

## Clearinghouse Rule 13-095

### PROPOSED ORDER OF THE DEPARTMENT OF REVENUE AMENDING RULES

The Wisconsin Department of Revenue proposes an order to: **amend** Tax 11.93 (1) and (Note 2); **relating to** sales tax filing frequency.

The scope statement for this rule, SS 100-13, was approved by the Governor on August 2, 2013, published in Register No. 692 on August 31, 2013, and approved by the Secretary of Revenue on September 10, 2013.

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#### *Analysis by the Department of Revenue*

**Statutes interpreted:** s. 77.58 (1) (a) and (5), Stats.

**Statutory authority:** ss. 77.58 (5), 77.65 (3), and 227.11 (2) (a), Stats.

**Explanation of agency authority:** Section 77.58 (5), Stats., provides "The department, if it deems it necessary to ensure payment to or facilitate the collection by the state of the amount of taxes, may require returns and payments of the amount of taxes for other than quarterly periods. The department may, if satisfied that the revenues will be adequately safeguarded, permit returns and payments of the amount of taxes for other than quarterly periods..."

Section 77.65 (3), Stats., provides "[t]he department may promulgate rules to administer this section..."

Section 227.11 (2) (a), Stats., provides "[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..."

**Related statute or rule:** There are no other applicable statutes or rules.

**Plain language analysis:** This proposed rule amends the reference in s. Tax 11.93 to increase the annual filing standard to \$600 (currently \$300) to allow more retailers to file sales tax returns annually. This is consistent with changes made to s. 77.58 (1) (a), Stats., by 2013 Wis. Act 20, to allow more retailers to file sales tax returns less frequently (quarterly rather than monthly).

**Summary of, and comparison with, existing or proposed federal regulation:**

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

**Comparison with rules in adjacent states:** Illinois (86 ILL. Adm. Code 130.502), Iowa (Rule 701 12.1(422)), and Minnesota (Rule 8130.7300) also address sales tax filing frequency in their rules. As with Wisconsin, each of these state's rules are based on unique underlying statutes and policy. Because of this, a meaningful comparison cannot be made.

**Summary of factual data and analytical methodologies:** 2013 Wis. Act 20 doubled the threshold upon which a monthly sales tax return is required to be filed (\$600 to \$1200). The department has created this proposed rule order to be consistent with this statutory change by doubling the threshold upon which an annual sales tax return

may be filed (\$300 to \$600). No other data was used in the preparation of this proposed rule order or this analysis.

**Analysis and supporting documents used to determine effect on small business:** This rule order makes changes to reflect current law and current department policy. It makes no policy or other changes having an effect on small business.

**Anticipated costs incurred by private sector:** This proposed rule does not have a fiscal effect on the private sector.

**Effect on small business:** This proposed rule does not affect small business.

**Agency contact person:** Please contact Dale Kleven at (608) 266-8253 or dale.kleven@revenue.wi.gov, if you have any questions regarding this proposed rule.

**Place where comments are to be submitted and deadline for submission:** Comments may be submitted to the contact person shown below no later than the date on which the public hearing on this proposed rule is conducted. Information as to the place, date, and time of the public hearing will be published in the Wisconsin Administrative Register.

Dale Kleven  
Department of Revenue  
Mail Stop 6-40  
2135 Rimrock Road  
P.O. Box 8933  
Madison, WI 53708-8933  
dale.kleven@revenue.wi.gov

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**SECTION 1.** Tax 11.93 (1) and (Note 2) are amended to read:

Tax 11.93 (1) A retailer holding a regular seller's permit who during the previous calendar or fiscal year had a sales and use tax liability not exceeding ~~\$300~~ \$600 will be notified by the department that it must only file one sales and use tax return for the following year. If the retailer wants to continue to file returns on a quarterly basis, it must contact the department.

(Note 2) The interpretations in s. Tax 11.93 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The A \$300 standard applies applied to taxable years beginning on and after January 1, 1979. Prior to that date, a \$100 standard applied; and (b) The "annual information return" was eliminated for 1981 and subsequent years, pursuant to Chapter 221, Laws of 1979- ; and (c) The \$600 standard applies on and after January 1, 2014.

**SECTION 2.** Effective date. This rule 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.

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DEPARTMENT OF REVENUE

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Richard G. Chandler  
Secretary of Revenue

E:Rules/1193 Proposed Order