sales tax, unless the state law specifies that a written or printed list of names and addresses is tangible personal property for sales tax purposes. See *Fingerhut Products Co. et al. v. Commissioner of Revenue*, 258 N.W. 2d 606 (1977). *data that contains information about individuals,*

Under this bill, a ~~mailing~~ list that is used to circulate material or for commercial purposes is tangible personal property and, therefore, the sale of a ~~mailing~~ list is

used data

including names and addresses, and

of names and addresses

of such information

that

→ subject to the sales tax. Under the bill, for sales tax purposes, a ~~mailing~~ ^{data} list includes a written or printed list of names and addresses; a list that is stored in a machine-readable form; a list that is stored or transferred in an intangible form; and a list of information about individuals that is sold by the department of transportation.

→ Under the bill, the taxes that are collected from the sales of mailing lists are distributed to municipalities for property tax relief. A property owner receives a property tax credit in an amount determined by applying the percentage of the value of the property owner's property, as compared to the value of all property located in the municipality, to the amount of the taxes collected from the sales of mailing lists that are distributed to the municipality.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.835 (3) (c) of the statutes is created to read:

2 20.835 (3) (c) *Mailing list sales tax credit.* A sum sufficient equal to the amount
3 determined under s. 77.61 (15) to make the payments under s. 79.10 (4m).

4 **SECTION 2.** 74.09 (3) (b) 6m. of the statutes is created to read:

5 74.09 (3) (b) 6m. The amount of the credit under s. 79.10 (4m) allocable to the
6 property for the previous year and the current year, and the percentage change
7 between those years.

8 **SECTION 3.** 74.09 (3) (b) 7. of the statutes is amended to read:

9 74.09 (3) (b) 7. The amount obtained by subtracting the amount sum of the
10 amounts under subd. subds. 6. and 6m. from the amount under subd. 5., for the
11 previous year and the current year, and the percentage change in that amount
12 between those years.

13 **SECTION 4.** 77.51 (1m) of the statutes is created to read:

14 77.51 (1m) ² ^{data} ~~mailing~~ list" means a list of information about individuals that is
15 used to circulate materials or for commercial purposes, including a written or printed

used

1 list of names or addresses or both, a list that is stored in a machine-readable form,
2 a list that is stored or transferred in an intangible form, and a registration list as
3 provided under s. 341.17 (6).

4 SECTION 5. 77.51 (20) of the statutes is amended to read:

5 77.51 (20) "Tangible personal property" means all tangible personal property
6 of every kind and description and includes electricity, natural gas, steam and water
7 and also leased property affixed to realty if the lessor has the right to remove the
8 property upon breach or termination of the lease agreement, unless the lessor of the
9 property is also the lessor of the realty to which the property is affixed. "Tangible
10 personal property" also includes a ~~mailing~~ list, coins and stamps of the United States
11 sold or traded as collectors' items above their face value and computer programs
12 except custom computer programs. *data*

13 SECTION 6. 77.54 (32) of the statutes is amended to read:

14 77.54 (32) The gross receipts from charges, including charges for a search,
15 imposed by an authority, as defined in s. 19.32 (1), for copies of a public record that
16 a person may examine and use under s. 16.61 (12) or for copies of a record under s.
17 19.35 (1), ~~except this subsection does not apply to the sale of a mailing list.~~ *data*

~~18 SECTION 7. 77.61 (15) of the statutes is created to read:~~

~~19 77.61 (15) Annually by December 1, the department of revenue shall determine
20 the amount of the taxes collected under this subchapter on the sales of mailing lists
21 in the year preceding the distribution under s. 79.10 (7m) (c) and shall certify the
22 amount to the department of administration.~~

~~23 SECTION 8. 79.10 (2) of the statutes, as affected by 1999 Wisconsin Act 5, is
24 amended to read.~~

1 79.10 (2) NOTICE TO MUNICIPALITIES. On or before December 1 of the year
2 preceding the distribution under sub. (7m) (a) and (c), the department of revenue
3 shall notify the clerk of each town, village and city of the estimated fair market value,
4 as determined under sub. (11), to be used to calculate the lottery and gaming credit
5 under sub. (5) and of the amount to be distributed to it under sub. (7m) (a) and (c)
6 on the following 4th Monday in July. The anticipated receipt of such distribution
7 shall not be taken into consideration in determining the tax rate of the municipality
8 but shall be applied as tax credits.

9 **SECTION 9.** 79.10 (4m) of the statutes is created to read:

10 79.10 (4m) MAILING LIST SALES TAX CREDIT. The amount appropriated under s.
11 20.835 (3) (c) shall be distributed to municipalities in proportion to their share of the
12 sum of the average school tax levies for all municipalities.

13 **SECTION 10.** 79.10 (6m) of the statutes is amended to read:

14 79.10 (6m) CORRECTIONS OF STATE PROPERTY TAX CREDIT PAYMENTS. If the
15 department of administration or the department of revenue determines by October
16 1 of the year of any distribution under subs. (4), (4m) and (5) that there was an
17 overpayment or underpayment made in that year's distribution by the department
18 of administration to municipalities, as determined under subs. (4), (4m) and (5),
19 because of an error by the department of administration, the department of revenue
20 or any municipality, the overpayment or underpayment shall be corrected as
21 provided in this subsection. Any overpayment shall be corrected by reducing the
22 subsequent year's distribution, as determined under subs. (4), (4m) and (5), by an
23 amount equal to the amount of the overpayment. Any underpayment shall be
24 corrected by increasing the subsequent year's distribution, as determined under
25 subs. (4), (4m) and (5), by an amount equal to the amount of the underpayment.

1 Corrections shall be made in the distributions to all municipalities affected by the
2 error. Corrections shall be without interest.

3 **SECTION 11.** 79.10 (7m) (c) of the statutes is created to read:

4 79.10 (7m) (c) *Mailing list sales tax credit.* 1. The amount determined under
5 sub. (2) shall be distributed by the department of administration on the 4th Monday
6 in July.

7 2. The town, village or city treasurer shall settle for the amounts distributed
8 under this paragraph in the manner specified under par. (a) 2.

9 **SECTION 12.** 79.10 (9) (b) of the statutes is amended to read:

10 79.10 (9) (b) *Property tax relief credit.* Except as provided in ss. 79.175 and
11 79.18, every property taxpayer of the municipality having assessed property shall
12 receive a tax credit in an amount determined by applying the percentage of the
13 amount of the value of property assessed to the taxpayer to the amount of the
14 distribution to be made to the municipality under sub. (7m) (a) and (c), as stated in
15 the December 1 notification from the department of revenue, except that no taxpayer
16 may receive a credit larger than the total amount of property taxes to be paid on each
17 parcel for which tax is levied for that year by that taxpayer.

18 **SECTION 13. Initial applicability.**

19 (1) MAILING LIST SALES TAX CREDIT. The treatment of sections 20.835 (3) (c), 74.09
20 (3) (b) 6m. and 7., 77.61 (15), 79.10 (2), 79.10 (4m), 79.10 (6m), 79.10 (7m) (c) and
21 79.10 (9) (b) of the statutes first applies to property tax credits that are allocated to
22 the property tax assessments as of January 1, 2000.

23 **SECTION 14. Effective date.**

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1 (1) ~~MAIN LIST. The treatment of sections 77.54 (7m) and (20) and 77.54 (32)~~
2 of the statutes takes effect on the first day of the 2nd month beginning after
3 publication.

4 (END)

This act

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 01/20/2000

To: Senator Erpenbach

Relating to LRB drafting number: LRB-3675

Topic

Mailing lists subject to sales tax

Subject(s)

Tax - sales

1. **JACKET** the draft for introduction _____
in the Senate or the Assembly _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Joseph T. Kreye, Legislative Attorney
Telephone: (608) 266-2263