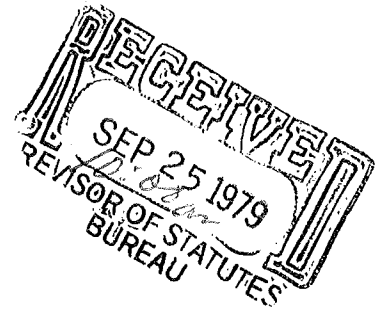


Tax II

CERTIFICATE OF RULE ADOPTION



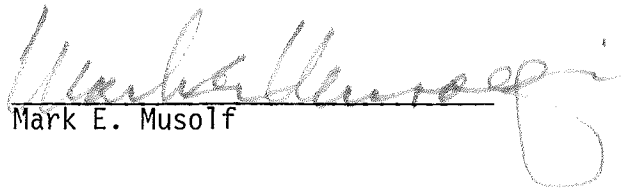
STATE OF WISCONSIN)
)
DEPARTMENT OF REVENUE)

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Mark E. Musolf, Secretary of the Department of Revenue and custodian of the official records of said Department, do hereby certify that the annexed rule was duly approved and adopted by this Department on September 24, 1979. These rules relate to the following: Wearing apparel worn during manufacturing (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 September, 1979.



Mark E. Musolf

10 o'clock a.m.

ORDER OF THE DEPARTMENT OF REVENUE ADOPTING RULES

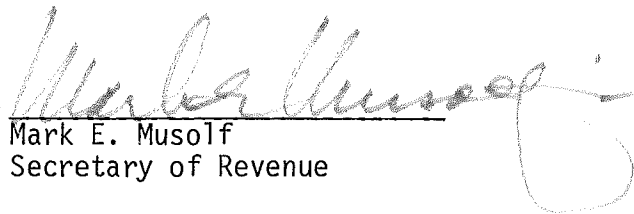
Pursuant to the authority vested in the Department of Revenue by s. 227.014(2), Wis. Stats., the Department hereby adopts the following 2 rules as shown on the attached copy:

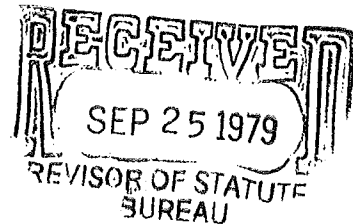
Sections tax 11.40(3)(e) and 11.41(3)(a) and (4)(h), relating to wearing apparel worn during manufacturing.

The rule contained herein shall take effect on November 1, 1979.

Dated this 24th day of September, 1979.

DEPARTMENT OF REVENUE
BY:


Mark E. Musolf
Secretary of Revenue



WEARING APPAREL WORN DURING MANUFACTURING

SECTION 1. Tax 11.40(3)(e) of the Wisconsin Administrative Code is amended to read:

Tax 11.40(3)(e) The exemption does not apply to tangible personal property, which is not machinery or equipment, but is used in a manufacturing plant. For example, sweeping compounds are factory supplies rather than processing equipment. ~~Gloves, shoes, coveralls and similar items are personal apparel rather than processing equipment.~~ (For the sales and use tax status of wearing apparel, see Tax 11.41(3)(a) 15 and (4)(h).)

SECTION 2. Tax 11.41(3)(a) 15 of the Wisconsin Administrative Code is adopted to read:

Tax 11.41(3)(a) 15. Gloves and other wearing apparel used by employes on the production line to prevent contamination of the manufactured product.

SECTION 3. Tax 11.41(4)(h) of the Wisconsin Administrative Code is amended to read:

Tax 11.41(4)(h) Wearing apparel for the comfort or welfare of the employe or for the protection of the employe's clothing, such as helmets, hard hats, work gloves, aprons, coveralls, pants, coats, and fur-lined boots and jackets.

NOTE: This rule reflects the Dane County Circuit Court's interpretation of s. 77.54(2), Stats. in Jones Dairy Farm, Inc. vs. Dept. of Revenue (Case No. 163-206, April 16, 1979). In that case, the taxpayer manufactured sausage and other meat products. To prevent or minimize contamination of the meat products by bacteria from an employe or an employe's clothes, taxpayer purchased and required its employes, during the manufacturing process, to wear several types of wearing apparel (cotton gloves, rubber gloves, plastic gloves, plastic pants, plastic shop coats, plastic aprons, cotton pants, cotton aprons, cotton shop coats and hair nets). After these items were used, they were either laundered for re-use or thrown away if no longer usable.

The Court held that these types of wearing apparel were directly used and consumed in the process of the manufacture of tangible personal property destined for sale. As such, they were exempt from the sales and use tax under s. 77.54(2), Wis. Stats.

The Court also found that about 5% of the cotton shop coats were used by executives and visitors who visited the manufacturing areas. There was no evidence that these coats were used directly in manufacturing. The Court concluded that these coats were used for the protection of their wearers, rather than the protection of the products and that these 5% of the coats were subject to the sales and use tax.

The Court distinguished between 2 types of apparel: (1) apparel which is directly used and consumed in manufacturing and which is exempt; and (2) apparel supplied for the comfort or welfare of the employes and which is taxable. Examples of the latter (taxable) type cited by the Court are fur-lined or galosh type boots for employes that work in refrigerated areas, freezer coats and jackets, and safety equipment such as helmets and hard hats.

The revision to rules Tax 11.40(3)(e) and 11.41(3)(a) 15 and (4)(h) apply to periods open to adjustment under the statute of limitations of s. 77.59, Stats.



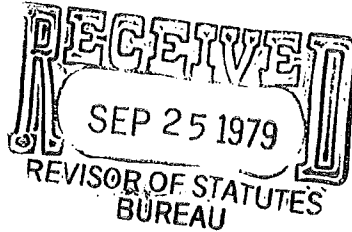
State of Wisconsin \ DEPARTMENT OF REVENUE

Lee Sherman Dreyfus
Governor

Mark E. Musolf
Secretary

September 24, 1979

201 EAST WASHINGTON AVENUE
MADISON, WISCONSIN 53702



Vel R. Phillips
Secretary of State
13 West, Capitol Building
Madison, WI 53702

Mr. Orlan L. Prestegard
Revisor of Statutes
411 West, Capitol Building
Madison, WI 53702

Dear Ms. Phillips and Mr. Prestegard:

Enclosed is a certified copy of one administrative rule adopted by the Department of Revenue, a "Certificate of Rule Adoption" and an "Order of the Department of Revenue Adopting Rules". These rules are to take effect November 1, 1979.

These materials are filed with you pursuant to s. 227.023(1), Wis. Stats.

Sincerely,


Mark E. Musolf
Secretary of Revenue

MEM:jbr

Enclosures

cc: Prentice-Hall, Inc.
Commerce Clearing House, Inc.