



State of Wisconsin • DEPARTMENT OF REVENUE

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Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

October 20, 1998

Honorable Brian Rude
President, State Senate
119 M.L. King Jr. Blvd., Room 102
P.O. Box 7882
Madison, WI 53707-7882

Honorable Scott Jensen
Speaker, State Assembly
Room 111 West, State Capitol
P.O. Box 8952
Madison, WI 53708

Referred 10-29
J...
Clearinghouse Rule
98-067

Dear Senator Rude and Representative Jensen:

Pursuant to s. 227.19(2), Stats., this is to notify you that the proposed rule order relating to sales and use tax treatment within the printing industry is in final draft form. The proposed rule order was published in the **Wisconsin Administrative Register** August 31, 1998. A public hearing was not required under the exception provided in s. 227.16(2)(e), Stats.

Copies of the proposed rule order and Report required under s. 227.19(2) and (3), Stats., are enclosed. A brief summary of the proposed rule order follows:

Summary of Proposed Rule Order

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

Statutes interpreted: ss. 77.51(8), (11) and (14)(h), 77.52(1) and (2)(a)11. and 77.54(2), (2m), (6)(a) and (b) and (43), Stats.

SECTIONS 1. AND 3. Tax 11.56(1)(a) is repealed and recreated as Tax 11.56(1)(b)1. and Tax 11.56(1)(b)2. is created, to describe various traditional processes and machines and equipment used in manufacturing printed materials, and to reflect technological advances within the printing industry which are considered part of manufacturing printed materials.

SECTION 2. Tax 11.56(1)(b) and (c) are renumbered Tax 11.56(1)(c) and (a), and Tax 11.56(1)(c) as renumbered is amended, to list the definitions in alphabetical order and to reflect proper grammar, per Legislative Council Rules Clearinghouse standards.

SECTION 4. Tax 11.56(2)(a) is amended, to reflect correct terminology.

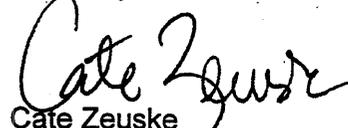
SECTION 5. Tax 11.56(3)(a), (b)1. and 2. and (c) are renumbered Tax 11.56(3)(a)(intro.), 1. and 2. and (b), and Tax 11.56(3)(a)(intro.), 1. and 2. as renumbered are amended, to reflect correct terminology and grammatical standards.

SECTION 6. Tax 11.56(5) and (6)(a)2. are amended, to reflect correct statutory language and to remove the example within sub. (6)(a)2. and set it forth separately as an example, per Legislative Council Rules Clearinghouse standards.

SECTIONS 7. AND 8. Tax 11.56(6)(b)(intro.) is renumbered Tax 11.56(6)(b) and amended and Tax 11.56(6)(b)1. and 2. are repealed, to remove the language relating to the examples and place the examples at the end of sub. (6)(b), per Legislative Council Rules Clearinghouse standards.

SECTION 9. Tax 11.56(6)(c) and (7)(b) are renumbered Tax 11.56(7)(b) and (c) and amended, to reflect the change in the taxability of raw materials which are processed, fabricated or manufactured into printed materials which will be used solely outside Wisconsin, due to the repeal of s. 77.51(18)(b) and creation of s. 77.54(43), Stats., by 1997 Wis. Act 27.

Sincerely,


Cate Zeuske
Secretary of Revenue

CZ:MPW:cil

i:/rules/1156 Committees - President Speaker

Enclosure

DEPARTMENT OF REVENUE
CLEARINGHOUSE RULE NUMBER 98-067
SECTION 227.19(2) AND (3), STATS., REPORT

Need For Proposed Rule

The rule is necessary to:

- Reflect changes in the taxability of raw materials manufactured into printed materials to be sold outside Wisconsin, due to the repeal of s. 77.51(18)(b) and creation of s. 77.54(43), Stats., by 1997 Wis. Act 27;
- Reflect department policy relating to technological advances within the printing industry; and
- Reflect proper format, grammar, and terminology per Legislative Council Rules Clearinghouse standards.

Public Hearing

A public hearing was not required, pursuant to s. 227.16(2)(e), Stats.

Legislative Council Staff Recommendations

The Legislative Council Staff made one recommendation, which was incorporated into the proposed rule.

Regulatory Flexibility Analysis

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

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

The Wisconsin Department of Revenue proposes an order to: repeal Tax 11.56(1)(a) and (6)(b)1. and 2.; renumber Tax 11.56(1)(c) and (3)(c); renumber and amend Tax 11.56(1)(b), (3)(a) and (b)1. and 2., (6)(b)(intro.) and (c) and (7)(b); amend Tax 11.56(2)(a), (5) and (6)(a)2.; and create Tax 11.56(1)(b), relating to the printing industry.

Analysis by the Department of Revenue

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

Statutes interpreted: ss. 77.51(8), (11) and (14)(h), 77.52(1) and (2)(a)11. and 77.54(2), (2m), (6)(a) and (b) and (43), Stats.

SECTIONS 1. AND 3. Tax 11.56(1)(a) is repealed and recreated as Tax 11.56(1)(b)1. and Tax 11.56(1)(b)2. is created, to describe various traditional processes and machines and equipment used in manufacturing printed materials, and to reflect technological advances within the printing industry which are considered part of manufacturing printed materials.

SECTION 2. Tax 11.56(1)(b) and (c) are renumbered Tax 11.56(1)(c) and (a), and Tax 11.56(1)(c) as renumbered is amended, to list the definitions in alphabetical order and to reflect proper grammar, per Legislative Council Rules Clearinghouse standards.

SECTION 4. Tax 11.56(2)(a) is amended, to reflect correct terminology.

SECTION 5. Tax 11.56(3)(a), (b)1. and 2. and (c) are renumbered Tax 11.56(3)(a)(intro.), 1. and 2. and (b), and Tax 11.56(3)(a)(intro.), 1. and 2. as renumbered are amended, to reflect correct terminology and grammatical standards.

SECTION 6. Tax 11.56(5) and (6)(a)2. are amended, to reflect correct statutory language and to remove the example within sub. (6)(a)2. and set it forth separately as an example, per Legislative Council Rules Clearinghouse standards.

SECTIONS 7. AND 8. Tax 11.56(6)(b)(intro.) is renumbered Tax 11.56(6)(b) and amended and Tax 11.56(6)(b)1. and 2. are repealed, to remove the language relating to the examples and place the examples at the end of sub. (6)(b), per Legislative Council Rules Clearinghouse standards.

SECTION 9. Tax 11.56(6)(c) and (7)(b) are renumbered Tax 11.56(7)(b) and (c) and amended, to reflect the change in the taxability of raw materials which are processed, fabricated or manufactured into printed materials which will be used solely outside Wisconsin, due to the repeal of s. 77.51(18)(b) and creation of s. 77.54(43), Stats., by 1997 Wis. Act 27.

SECTION 1. Tax 11.56(1)(a) is repealed.

SECTION 2. Tax 11.56(1)(b) and (c) are renumbered Tax 11.56(1)(c) and (a), and Tax 11.56(1)(c) as renumbered is amended to read:

Tax 11.56(1)(c) "Typesetting" includes converting images into standardized letter forms of a certain style which usually are hyphenated, justified and indented automatically by means of machinery and equipment. Typesetting machinery and equipment includes: fonts, video display terminals, tape and disc making equipment, computers and typesetters which are interconnected to operate essentially as one machine. A system shall be considered to operate essentially as one machine whether or not the tape or disc is automatically fed to the typesetter.

SECTION 3. Tax 11.56(1)(b) is created to read:

Tax 11.56(1)(b) "Manufacturing printed matter" includes either of the following processes by a manufacturer:

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

2. Using computers, scanners, proofers, typesetters, photographic equipment, film processors and direct-to-plate equipment exclusively in performing any of the processes listed in subd. 1. "Manufacturing printed matter" does not include using the equipment described in this subdivision to design, write or compose an original document to be printed.

SECTION 4. Tax 11.56(2)(a) is amended to read:

Tax 11.56(2)(a) Charges for printing, lithography, photolithography, rotogravure, gravure, letter press, silk screen printing, imprinting, multilithing, mimeographing, photostating, steel die engraving, and similar operations for ~~consumers~~ customers, whether or not the paper and other

materials are furnished by the ~~consumers~~ customers. A printer's charge for printing on paper furnished by a customer to produce printed matter not to be sold is subject to the tax.

SECTION 5. Tax 11.56(3)(a), (b)1. and 2. and (c) are renumbered Tax 11.56(3)(a)(intro.), 1. and 2. and (b), and Tax 11.56(3)(a)(intro.), 1. and 2. as renumbered are amended to read:

Tax 11.56(3)(a)(intro.) Sales of tangible personal property by persons who are not printers, including so-called "trade shops" such as typesetters, image reproduction manufacturers, color separators and binders or finishers are taxable unless the sales qualify for a statutory exemption under s. 77.54(2) or (2m), Stats., or other statutes., including the following:

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

2. Section 77.54(2m), Stats., which exempts the gross receipts from sales of "tangible personal property or services that become an ingredient or component of shoppers guides, newspapers or periodicals or that are consumed or lose their identity in the manufacture of shoppers guides, newspapers or periodicals, whether or not the shoppers guides, newspapers or periodicals are transferred without charge to the recipient. ...The exemption... does not apply to advertising supplements that are not newspapers."

SECTION 6. Tax 11.56(5) and (6)(a)2. are amended to read:

Tax 11.56(5) EXEMPT PRINTING MACHINERY AND EQUIPMENT. Section 77.54(6)(a), Stats., provides that "~~Machinery~~ Machines and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property..." are exempt from the sales or use tax. This includes machinery and equipment and repair parts or replacements thereof of the machiinery

and equipment used exclusively and directly by a manufacturer in the printing process to manufacture tangible personal property.

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

Example: A printer's purchases of positives and negatives which are used to produce catalogs and shoppers guides it sells to other persons are exempt from the tax.

SECTION 7. Tax 11.56(6)(b)(intro.) is renumbered Tax 11.56(6)(b) and amended to read:

Tax 11.56(6)(b) The exemption under s. 77.54(2), Stats., described in par. (a)1. and 2., applies to property purchased by a person who does not use the property other than to provide it to a manufacturer described in par.(a) for use by the manufacturer in manufacturing tangible personal property to be sold. The exemption under s. 77.54(2), Stats., does not apply if the manufactured tangible personal property is not to be sold by the manufacturer to its customer or by the customer. ~~Examples of nontaxable purchases include:~~

Examples: 1) A paper manufacturer's purchases of negatives which it transfers to a printer, who uses the negatives to produce printing which the printer sells to the paper manufacturer are exempt from the tax.

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

SECTION 8. Tax 11.56(6)(b)1. and 2. are repealed.

SECTION 9. Tax 11.56(6)(c) and (7)(b) are renumbered Tax 11.56(7)(b) and (c) and amended to read:

Tax 11.56(7)(b) Wisconsin sales or use tax is not imposed on raw materials that would otherwise be subject to use tax under s. 77.53(1), Stats., purchased by a publisher or printer of printed materials if both of the following conditions are met:

1. The raw materials are processed, fabricated or manufactured into, attached to or incorporated into printed materials.

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

(c) The tax applies to purchases of artwork, single color or multicolor separations, negatives, flats and similar items if those purchases are used in the manufacture of tangible personal property not to be sold, other than items exempt under par. (a) or (b). A printer who does not supply paper used in printing tangible personal property is not selling tangible personal property but rather, is selling a service.

Note to Revisor: 1) Move the examples at the end of Tax 11.56(6)(c) before renumbering to the end of Tax 11.56(7)(b) as renumbered, and in the second sentence in example 2 insert the word "not" between "is" and "subject." In addition, add example 3 to Tax 11.56(7)(b) as renumbered, as follows:

3) Company B purchases finished artwork from an advertising agency. The artwork and paper are provided to a printer who will print catalogs for Company B. The catalogs are provided without charge to customers outside Wisconsin. The charge by the advertising agency to Company B is exempt from Wisconsin sales and use tax even though the printer is not selling tangible personal property because the finished artwork is used for processing, fabricating or manufacturing printed material that is transported and used solely outside Wisconsin.

2) Change the introductory phrase for the examples at the end of Tax 11.56(7)(a) to read as follows:

Examples. Examples of nontaxable purchases for use in manufacturing printed matter include: 1)

3) Replace example 2 at the end of Tax 11.56(7)(c) as renumbered with the following example:

2) Company B purchases finished artwork from an advertising agency. The artwork and paper are provided to a printer who will print catalogs for Company B. The catalogs are provided without charge to customers in Wisconsin. The charge by the advertising agency to Company B is subject to Wisconsin sales and use tax. The exemption under s. 77.54(2), Stats., does not apply because the printer is not selling tangible personal property and the exemption under s. 77.54(43), Stats., does not apply because the printed material is used in Wisconsin.

4) Replace the first note at the end of Tax 11.56 with the following note:

Note: Section Tax 11.56 interprets ss. 77.51(8), (11) and (14)(h), 77.52(1) and (2)(a)11. and 77.54(2), (2m), (6)(a) and (b) and (43), Stats.

5) In the second note at the end of Tax 11.56, remove the word "and" before part (c), and at the end add part (d) as follows:

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

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

Initial Regulatory Flexibility Analysis

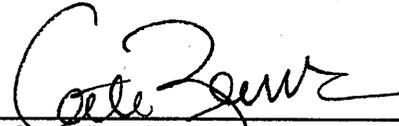
The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

DEPARTMENT OF REVENUE

Dated: _____

Oct 19, 1998

By: _____


Cate Zeuske
Secretary of Revenue

i:rule\1156 Proposed Rule

FISCAL ESTIMATE

DOA-2048 N(R10/94)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.

TAX 11.56

Amendment No. if Applicable

Subject

Sales and Use Tax Treatment of Firms within the Printing Industry

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. Types of Local Governmental Units Affected:

- Towns Villages Cities
 Counties Others _____
 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 rule order updates the Wisconsin Administrative Code with respect to firms engaged in manufacturing printed materials. These changes conform to current law and reflect the Department's position; thus they do not have a fiscal effect.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Wisconsin Department of Revenue

Craig D. Kammholz, (608) 261-8984

Authorized Signature/Telephone No.

Yeang-Eng Braun

(608) 266-2700

Yeang Eng Braun

Date

4/17/98