

CR 82-202

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CERTIFICATE

APR 14 1983

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Revisor of Statutes
Bureau

STATE OF WISCONSIN)
DEPARTMENT OF REVENUE)SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Michael Ley, Secretary of the Department of Revenue and custodian of the official records of said department do hereby certify that the annexed Order relating to rule Tax 11.10 "Occasional sales", was duly approved and adopted by this department on April 13, 1983.

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 125 South Webster Street in the city of Madison, this ^{13~~th~~} of ^{April} 1983.


Michael Ley
Secretary of Revenue

7-1-83

ORDER OF THE DEPARTMENT OF REVENUE

AMENDING AND CREATING RULES

To amend Tax 11.10(3)(b) and (e), (4)(c) and (6)(a), (b) and (d); to repeal and recreate Tax 11.10(3)(c); and to create Tax 11.10(6)(f), (g),(h) and (i), relating to the sales tax treatment of certain occasional sales.

Analysis by the Department of Revenue

SECTION 1. Rule Tax 11.10(3)(b) is amended to show that beer is one of the beverages nonprofit organizations may sell in an exempt occasional sale.

SECTION 2. Rule Tax 11.10(3)(c) is repealed and recreated to indicate that the \$1,000 standard in the rule applies to "taxable" type receipts and not to sales of exempt items.

SECTION 3. Tax 11.10(3)(e), (6)(a) and (d) are amended to eliminate parentheses or information in parentheses. References to other rules should be in notes to rules. Tax 11.10(4)(c) is revised to reflect the change in the law made by Chapter 418, Laws of 1977, effective July 1, 1978, which provided that nonretailer sales of mobile homes 45 feet or more in length are exempt from the tax, and to delete the last sentence in subsection (4)(c) which is unnecessary and repetitious. Tax 11.10(6)(b) is revised to change the occasional sale standard of \$250 of gross profits per year to \$500 of gross receipts per year to coincide this standard with other occasional sale standards.

SECTION 4. Subsection (6) of rule Tax 11.10 is expanded to provide that sales of landscaping and lawn maintenance services, parking, firewood and books qualify for the occasional sales exemption if the seller is not otherwise required to hold a seller's permit and gross receipts from such sales are less than \$500 during a calendar year.

Pursuant to the authority vested in the Department by section 227.014, Stats., the Department of Revenue hereby amends and creates rules contained in Chapter Tax 11 which interprets s. 77.51(10) and 77.54(7), Stats., as follows:

SECTION 1. Tax 11.10(3)(b)(intro.) is amended to read:

Tax 11.10(3)(b)(intro.) Meals, food and beverages. Sales of meals, food, food products, and beverages, including beer, for direct consumption at an event, ~~(e.g.,~~ including a church supper or refreshment stand at a fair, by a neighborhood association, church, civic group, garden club, social club or similar nonprofit organization shall be exempt occasional sales if:

SECTION 2. Tax 11.10(3)(c) is repealed and recreated to read:

Tax 11.10(3)(c) Other sales of tangible personal property and services. Except for sales under pars. (a) and (b), sales of tangible personal property and taxable services, including light bulbs, Christmas trees, candy or parking, by a neighborhood association, church, civic group, garden club, social club or similar nonprofit organization shall be exempt occasional sales if:

1. The organization is not engaged in a trade or business and is not otherwise required to have a seller's permit; and
2. The gross receipts from sales of property and services otherwise subject to the tax under s. 77.52(1) and (2), Stats., do not exceed \$1,000 within a calendar year.

SECTION 3. Tax 11.10(3)(e), (4)(c) and (6)(a), (b) and (d) are amended to read:

Tax 11.10(3)(e) Each category of sale listed in pars. (a), (b) and (c) shall be treated separately. However, if an organization exceeds the exempt occasional sales standard in any category, it shall obtain a seller's permit and pay a tax on sales in all categories. ~~For example, if an organization engages in separate activities described in pars. (a), (b) and (c) during a year and has a fourth "admissions" event, (but only one "meal" event and \$500 receipts from sales of other tangible personal property at that time), it shall obtain a seller's permit and pay the tax on receipts from the fourth "admissions" event and all subsequent receipts from "meal" events and from subsequent sales of other tangible personal property or services.~~ If the \$1,000 standard described in par. (c) is exceeded, all receipts from sales of property or services described in that paragraph and all subsequent receipts from admissions and meals shall be taxable.

Example: If an organization engages in separate activities described in pars. (a), (b) and (c) during a year and has a fourth "admissions" event, but only one "meal" event and \$500 receipts from sales of other tangible personal property at that time, it shall obtain a seller's permit and pay the tax on receipts from the fourth "admissions" event and all subsequent receipts from "meal" events and from subsequent sales of other tangible personal property or services.

Tax 11.10(4)(c) Sales of motor vehicles, aircraft, boats, mobile homes not exceeding 45 feet in length, snowmobiles, trailers and semi-trailers, except as specifically provided in s. 77.54(7), Stats. Unless exempt, a use tax shall be paid by the purchaser at the time the motor vehicle, aircraft, boat, snowmobile, trailer or semitrailer is registered or the mobile home is registered or titled for use within this state. ~~Except as provided in s. 77.54(7), Stats., the occasional sales of snowmobiles, mobile homes, trailers and semitrailers required to be registered or titled under the laws of Wisconsin are taxable effective August 1, 1977.~~

Tax 11.10(6)(a) Sales of fishing bait by minors who are not licensed or required to be licensed as bait dealers, if the sales are made by minors not required to hold a seller's permit for some other activity, such as operating a lunch stand. (Under s. 29.137(3), Stats., all bait dealers must obtain a license from the Wisconsin department of natural resources except that "resident children under 16 years of age, without license or permit, may barter or sell bait to consumers, but no such resident child shall make bait sales totaling more than \$500 annually.") However, sales of bait by licensed bait dealers are taxable without regard to the total amount of gross receipts from such bait sales.

Tax 11.10(6)(b) Sales of soft drinks by employe groups ~~whose markup~~ ~~{gross-profit}~~ if the gross receipts from such soft-drink sales do not exceed ~~\$250~~ \$500 per year. These groups are deemed consumers and need not obtain a seller's permit. Their suppliers, however, shall treat all sales to such groups as taxable retail sales.

Tax 11.10(6)(d) Auction sales of personal farm property and household goods. ~~{See-rule-Tax-11.50}~~.

SECTION 4. Tax 11.10(6)(f), (g), (h) and (i) are created to read:

Tax 11.10(6)(f) Selling, performing or furnishing lawn maintenance and landscaping services by a person not otherwise required to hold a seller's permit, if the gross receipts from furnishing lawn maintenance and landscaping services is less than \$500 during the calendar year.

Tax 11.10(6)(g) Charges for parking by a person not otherwise required to hold a seller's permit, if the gross receipts from parking charges are less than \$500 during the calendar year.

Tax 11.10(6)(h) Sales of firewood by a person not otherwise required to hold a seller's permit, if the gross receipts from firewood sales are less than \$500 during the calendar year.

Tax 11.10(6)(i) Sales of books by a person not otherwise required to hold a seller's permit, if the gross receipts from book sales are less than \$500 during the calendar year.

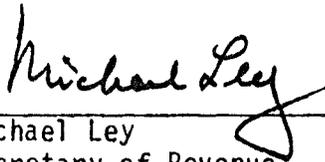
Note to Revisor: The "Note" at the end of the rule should be revised to read as follows:

Note: The interpretations in s. Tax 11.10 are effective under the general sales and use tax law on and after September 1, 1969, except that subsection (6)(e) became effective on March 1, 1979. Refer to s. Tax 11.50, Wis. Adm. Code for information regarding auction sales.

The rules, amendments and repeals contained in this order shall take effect as provided in s. 227.026(1)(intro.), Wis. Stats.

WISCONSIN DEPARTMENT OF REVENUE

Dated: 13 April 1983

By: 
Michael Ley
Secretary of Revenue