

CR 84-85

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

RECEIVED

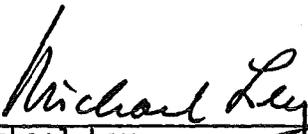
JUL 13 1984
1:15 pm
Revisor of Statutes
Bureau

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 Clearinghouse Rule No. 84-45 was duly approved and adopted by this department on July 10, 1984

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 10th day of July, 1984.



Michael Ley
Secretary of Revenue

ML:em
405101a

10-184

ORDER OF THE DEPARTMENT OF REVENUE
REPEALING, AMENDING AND CREATING RULES

To amend Tax 11.12(4)(a)1, 3 and 5, and 11.51 title, (2)(a) and (b); and to repeal and recreate Tax 11.95(1) and (2) relating to updating sales and use tax rules for law changes and Tax Appeals Commission or court decisions which are final.

Analysis by the Department of Revenue

The changes in this order update sales and use tax rules Tax 11.12, titled "Farming, agriculture, horticulture and floriculture", Tax 11.51, titled "Grocers' guidelist" and Tax 11.95, titled "Retailer's discount" for recent law changes and Tax Appeals Commission and court decisions which are final.

SECTION 1. A date is removed from rule Tax 11.12(4)(a)1 and inserted in the "note" at the end of the rule. Tax 11.12(4)(a)3 is amended by adding additional examples of exempt farm machines. A truck not licensed for highway use which was used on a farm solely to spread liquid manure was held to be an exempt farm machine by the Tax Appeals Commission in Richard or Alvin Hamland vs. Dept. of Revenue, April 14, 1982. Subdivision 5 also is amended to reflect the Hamland decision and the Commission's decision of February 26, 1982 in Feedmobile, Inc. vs. Dept. of Revenue which held a mobile feed grinder is exempt manufacturing machinery.

SECTION 2. The statutory reference for the exemption for magazines sold by subscription is added to the title of rule Tax 11.51. The date that cigarettes became taxable on September 1, 1975 is removed from the rule and added to the "note" at the end of the rule. Magazines and other periodicals sold over-the-counter became taxable effective September 1, 1983 pursuant to 1983 Wisconsin Act 27 and this change in the law is reflected in sub. (2)(a) and (b).

SECTION 3. Rule Tax 11.95(1) and (2) are repealed and recreated to reflect the change in the retailer's discount made by Chapter 20, Laws of 1981, effective for a retailer's taxable year beginning on or after January 1, 1983.

Pursuant to the authority vested in the Department by section 227.014(2)(a), Stats., the Department of Revenue hereby repeals, amends and creates rules interpreting ss. 77.52(1), 77.54(3), (3m), (15), (20), (27) and (30) and 77.61(4)(b), Stats., as follows:

SECTION 1. Tax 11.12(4)(a)1, 3 and 5 are amended to read:

Tax 11.12(4)(a)1 "Directly". Items used directly in farming include a plow and a combine. Items of "indirect" or non-qualifying use include typewriters, electric drills or other repair tools, dog and cat food, and lawn and garden tractors ~~and, prior to July 2, 1979, fuel oil for residential use.~~

Tax 11.12(4)(a)3 'Machines'. "Machines" include all-terrain vehicles or trucks not licensed for highway use, auxiliary power generators, bale loaders, balers, barn cleaners, barn elevators, chain saws for orchard use (but not for use in lumbering, pulping or cutting firewood), choppers, conveyors, corn pickers, crop conditioners, crop thinners, cultivators, discs, drags, and loaders, electric clippers and hoof trimmers, electric dehorner, electric fence chargers (not fencing or insulators), electric foggers, feed elevators and augers, fork lifts, grain dryers and grinders, harrows, harvesting combines, hay wagons, manure spreaders, milk coolers, milking machines (including piping, pipeline washer and compressor), mowers, planters, plows, powered feeders (not including platforms or troughs constructed from ordinary building materials), powered posthole diggers, pumps and associated portable piping for irrigation, rock pickers, rotary hoes, silo unloaders, space heaters (not for residential use and not realty improvements), sprayers, stalk shredders and windrowers.

11.12(4)(a)5 'Motor vehicles'. Specifically excluded from the statutory exemption are "motor vehicles for highway use", including motor trucks, automobiles, station wagons, buses and motor cycles. "For highway use" means licensed for that use ~~or designed primarily for that use even though not licensed~~.

~~Examples include motor trucks, automobiles, station wagons, self-propelled feed mills, buses and motorcycles.~~ Sales of parts, supplies and repairs for these vehicles, for highway use, including nurse tanks and trailers ~~designed primarily for highway use~~, are also taxable.

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

Note: The interpretations in s. Tax 11.12 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) Chapter 64, Laws of 1971 created s. 77.54(27), Stats., exempting semen, effective July 22, 1971; (b) Baling wire and twine became exempt under s. 77.54(3m), Stats., on

December 24, 1975 under Chapter 146, Laws of 1975; (c) Chapter 1, Laws of 1979 provided a 6 month exemption under s. 77.54(30), Stats., each year for electricity for residential use or for use in farming and a 12 month exemption for fuel oil, propane, coal, steam or wood for residential use, and (d) The definition of "feed lot" in sub. (2)(a)2 and "exclusively" in sub. (4)(b) are effective on December 1, 1981.

SECTION 2. Tax 11.51 (title), (2)(a) and (b) are amended to read:

Tax 11.51 (title) GROCERS' GUIDELIST. (ss. 77.52(1), 77.54(15) and (20), Stats.).

Tax 11.51(2)(a) Taxable sales by grocers. Gross receipts from the sale of the following are taxable:

Adhesive tape	Bleach	Canning and freezer
Albums	Blueing	supplies
Amonia	Bobby pins and rollers	Can openers
Anti-acid products	Books	Carbonated beverages
Anti-freeze	Bowl cleaner	Cat food
Appliances	Breath mints	Charcoal and starter
Ash trays	Brooms	Chewing gum
Aspirin	Brushes	Cigarettes
Auto supplies	Bubble bath	Cigarette lighter
		fluid, wicks, flints
Baby needs (except food)	Cameras and supplies	Cigars
Bags (all kinds)	Cake decorations	Cleaning equipment
Bakeware	(non-edible)	and supplies
Baskets	Calcium tablets	Cleansers
Barbeque supplies	Candied fruits	Clocks
Binders (notebook)	Candy	Clothes lines
Bird food and supplies	Candy apples	Clothespins

Clothing	Electrical supplies	Games
Cocktail mixes	Eskimo pies	Garden needs
Cod liver oil		Garbage bags and cans
Cold remedies	Facial tissues	Gifts (non-food)
Coloring extracts	Farm and garden implements	Ginseng
Combs and brushes	Feminine hygiene needs	Glassware
Confections	Fermented malt beverages	Gloves
Cough drops	Fertilizers	Glue
Cracker jacks	Fiddle Faddle	Greeting cards
Crayons	Film	Grooming aids
	First aid products	Gum
Dental aids	Fizzies	
Deodorants	Flash bulbs	Hair care products
Detergents	Flatware	Hardware
Dinnerware	Floor care products	Heated foods and beverages (1)
Disinfectants	Flowers and seeds	Health and beauty aids
Distilled spirits	Food coloring	Hosiery
Dixie cups	Foot care products	Household equipment and supplies
Dog food and supplies	Foil (aluminum and similar products	
Dolls	Frames	
Drain cleaners	Fuel and lubricants	Ice (cube and block)
Drug sundries	Fudgesicles	Ice cream bars
Dry cleaners	Furniture polish	Ice cream in cones
Dye		

Internal remedies	Milk of magnesia	Raisins (candy coated)
Intoxicating liquor	Mineral tablets	Razors and blades
Insect and pest control products		Records
Iron tablets	Nail polish and remover	Rolaids
	Nails	Root beer and extracts
Jewelry	Napkins	Rotisseries
	Notebooks	Rubber bands
Kool aid and similar items	Nursery stock	Salt (water softener)
Kotex and similar items	Nuts (chocolate coated)	Sandwiches (hot or cold)
		Sanitary goods
Laundry products	Pails	School supplies
Lawn furniture	Paint and paint supplies	Scissors
Life savers	Paper products (tissues, plates, cups, towels, napkins and writing paper)	Sewing aids
Light bulbs and fuses		Shampoo and rinse
Lozenges		Shaving supplies
Lunch boxes	Peanuts (candy coated)	Shelf coverings
Lye	Pens and pencils	Shoe laces and polishes
Lysol	Pepto Bismol	Soaps
<u>Magazines</u>	<u>Periodicals</u>	Soda water beverages (2)
Manicure needs	Pet food and supplies	Soft drinks (2)
Mason jars	Plastic utensils	Sponges
Matches	Polishes	Starch
Medicinal preparations	Popcorn (raw or popped)	Stationery
	Popsicles	Steel wool
	Pots and pans	Stockings
	Powder (face and body)	Sun glasses
		Sun tan lotion

Tableware	Toys	Waxes
Taffy apples	Tums	Wax paper
Tape		Wearing apparel
Thermos bottles	Utensils	Wine making supplies
Thread		Wrap (foil and waxed paper)
Tobacco products	Vitamins	Writing supplies
Toilet tissue		
Tonics	Wash cloths	
Tools	Waste baskets	Yogurt bars, cones and sundaes
Tooth brushes	Watches	
Toothpaste and powders	Water (spring and distilled)	
Toothpicks	Water conditioners	Zippers

Tax 11.51(2)(b) Exempt sales by grocers. Gross receipts from the sale of the following are exempt:

Apple cider, sweet	Bread and rolls	Cheese
	Brownies	Chicken
Baby food	Butter	Chinese food
Bakery goods	Cake mixes and flour	Chip dip
Baking chocolate	Cakes, hostess and similar items	Chips, potato, corn and similar items
Baking powder and soda	Canned foods	Chocolate, instant and baking
Barbeque sauces	Catsup	
Berries	Cereal and cereal products	Citrus fruits
Biscuit mix	Certo and other pectins	Cocoa
Boullion cubes		

Coffee and coffee substitutes	Frozen fruits and	Malted milk powder
Condiments	Frozen pizza	Maraschino cherries
Cones, ice cream cups	Frozen TV dinners	Marshmallows
Cookies and crackers	Fruit	Mayonnaise
Cooking oils	Garlic	Meal
Cream	Gelatin	Meat and meat products
Desserts and toppings	Gravy extracts and mixes	Meat extracts and tenderizers
Dietary foods (4)	Grits	Melons
Dinners, frozen	Hash	Meritene
Doughnuts	Honey	Milk and milk products
Dressing	Ice cream, pints or larger	Mustard
Dried fruits	Jams	Newspapers
Dried milk products	Jellies	Noodles
Eggs	Jello	Nuts, except candy coated
Federal food stamp receipts	Juices, pure fruit (3)	Oil, cooking, salad
Fish and fish products	Lobster	Oleomargarine
Flavoring extracts	Luncheon meats	Olives
Flour	Macaroni	Pancake mix
Fritos	Magazines	Peanuts, in shell or canned, salted or not
Frozen desserts		Peanut butter
Frozen fruit juices (3)		

Pepper	Saccharin	Tea and ice tea
Pickles	Salad dressing	Turkey
Pie and pie fillings	Salt and salt substitutes	
Pie crust and mixes	Salted nuts	Vanilla and vanilla
Potato chips	Sardines	extract
Potato salad	Seafoods	Vegetable juices
Poultry and poultry products	Seasonings	Vegetables
Preserves	Sherbet	Vinegar
Pretzels	Shortening	
Puddings	Soup	Waffle mix
	Spaghetti products	
Raisins	Spices	Yeast
Ravioli	Spreads	Yogurt, other than
Relishes	Sugar	par. (a) items
Rice	Sweeteners	
Rolls and biscuits	Syrup	

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

Note: The interpretations in s. Tax 11.51 are effective under the general sales and use tax law on and after September 1, 1969, except that sales of cigarettes became taxable on September 1, 1975 pursuant to Chapter 39, Laws of 1975 when an exemption in s. 77.54(23), Stats., was eliminated, and magazines and periodicals sold over-the-counter became taxable on September 1, 1983 pursuant to 1983 Wisconsin Act 27, which amended s. 77.54(15), Stats.

SECTION 3. Tax 11.95(1) and (2) are repealed and recreated to read:

Tax 11.95(1) For timely reporting sales and use tax collected on their retail sales, retailers may deduct 2% of the first \$10,000 sales and use tax payable during the retailer's tax year, 1% of the second \$10,000 of tax payable and .5% of the sales and use tax payable in excess of \$20,000 each year.

Tax 11.95(2) The retailer's discount is allowed if the taxes are paid on or before the due date of the return, or on or before the expiration of any extension period if one has been granted. The discount is not allowed if the payment is delinquent. It is also not allowed on deficiency determinations, amended returns filed after the due date or consumer's use tax imposed pursuant to s. 77.53(2), Stats.

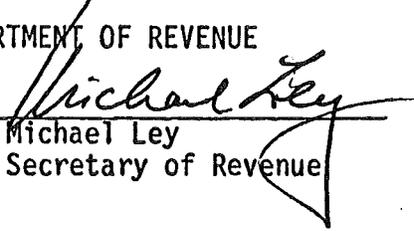
Note to Revisor: The "Note" at the end of the rule should be revised to read as follows:

Note: The interpretations of s. 77.61(4)(b) and (c), Stats., in s. Tax 11.95 are effective for a retailer's taxable year beginning on or after January 1, 1983 pursuant to Chapter 20, Laws of 1981. Effective January 1, 1972 until the effective date of Chapter 20, Laws of 1981 retailers could deduct 1% of the tax payable for each reporting period if the payment was not delinquent. Prior to January 1, 1972 the discount was 2%. Prior to April 1, 1976 persons with a Wisconsin seller's permit were allowed the discount on consumer's use tax paid timely; after that date the discount does not apply.

The rules, amendments and repeals contained in this order shall take effect on the first day of the month following publication as provided by s. 227.026(1) (intro.), Wis. Stats.

Dated: July 10, 1984

DEPARTMENT OF REVENUE

By: 
Michael Ley
Secretary of Revenue



State of Wisconsin \ DEPARTMENT OF REVENUE

July 12, 1984

OFFICE LOCATED AT
125 SOUTH WEBSTER STREET

MAILING ADDRESS
POST OFFICE BOX 8933
MADISON, WISCONSIN 53708

RECEIVED

JUL 13 1984

Orlan L. Prestegard
Revisor of Statutes
411 West, State Capitol
Madison, Wisconsin 53702

Revisor of Statutes
Bureau

Dear Mr. Prestegard:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue amending various sales and use tax rules.

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

Sincerely,

A handwritten signature in cursive script that reads "Michael Ley".

Michael Ley
Secretary of Revenue

ML:em
405201a

Enclosures

cc: Douglas J. LaFollette, Secretary of State
Prentice Hall, Inc.
Commerce Clearinghouse, Inc.