

Clearinghouse Rule 99-105

CERTIFICATE

STATE OF WISCONSIN)


) SS

DEPARTMENT OF REVENUE)

I, Cate Zeuske, Secretary of the Department of Revenue and custodian of the official records, certify that the annexed rule, relating to service enterprises, was duly approved and adopted by this department on March 2, 2000.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 2nd day of March, 2000.



Cate Zeuske
Secretary of Revenue

e:rules\1167 Adopt - Certificate



99-105
5-1-00

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



The Wisconsin Department of Revenue adopts an order to: repeal Tax 11.67(3)(e)3.; renumber Tax 11.67(3)(L) and (n); renumber and amend Tax 11.67(3)(m); and amend Tax 11.67(2)(a) and (3)(e)2., (f), (h) and (j), relating to service enterprises.

Analysis by the Department of Revenue

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

Statutes interpreted: ss. 77.51(4), (12), (13), (14)(intro.), (h) and (L), (15), (20) and (22)(a) and (b) and 77.52(1), (2)(a) and (2m)(a) and (b), Stats.

SECTIONS 1 AND 2. Tax 11.67(2)(a) is revised, to update language and to remove examples from the text of the rule and set them forth separately, per Legislative Council Rules Clearinghouse ("Clearinghouse") standards.

Tax 11.67(3)(e)2. is revised and Tax 11.67(3)(e)3. is repealed, to clarify that the taxability of materials used in constructing a prototype depends on the primary objective of the customer, and that determining whether a transaction is a purchase and sale of a prototype, or a research and development service with the prototype being incidental, is done on a case-by-case basis.

SECTION 3. Tax 11.67(3)(f), (h) and (j) are revised, to conform language and punctuation to Clearinghouse standards.

SECTION 4. Tax 11.67(3)(L) to (n) are renumbered Tax 11.67(3)(k) to (m), to conform numbering to Clearinghouse standards. As renumbered, Tax 11.67(3)(L) is revised, to conform punctuation to Clearinghouse standards.

SECTION 1. Tax 11.67(2)(a) and (3)(e)2. are amended to read:

Tax 11.67(2)(a) Since persons engaged in the business of furnishing services are consumers, not retailers, of the tangible personal property which they use incidentally in rendering their services, tax applies to the sale of such the tangible personal property to them. ~~Examples are physicians, lawyers and accountants.~~

Note to Revisor: Insert the following example following Tax 11.67(2)(a):

Example: Persons engaged in the business of furnishing services include physicians, lawyers and accountants.

(3)(e)2. In certain instances under a research and development contract, the information cannot be developed without the production of a prototype. In this situation, ~~the researcher owes tax on the materials used to construct the prototype since it is used to compile the data, designs, drawings and whatever else is provided to the customer. The measure of the tax is the cost of the materials going into the production of the prototype as well as all other materials consumed in performing the contract. The transfer of the prototype is incidental to the transfer of information, and for sales tax purposes, is deemed not a sale of tangible personal property. However, if the prototype is transferred to a customer for use in its business or for the purpose of reselling it, the researcher may purchase the materials used to construct the prototype without tax as property for resale if the primary objective of the customer in the transaction is to obtain tangible personal property, such as a prototype, the researcher may purchase the material used to construct the prototype without tax as property for resale. The subsequent sale of the prototype by the researcher to the customer is subject to tax unless an exemption applies. If the primary objective of the customer is to obtain the information resulting from production of the prototype, the prototype is considered transferred to the customer incidental to the research and development services. The researcher is subject to tax on the material purchased and used to construct the prototype. Determinations shall be made on a case-by-case basis.~~

Note to Revisor: Remove the examples following Tax 11.67(3)(e)2. and insert the following note:

Note: For a ruling on whether a specific transaction is a sale of a prototype or a research and development service with the prototype transferred incidental to the research and development service, write to Wisconsin Department of Revenue, Administration Technical Services, P.O. Box 8933, Madison, WI 53708-8933. The transaction should be described in detail.

SECTION 2. Tax 11.67(3)(e)3. Is repealed.

SECTION 3. Tax 11.67(3)(f), (h) and (j) are amended to read:

Tax 11.67(3)(f) *Recording studios.* When a recording studio agrees to furnish or supply records, acetates or other tangible personal property which becomes the property of others, the tax applies to the total gross receipts resulting from the sale of such the tangible personal

property. Gross receipts shall may not be reduced for labor or service costs, including charges for the use or rental of studio facilities, even though such those costs may be itemized in billing the customer.

(h) *Drafting.* Charges made by a self-employed person for commercial drafting are subject to the tax when the charge is for detailed drawings based entirely on specifications and data supplied by architects, engineers, or other business firms. These charges are taxable if the concepts, ideas, specifications or designs depicted in the drawings produced are the customer's and the person performing the drafting simply transfers the details supplied by the customer to paper thereby producing a drawing, which is tangible personal property, for use by the customer. When the person performing drafting services uses his or her own concepts and ideas in producing detailed drawings for a customer, the sale of the drawings is not a sale of tangible personal property.

(j) *Detonating explosives.* Detonating explosives is a non-taxable service. A person who performs such that service and furnishes the explosives used in conjunction with the service is the consumer of the explosives.

SECTION 4. Tax 11.67(3)(L) to (n) are renumbered Tax 11.67 (3)(k) to (m) and as renumbered, Tax 11.67(3)(L) is amended to read:

Tax 11.67(3)(L) *Car washes.* The gross receipts of persons providing car wash service, including those providing coin-operated self-service car washes consisting of a pressurized spray of soap and water, are taxable. These persons are the consumers of the tangible personal property, such as soap, brushes, and towels, they purchase, except for the wax, air freshener and protectants physically transferred to a customer's vehicle. Thus, suppliers may accept a resale certificate for wax, air freshener and protectants sold to car wash operators, but suppliers are liable for the tax on all other sales of supplies to these operators.

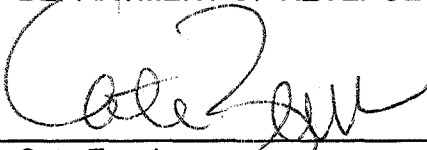
The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Final Regulatory Flexibility Analysis

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

DEPARTMENT OF REVENUE

Dated: 3/2/00

By: 
Cate Zeuske
Secretary of Revenue

e:rules\1167 Adopt - Order

FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB #
INTRODUCTION #
Admin. Rule # Tax 11.67

Subject
Sales and Use Tax Treatment of Various Services

Fiscal Effect

- State:** No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation
- | | | |
|--|---|--|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues | <input type="checkbox"/> Increase Costs - May be Possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No

<input type="checkbox"/> Decrease Costs |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues | |
| <input type="checkbox"/> Create New Appropriation | | |

Local: No Local Government Costs

- | | | |
|--|---|--|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input type="checkbox"/> Counties <input type="checkbox"/> Others _____
<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
| 2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | |

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

The proposed order updates the Department of Revenue's Administrative Code relating to taxable sales by service enterprises, and the taxability of components utilized in the production of research and development prototypes. The changes clarify existing language to reflect the Department's current position, and alter style and format to conform to Legislative Council Clearinghouse standards. These rule changes do not have a fiscal effect.

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 (608) 266-2700 <i>Yeang-Eng Braun</i>	6/18/99



State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-6466 • FAX (608) 266-5718 • <http://www.dor.state.wi.us>

Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

March 2, 2000

Gary L Poulson Deputy Revisor
131 W Wilson St Ste 800
Madison WI 53703-3233

Re: Clearinghouse Rule 99-105

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to service enterprises.

These materials are filed with you pursuant to s. 227.20(1), Stats.

The rule order has also been e-mailed to you. If you have any questions regarding the rule order, please contact Mark Wipperfurth at 266-8253 or mwipperf@dor.state.wi.us.

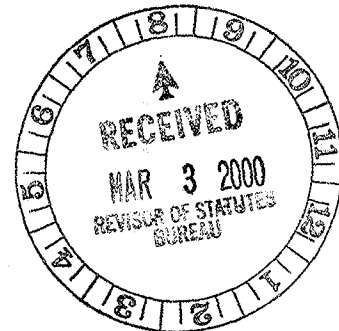
Sincerely,


Cate Zeuske
Secretary of Revenue

CZ:MPW:cil
e:rules\1167 Adopt - Revisor

Enclosure

cc: Douglas J. La Follette, Secretary of State
Commerce Clearinghouse, Inc.
Research Institute of America, Inc.





State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
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Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

March 2, 2000

Douglas La Follette Secretary of State
30 W Mifflin St 10th Fl
Madison WI 53703

Dear Secretary La Follette

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 99-105.

These materials are filed with you pursuant to s. 227.20(1), Stats.

Sincerely,


Cate Zeuske
Secretary of Revenue

CZ:MPW:cil
e:rules1167 Adopt – Secretary of State

Enclosure

cc: Deputy Revisor