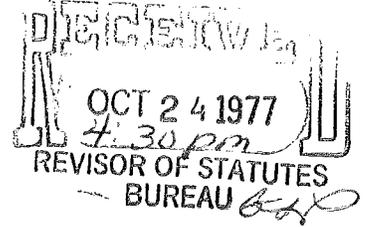


TAX II

CERTIFICATE OF RULE ADOPTION

STATE OF WISCONSIN)
DEPARTMENT OF REVENUE)



TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Dennis J. Conta, Secretary of the Department of Revenue and custodian of the official records of said Department, do hereby certify that the annexed rules were duly approved and adopted by this Department on October 24, 1977.

These rules relate to the following:

- 1) Updating obsolete and outdated rules (excise tax).
- 2) Governmental units (sales and use tax).
- 3) "Gross receipts" and "sales price" (sales and use tax).
- 4) Grocers' guidelist (sales and use tax).
- 5) Communication and CATV services (sales and use tax).
- 6) Motor vehicles (sales and use tax).

I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 201 East Washington Avenue in the city of Madison, this 24th day of October, 1977.

Dennis J. Conta

ORDER OF THE DEPARTMENT OF REVENUE ADOPTING RULES

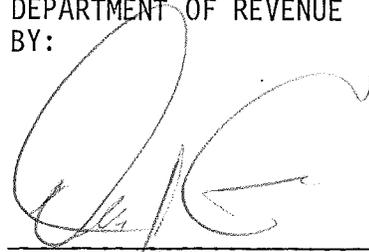
Pursuant to the authority vested in the Department of Revenue by ss. 71.11(24)(a) and 227.014(2), Wis. Stats., the Department hereby adopts the following 6 rules as shown on the attached copy:

- 1) A revisor-type rule, updating obsolete and outdated rules.
- 2) Section Tax 11.05, "Governmental units".
- 3) Section Tax 11.32, "'Gross receipts' and 'sales price'".
- 4) Section Tax 11.51, "Grocers' guidelist".
- 5) Section Tax 11.66, "Communication and CATV services".
- 6) Section Tax 11.83, "Motor vehicles".

The rules contained herein shall take effect on December 1, 1977.

Dated this 24th day of October, 1977.

DEPARTMENT OF REVENUE
BY:



Dennis J. Conta
Secretary of Revenue

REVISOR-TYPE RULE

SECTION 1. Section Tax 7.11(3) of the Wis. Adm. Code is amended to read:

7.11(3) ~~In the event~~ If beer which is sold or delivered, under the provisions of section ~~139.03(7)~~ 139.10(1), Wis. Stats., and this regulation, rule is returned to the brewery, bottler or wholesaler, a notation of such return, signed by the commanding officer or his a designated representative, must be recorded on the original invoice clearly indicating ~~quantity~~ quantity and description.

NOTE: Corrects a spelling error and a statute reference.

SECTION 2. Section Tax 7.21 of the Wis. Adm. Code is amended to read:

7.21 Labeling. All fermented malt beverages sold in ~~the~~ this state ~~of Wisconsin~~ shall be labeled in accordance with the provisions of federal regulation No. 7, now in effect or as subsequently amended, relating to the labeling and advertising of malt beverages, issued by under the federal alcohol administration act, ~~except that the standard of "ale" provision contained in said federal regulation No. 7 shall not be applicable in the state of Wisconsin.~~

NOTE: Corrects a reference to federal legislation necessitated by reorganization of the federal agency. Deleting last few lines conforms the rule to administrative practice.

SECTION 3. Section Tax 8.35(5) of the Wis. Adm. Code is amended to read:

8.35(5) A common carrier in ~~the~~ this state ~~of Wisconsin who~~ which has in ~~his~~ its possession intoxicating liquor which the consignee and consignor refuse to accept shall notify the Wisconsin department of revenue, of the possession of such merchandise. Permission for disposal ~~will~~ shall be granted upon proper application.

NOTE: Corrects punctuation.

SECTION 4. Section Tax 8.52(2)(a) of the Wis. Adm. Code is amended to read:

8.52(2)(a) Intoxicating liquor sold within ~~the~~ this state of Wisconsin shall be labeled in conformance with the labeling requirements of under the federal alcohol administration act now in effect or as subsequently amended ~~except that "straight whiskey" may include distilled spirits which are aged in old containers regardless of duration of storage.~~

NOTE: Corrects a reference to federal legislation necessitated by reorganization of the federal agency and eliminates obsolete language.

SECTION 5. Section Tax 8.52(3) of the Wis. Adm. Code is repealed.

NOTE: As wine is included in the legal definition of intoxicating liquor, wine labeling is covered by rule Tax 8.52(2)(a). Therefore, this paragraph is unnecessary and redundant.

SECTION 6. Section Tax 9.16(4) of the Wis. Adm. Code is amended to read:

9.16(4) Meter machine ink imprints on all packages must be clear and legible. All dyes dies and other equipment must be serviced and cleaned according to the instructions issued by Pitney-Bowes, Inc.; otherwise this office shall reserve the right to department of revenue may refuse the continued use of the meter.

NOTE: Corrects spelling and punctuation errors.

SECTION 7: Section Tax 9.22(3) of the Wis. Adm. Code is amended to read:

9.22(3) The consignors must list on their regular schedule CT-107 the name of the consignee actually receiving the merchandise, as well as the name of the ~~distributors~~ distributor through whom it is billed.

NOTE: Corrects a typographical error.

GOVERNMENTAL UNITS

Section Tax 11.05 of the Wis. Adm. Code is adopted to read:

Tax 11.05 Governmental units. (Section 77.51(3) and 77.54(9a), Wis. Stats.) (1) GENERAL. Sales by the state of Wisconsin, any agency thereof and governmental units within this state are generally subject to the Wisconsin sales tax. However, sales by the United States government or any agency thereof are not taxable.

(2) TAXABLE RECEIPTS. Taxable receipts of governmental units include gross receipts from the following: (a) Admissions to recreational facilities (e.g., green fees, campground fees, swimming fees, ice skating fees and park shelter house fees).

(b) Food and gift stand sales (e.g., sales of tangible personal property such as sandwiches, beverages, candy, cigarettes (effective September 1, 1975), ice cream, confections, tobacco products, postcards, books and novelties). Newspapers and periodicals regularly issued at average intervals not exceeding 3 months are exempt.

(c) Sales or rental of recreational equipment and supplies.

(d) Charges for access to or use of athletic facilities such as baseball and softball diamonds, stadiums and gymnasiums.

(e) Sales of electricity, gas and steam by municipal utilities. However, water sold through mains is exempt.

(f) Sales of maps, plat books, photocopies or other printed material.

(g) Sales or rental of equipment and office furniture, including the rental of motor vehicles to employees. Governmental units shall not collect tax on their sales of motor vehicles. Instead, the purchaser shall pay the tax to the department of transportation when the motor vehicle is registered.

(h) Sales of buildings or timber when the purchaser acquires such property for removal.

(i) Rental of lodging facilities to any person residing for a continuous period of less than one month.

(j) Vending machines and amusement devices, if the governmental unit owns the machine or has control over the gross receipts from the machine and its contents.

(k) Sales of soda water beverages and beer, including sales of such items by hospitals, sanitoriums and nursing homes to patients, employees or guests.

(l) Charges for meals to "Huber" law prisoners.

(m) Sales of books and supplies. Such sales by vocational, technical and adult education schools are taxable, except for the period from July 1, 1972 through October 3, 1973. Such sales by elementary and secondary schools are exempt.

(n) Sales of craft supplies for playground craft programs.

(o) Auction sales of tangible personal property, but excluding motor vehicles (see par (g) above).

(p) Sales and delivery of trees, shrubs or gravel to private purchasers.

(q) Sales of impounded animals, even though the amount received may be designated as a placement fee.

(3) NONTAXABLE RECEIPTS. Gross receipts of governmental units from the following are not taxable: (a) Fees for licenses and permits (e.g., tavern, cigarette, hunting and fishing, marriage, building and septic tank permits and I.D. cards, but not camping permits).

(b) Charges for parking motor vehicles and aircraft and docking and storage of boats.

(c) Claims assessed against persons for damaging government property.

(d) Rental of buildings or space, such as offices, warehouses and meeting rooms.

(e) Storage fees, notary public fees and bid deposits.

(f) Library fines or charges for a duplicate library card when no charge is made for the original card.

(g) Police escort and ambulance service charges.

(h) Separately stated fees for instruction, but not any amount reasonably allocable to the use of a facility for recreational purposes.

(i) Special assessments and fees for garbage or trash removal. However, sales of bags or receptacles for garbage or trash are taxable.

(j) Commissions on vending machines or amusement devices when the governmental unit does not own the machines or have control of the machines' gross receipts and contents.

(k) Sales or rental of tangible personal property or services to other governmental units, schools or organizations which hold a certificate of exempt status.

(l) Meals, food, food products or beverages (except soda water beverages and beer) sold by hospitals, sanitoriums and nursing homes to patients, employes or guests; dormitory meals furnished in accordance with any contract or agreement by a public or private institution of higher education; and meals sold to the elderly or handicapped by "mobile meals on wheels" on and after October 4, 1973.

(m) Service charges for snow removal, weed cutting, police officers at social gatherings, service of legal papers (e.g., summons, complaints and civil process) and ushers and door guards.

(n) Sales for resale, if supported by a valid resale certificate obtained from the purchaser.

(o) Fees charged for admission to a university student union building.

(p) Charges for filing, entering, docketing, recording or furnishing certified or uncertified copies of records by a state registrar, register of deeds, health officers and clerk of court under sections 59.42, 59.57, 69.24, Wis. Stats., or by a filing officer under section 409.407(2), Wis. Stats., and fees charged by a register in probate pursuant to section 253.34, Wis. Stats.

(4) PURCHASES. Section 77.54(9a), Wis. Stats., exempts sales to and the storage, use or other consumption of tangible personal property and services by this state or by any agency thereof, or any Wisconsin county, city, village, town, school district, county-city hospital established under section 66.47, Wis. Stats., sewerage commission organized under section 144.07(4), Wis. Stats., metropolitan sewerage district organized under sections 66.20 to 66.26, Wis. Stats., or any other unit of government, or any agency or instrumentality of 2 or more units of government within this state. However, the exemption does not apply to governmental units of other states. (a) A Wisconsin governmental unit need not give a retailer an exemption certificate to purchase taxable property or services without tax. A purchase order identifying the Wisconsin governmental unit shall be acceptable evidence of the exempt nature of the purchase.

(b) A Wisconsin governmental unit's payments to sellers for welfare recipients' purchases are generally subject to the tax, except when the purchase is made directly by the governmental unit and:

1. The governmental unit gives its purchase order to the seller before the sale is completed or the taxable service is performed;

2. The seller bills the governmental unit directly; and

3. The seller retains a copy of each purchase order received from the governmental unit to substantiate the exempt sale.

(c) Purchases by federal and state chartered credit unions are subject to the sales tax. The use tax shall apply to state chartered credit unions, but not to federally chartered credit unions due to constitutional restrictions.

(d) Purchases (such as for lodging, meals or uniforms) by employees of a governmental unit are not exempt, whether or not the employee is subsequently reimbursed for such purchases by the governmental unit.

NOTE: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969 unless otherwise noted in the rule.

GROSS RECEIPTS, SALES PRICE AND THE BRACKET SYSTEM

Section Tax 11.32 of the Wis. Adm. Code is adopted to read:

Tax 11.32 "Gross receipts" and "sales price". (Sections 77.51(11)(a) (intro.) and 4, (b)1 and (c)2, and (12)(a) (intro.) and 4, (b)1 and (c)1, and 77.61(3), Wis. Stats.) (1) GENERAL. The amount to which the sales and use tax rate is applied is "gross receipts" for sales tax and "sales price" for use tax. Both "gross receipts" and "sales price" mean the total amount of the sale, lease or rental from retail sales of tangible personal property or taxable services, valued in money, whether received in money or otherwise.

(2) HANDLING AND SERVICE CHARGES. A retailer's gross receipts from charges for customer alterations, handling services, small orders, returned merchandise, restocking, split shipments and similar charges for services related to retail sales shall be included in gross receipts derived from the sale of taxable personal property or taxable services. However, cancelled order charges are not taxable if there is no transfer of merchandise to a customer.

(3) CASH DISCOUNTS OR PRICE REBATES. (a) Cash discounts allowed by a retailer directly to customers reduce the gross receipts subject to the tax. The customer must receive the discount for the retailer to exclude it from gross receipts. For example, a payment made to a nonprofit organization based on a percentage of the purchases made by the group's members is not a cash discount for sales and use tax purposes.

(b) A retail cooperative's rebates to members, which are made after the net profit is determined at the end of a year, are patronage dividends rather than cash discounts, and are not deductible from the cooperative's gross receipts.

(c) Effective June 1, 1975, a manufacturer's cash rebate to a person who purchases tangible personal property from a retailer is not a reduction in the retailer's gross receipts or sales price for the item.

(4) SALES TAX COLLECTED FROM CUSTOMERS. (a) Section 77.51(11)(a)4 provides in part that "if a retailer establishes to the satisfaction of the department that the sales tax . . . has been added to the total amount of the sales price and has not been absorbed by him, the total amount of the sales price shall be deemed to be the amount received exclusive of the sales tax imposed." Therefore, when the tax is collected from customers who are notified of that fact, the amount of the tax collected is not included in the base to which the tax applies. For example, if taxable property is sold for \$100 and \$4 of tax is collected for a total of \$104, the tax payable by the retailer is determined by multiplying the tax rate times \$100.

(b) If a retailer cannot collect any tax because all sales are below the minimum price on which tax is collectible under the bracket system, no part of the retailer's gross receipts shall be treated as tax collected from customers. For example, a vending machine operator whose only receipts are from sales of 10¢ items cannot collect any sales tax from customers, and the tax applies to the total gross receipts.

(c) If a vending machine operator sells taxable property at a price such that a sales tax is collectible under the bracket system, part of the gross receipts from such sales shall be deemed to include sales tax if customers are advised that vending machine prices include sales tax.

(5) BRACKET SYSTEM. (a) The following bracket system shall be used by retailers in computing the amount of tax which may be collected from the retailer's customers:

<u>Amount of Taxable Sale</u>	<u>Tax Collectible</u>
\$.01 to \$.12	\$.00
.13 to .37	.01
.38 to .62	.02
.63 to .87	.03
.88 to 1.12*	.04

*On sales exceeding \$1.00, the tax equals 4% of each full dollar plus the tax shown above for the applicable fractional part of a dollar. When more than one item is sold in a single transaction, the tax shall be computed on the aggregate sales price of the items sold.

(b) The bracket system method is designed so that the total amount of tax paid by customers shall approximate 4% of a retailer's gross receipts, if the retailer's sales fall equally throughout all the brackets.

(c) The gross sales tax payable by a retailer is 4% of the retailer's taxable gross receipts, regardless of the amount of tax collected from customers.

(d) A retailer shall conspicuously post bracket system cards (showing the tax collectible on the dollar amount of a sales transaction, as set forth in par. (a)) to establish to the satisfaction of the department of revenue that the sales tax has been added to the sales price, unless a receipt is issued separately itemizing the tax.

NOTE: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969 unless otherwise noted in the rule.

GROCERS' GUIDELIST

Section Tax 11.51 of the Wis. Adm. Code is adopted to read:

Tax 11.51 Grocers' guidelist. (Section 77.54(20), Wis. Stats.) (1) GENERAL. All sales of tangible personal property are taxable except when a specific exemption applies. One of the exemptions is for "food, food products and beverages", which generally exempts all basic food items for human consumption necessary for the home preparation of meals. This exemption, however, does not include many items normally available in grocery and food stores, such as soda water beverages (including bases or concentrates to produce soft drinks and fruit drinks), beer, intoxicating liquors, candy, paper products and detergents. The following lists shall serve as a guide to grocers to determine the kinds of items that are taxable and exempt.

(2) GUIDELISTS. (a) Taxable sales by grocers. Gross receipts from the sale of the following are taxable:

Adhesive tape.	Bowl cleaner.	Cleansers.
Albums.	Breath mints.	Clocks.
Amonia.	Brooms.	Clothes lines.
Anti-acid products.	Brushes.	Clothespins.
Anti-freeze.	Bubble bath.	Clothing.
Appliances.	Cameras and supplies.	Cocktail mixes.
Ash trays.	Cake decorations	Cod liver oil.
Aspirin.	(non-edible).	Cold remedies.
Auto supplies.	Calcium tablets.	Coloring extracts.
Baby needs (except food).	Candied fruits.	Combs and brushes.
Bags (all kinds).	Candy.	Confections.
Bakeware.	Candy apples.	Cough drops.
Baskets.	Canning and freezer	Cracker jacks.
Barbeque supplies.	supplies.	Crayons.
Batteries.	Can openers.	Dental aids.
Beauty aids.	Carbonated beverages.	Deodorants.
Beer.	Cat food.	Detergents.
Beer making supplies.	Charcoal and starter.	Dinnerware.
Binders (notebook).	Chewing gum.	Disinfectants.
Bird food and supplies.	Cigarettes	Distilled spirits.
Bleach.	(Effective 9-1-75).	Dixie cups.
Blueing.	Cigarette lighter fluid,	Dog food and supplies.
Bobby pins and rollers.	wicks, flints.	Dolls.
Books.	Cigars.	Drain cleaners.
	Cleaning equipment and	
	supplies.	

Drug sundries.
Dry cleaners.
Dye.

Electrical supplies.
Eskimo pies.

Facial tissues.
Farm and garden
implements.
Feminine hygiene needs.
Fermented malt
beverages.

Fertilizers.
Fiddle faddle.
Film.

First aid products.
Fizzies.

Flash bulbs.
Flatware.
Floor care products.
Flowers and seeds.
Food coloring.
Foot care products.
Foil (aluminum and
similar products).

Frames.
Fuel and lubricants.
Fudgesicles.
Furniture polish.

Games.
Garden needs.
Garbage bags and cans.
Gifts (non-food).
Ginseng.
Glassware.
Gloves.
Glue.
Greeting cards.
Grooming aids.
Gum.

Hair care products.
Hardware.
Heated foods and
beverages (1).
Health and beauty aids.
Hosiery.
Household equipment and
supplies.

Ice (cube and
block).
Ice cream bars.
Ice cream in cones.
Internal remedies.
Intoxicating liquor.
Insect and pest control
products.
Iron tablets.

Jewelry.

Kool aid and similar
items.
Kotex and similar
items.

Laundry products.
Lawn furniture.
Life savers.
Light bulbs and
fuses.
Lozenges.
Lunch boxes.
Lye.
Lysol.

Manicure needs.
Mason jars.
Matches.
Medicinal
preparations.
Milk of magnesia.
Mineral tablets.

Nail polish and
remover.
Nails.
Napkins.
Notebooks.
Nursery stock.
Nuts (chocolate
coated).

Pails.
Paint and paint
supplies.
Paper products
(tissues, plates,
cups, towels,
napkins and writing
paper).

Peanuts (candy
coated).
Pens and pencils.
Pepto bismol.
Pet food and
supplies.
Plastic utensils.
Polishes.
Popcorn (raw or
popped).
Popsicles.
Pots and pans.
Powder (face and
body).

Raisins (candy
coated).
Razors and blades.
Records.
Roloids.
Root beer and
extracts.
Rotisseries.
Rubber bands.

Salt (water
softener).
Sandwiches (hot
or cold).
Sanitary goods.
School supplies.
Scissors.
Sewing aids.
Shampoo and rinse.
Shaving supplies.
Shelf coverings.
Shoe laces and
polishes.
Soaps.
Soda water
beverages (2).
Soft drinks (2).
Sponges.
Starch.
Stationery.
Steel wool.
Stockings.
Sun glasses.
Sun tan lotion.

Tableware.
Taffy apples.

Tape.
Thermos bottles.
Thread.
Tobacco products.
Toilet tissue.
Tonics.
Tools.
Tooth brushes.
Toothpaste and
powders.
Toothpicks.

Toys.
Tums.
Utensils.
Vitamins.
Wash cloths.
Waste baskets.
Watches.
Water (spring and
distilled).
Water conditioners.

Waxes.
Wax paper.
Wearing apparel.
Wine making
supplies.
Wrap (foil and
waxed paper).
Writing supplies.
Yogurt bars, cones
and sundaes.
Zippers.

(b) Exempt sales by grocers. Gross receipts from the sale of the following are exempt:

Apple cider (sweet).
Baby food.
Bakery goods.
Baking chocolate.
Baking powder and soda.
Barbeque sauces.
Berries.
Biscuit mix.
Bouillon cubes.
Bread and rolls.
Brownies.
Butter.

Cake mixes and
flour.
Cakes (Hostess and
similar items).
Canned foods.
Catsup.
Cereal and cereal
products.
Certo and other
pectins.
Cheese.
Chicken.
Chinese food.
Chip dip.
Chips (potato, corn
and similar items).
Chocolate (instant and
baking).
Citrus fruits.
Cocoa.

Coffee and coffee
substitutes.
Condiments.
Cones (ice cream cups).
Cookies and crackers.
Cooking oils.
Cream.
Desserts and toppings.
Dietary foods (4).
Dinners (frozen).
Doughnuts.
Dressing.
Dried fruits.
Dried milk products.
Eggs.
Federal food stamp
receipts.
Fish and fish
products.
Flavoring extracts.
Flour.
Fritos.
Frozen desserts.
Frozen fruit juices (3)
Frozen fruits and
vegetables.
Frozen pizza.
Frozen TV dinners.
Fruit.

Garlic.
Gelatin.
Gravy extracts
and mixes.
Grits.
Hash.
Honey.
Ice cream (pints or
larger).
Jams.
Jellies.
Jello.
Juices (pure fruit)
(3).
Lobster.
Luncheon meats.
Macaroni.
Magazines.
Malted milk powder.
Maraschino cherries.
Marshmallows.
Mayonnaise.
Meal.
Meat and meat
products.
Meat extracts and
tenderizers.
Melons.

Meritene.	Potato salad.	Shortening.
Milk and milk products.	Poultry and poultry products.	Soup.
Mustard.	Preserves.	Spaghetti products.
Newspapers.	Pretzels.	Spices.
Noodles.	Puddings.	Spreads.
Nuts (except candy coated).	Raisins.	Sugar.
	Ravioli.	Sweeteners.
	Relishes.	Syrup.
Oil (cooking, salad).	Rice.	Tea and ice tea.
Oleomargarine.	Rolls and biscuits.	Turkey.
Olives.		
	Saccharin.	Vanilla and vanilla extract.
Pancake mix.	Salad dressing.	Vegetable juices.
Peanuts (in shell or canned, salted or not).	Salt and salt substitutes.	Vegetables.
Peanut butter.	Salted nuts.	Vinegar.
Pepper.	Sardines.	Waffle mix.
Pickles.	Seafoods.	
Pie and pie fillings.	Seasonings.	Yeast.
Pie crust and mixes.	Sherbet.	Yogurt (pints or larger).
Potato chips.		

(c) Explanations of some items noted above. As indicated in (a) and (b) above:

1. "Heated Food" means those products, items or components which have been prepared for sale in a heated condition and which are sold at any temperature higher than the air temperature of the room or place where they are sold.
2. Sales of soda water beverages, bases, concentrates and powders which may be reconstituted into soft drinks, and fruit juice drinks, punches and nectars which have additives known as extenders are taxable. Extenders commonly used are citric acid, peel oil and artificial color.
3. Sales of pure fruit juices as defined in Chapter 97 (Statutes of 1967) are not taxable. Fruit juices are the clean, unfermented liquid product obtained by the first pressing of fresh ripe fruits. The only permissible additives are sugar and one of the preservatives such as sodium benzoate, sorbic acid or sodium sorbate. Frozen concentrates conforming to the above description are also tax exempt.
4. "Dietary foods" include products intended to substitute in whole or in part for the ordinary diet such as Metrecal and meat base formula. It also includes those products which supplement the ordinary diet, such as Ovaltine, and compressed or concentrated foods taken in wafer form which can be identified as food because of higher concentrated food values of carbohydrates and proteins. For example, a protein concentrate used by persons engaged in athletic activities is an exempt food. Dietary foods do not include patent medicines, tonics, vitamins and medical-type preparations in liquid, powdered, granular, tablet, capsule, lozenge and pill form used for medicinal or remedial purposes. The sales of such items are taxable.

NOTE: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969 unless otherwise noted in the rule.

COMMUNICATION AND CATV SERVICES

Section Tax 11.66 of the Wis. Adm. Code is adopted to read:

Tax 11.66 Communication and CATV services. (Sections 77.51(28), 77.52(2)(a)4 and 12 and 77.54(24), Wis. Stats.) (1) TAXABLE SERVICES. Gross receipts from the sale or charge for the following services are taxable: (a) Intrastate telegraph service.

(b) Telephone services, except interstate service, directory advertising and coin-operated telephone service. All intrastate toll services provided on or after July 31, 1975 and billings for exchange service made on or after that date are taxable.

(c) Two-way voice communication services over telephone or radio (commonly referred to as mobile telephone service). Nonmechanical telephone answering services are not taxable.

(d) One-way paging service effective July 31, 1975.

(e) Cable television system service, including installation charges, effective October 1, 1975.

(2) PURCHASES BY PERSONS PROVIDING SERVICE. Persons engaged in the business of providing communications services are consumers, not retailers, of the tangible personal property used in providing such services. The tax applies to the sale of such property to them. However, section 77.54(24), Wis. Stats., exempts "apparatus, equipment and electrical instruments, other than station equipment, in central offices or telephone companies, used in transmitting traffic and operating signals".

NOTE: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969 unless otherwise noted in the rule.

MOTOR VEHICLES

Section Tax 11.83 of the Wis. Adm. Code is adopted to read:

Tax 11.83 Motor vehicles. (Sections 77.51(7)(am), 77.53(16) and (18), 77.54(5)(a) and (7) and 77.61(1), Wis. Stats.) (1) DEFINITION. In this rule, "motor vehicle" means a self-propelled vehicle (e.g., automobile, truck, truck-tractor and motorcycle) designed for and capable of transporting persons or property on a highway. In this rule, "motor vehicle" does not include a self-propelled vehicle which is not designed or used primarily for transportation of persons or property, and is only incidentally operated on a public highway, such as a farm tractor, snowmobile, fork lift truck, and road machinery as defined in section 340.01(52), Wis. Stats.. "Motor vehicle" does not include a vehicle which is not self-propelled such as a trailer or semitrailer.

(2) RETAILERS' TAXABLE GROSS RECEIPTS. A retailer's taxable gross receipts include: (a) Gross receipts from the sale of a motor vehicle minus any trade-in allowance, if the sale and trade-in are one transaction. A separate or independent sale of a motor vehicle by either the buyer or seller of another motor vehicle is not a trade-in, even if the proceeds from the sale are immediately applied by the seller to a purchase of another motor vehicle. A dealer does not realize taxable receipts from a transaction in which one motor vehicle is traded for another of lesser value (a "trade-down").

(b) Gross receipts from charges for delivery, handling, preparation and any warranty.

(c) Gross receipts from equipment and accessories sold with a motor vehicle.

(d) Gross receipts from charges for all parts and labor for repair, service and maintenance performed on a motor vehicle, including charges for installation of accessories or attachments (e.g., a radio or air conditioner).

(3) OCCASIONAL SALE OR PURCHASE OF MOTOR VEHICLES FROM NON-DEALERS. (a) The occasional sale of a motor vehicle is taxable, unless the transfer is to the spouse, parent or child of the transferor; and the motor vehicle has been previously registered in this state in the name of the transferor; and the transferor is not a motor vehicle dealer. A son-in-law or daughter-in-law is not allowed this exemption.

(b) The purchaser of a motor vehicle from a non-dealer shall pay the tax due to the department of transportation before the vehicle is registered for use in this state.

(c) A Wisconsin resident purchasing a motor vehicle in a foreign country, or for delivery in a foreign country, shall pay the Wisconsin use tax when the resident registers the vehicle in Wisconsin for use in Wisconsin, subsequent to use in the foreign country. The tax is measured by the full "sales price" of the vehicle.

(d) When one co-owner transfers an interest in a motor vehicle to the other co-owner, tax shall apply on the transfer of such interest. The measure of the tax shall be the cash or its equivalent paid for the equity transferred plus the selling co-owner's share of the liabilities assumed by the buying co-owner.

(4) PURCHASES BY NONRESIDENTS. (a) The gross receipts from the sales of motor vehicles or truck bodies to nonresidents of this state (including members of the armed forces) who will not use such vehicles or trucks (for which the truck bodies were made) in this state other than in their removal from this state are exempt. However, the separate sale of a "slide-in" camper to a nonresident is taxable if delivery is in Wisconsin.

(b) Gross receipts from the repair by a Wisconsin retailer of a nonresident's motor vehicle is subject to the tax.

(c) A motor vehicle purchased by a nonresident of Wisconsin 90 days or more before bringing such vehicle into this state, in connection with a change of residence to this state, is not subject to the Wisconsin use tax.

(d) Except as provided in par. (c), nonresidents, including armed forces personnel stationed outside this state pursuant to military orders, who purchase motor vehicles outside this state, shall pay the Wisconsin use tax at the time the vehicle is registered with the Wisconsin department of transportation. However, a tax credit may be claimed as described in sub. (5).

(5) TAX CREDIT FOR VEHICLE PURCHASED OUTSIDE WISCONSIN. A motor vehicle purchased outside this state and registered in this state generally is subject to the Wisconsin use tax, except as noted in sub. (4)(c). However, if the purchase was subject to a sales or use tax by the state or the District of Columbia in which the purchase was made sales tax paid the other state or the District of Columbia shall be applied as a credit against and deducted from the Wisconsin use tax. This credit shall not apply to taxes paid to another country, to municipalities in other states or to motor vehicle registration fees.

(6) TRANSFER BY INHERITANCE, GIFT OR PRIZE. (a) The distribution of a motor vehicle to the heir(s) of an estate is not a taxable transfer subject to the Wisconsin sales or use tax. However, the sale of a motor vehicle by a personal representative of an estate is subject to the tax, and the purchaser is required to pay the tax to the department of transportation at time of registration.

(b) A motor vehicle transferred as a gift or as a prize in a contest or drawing is exempt when registered with the department of transportation by the recipient or prize winner. However, the sale of the vehicle to the donor of the gift or prize is taxable.

(7) VEHICLES USED BY LICENSED WISCONSIN RETAIL MOTOR VEHICLE DEALERS. (a) If salespersons use a licensed Wisconsin retail motor vehicle dealer's motor vehicles for purposes in addition to retention, demonstration or display, the dealer may charge the salesperson a reasonable amount for such use and such charge is subject to the tax. In lieu of making such charge or reporting the tax on the cost of the vehicle, the dealer may report tax on the following basis effective January 1, 1973:

1. In the case of motor vehicles licensed in the name of the retail dealer, the tax shall be \$1.35 per month.

2. In the case of motor vehicles being operated with retail dealer plates, the tax shall be 35¢ per month for each plate issued to the dealer.

(b) Retail dealers shall not report on the basis prescribed in par. (a) for service vehicles such as wreckers or pick-up trucks, or autos used by customers when their car is being repaired. Wholesalers, distributors, brokers or manufacturers may not report on this basis.

(8) SALES BY DEALERS TO THEIR SALESPERSONS. Effective September 1, 1972, when a licensed Wisconsin motor vehicle dealer sells a motor vehicle to one of the dealer's salespersons, the transaction is subject to the sales tax. Vehicles acquired in this type of taxable transaction after September 1, 1972 are not subject to the special method of reporting described in sub. (7). However, vehicles purchased by salespersons prior to September 1, 1972 are subject to such special provisions, and the tax is \$1 per month through December 1972 and \$1.35 per month thereafter.

(9) HEAVY EQUIPMENT DEALERS. Heavy equipment dealers who are not registered with the Wisconsin department of transportation as motor vehicle dealers because their sales are too few in number to require registration shall not charge the sales tax on their sales of motor vehicles. The tax shall be collected from the purchaser at the time the unit is registered with the state. Such heavy equipment dealers may purchase motor vehicles for resale without tax.

(10) MOTOR VEHICLE REPAIR PARTS AND SUPPLIES. (a) Motor vehicle dealers with body shops and any other person engaged in motor vehicle repair may purchase for resale without tax tangible personal property which is physically transferred to the customer's vehicle and which leaves the repair facility with the repaired vehicle. Such property includes paints, paint hardeners, plastic fillers, welding rods and auto parts.

(b) Tangible personal property not physically transferred to a customer's motor vehicle are subject to tax. Such property includes tools, equipment and supplies used or consumed in performing motor vehicle repair service. Examples of taxable supplies include: sandpaper, masking paper and tape, buffing pads, paint and lacquer thinner, clean and glaze compound, disc pads, paint remover, paint masks, tack rags, steel wool, industrial gases, metal conditioner, brushes, lacquer removing solvent, rubbing compound, wax and grease remover, fluxing materials, disc adhesive and all other items not physically transferred to the customer's vehicle.

(c) A supplier cannot accept a resale certificate in good faith on items which are not physically transferred to the purchaser's customer, except when the purchaser:

1. Inventories such property;
2. Certifies that the purchaser sells significant amounts of the property over-the-counter to walk-in trade; and
3. The purchaser specifies on the resale certificate each type of item the purchaser sells over-the-counter.

NOTE: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969 unless otherwise noted in the rule.

From September 1, 1969 through December 31, 1972, the tax payable by motor vehicle dealers in lieu of other methods of computing the tax, as described in subpar. (7)(a)1 and 2 of this rule, was \$1 per month in the case of motor vehicles licensed in the name of the retail dealer and 25¢ per month in the case of motor vehicles operated with dealer plates.