

CR 86-69

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

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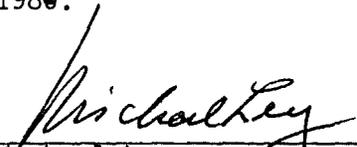
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Revisor of Statutes
Bureau

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. 86-69 was duly approved and adopted by this department on September 4, 1986.

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 4th day of September, 1986.



Michael Ley
Secretary of Revenue

ML:bet
430710

11-7-86

ORDER OF THE DEPARTMENT OF REVENUE
AMENDING AND CREATING RULES

To amend Tax 11.001 (title) and (intro.), 11.32(5)(a), 11.68(title), 11.83(7)(a)1 and 2, 11.92(title), 11.95(title) and (1) and 11.97(title) and to create Tax 11.32(5)(am), 11.68(12), 11.92(1)(d) and 11.97(6) relating to reflecting the effects of the new county sales and use tax law, Chapter 77, Subchapter V, on the sales and use tax rules.

Analysis by the Department of Revenue

Certain counties have adopted ordinances imposing a county sales and use tax under s. 77.70, Stats., effective April 1, 1986. As a result the combined state and county sales and use tax rate in these counties will be 5½% on and after that date. This new 5½% tax rate and other amendments of sales and use tax rules required because of Chapter 77, Subchapter V, the county sales and use tax law, are reflected in this order.

SECTION 1. Section Tax 11.001 has been expanded to include provisions applying the state sales and use tax rules in Chapter Tax 11 to county sales and use taxes.

SECTIONS 2 AND 3. Rule Tax 11.32(5)(a) is amended to indicate the 5% tax is only the state tax. Retailers doing business in any of the counties with a county sales tax are provided a 5½% bracket system in newly created rule Tax 11.32(5)(am). They are required to use this schedule in collecting tax on sales completed in those counties.

SECTIONS 4, 7, 9 and 11. The titles of rules 11.68, 11.92, 11.95 and 11.97 are amended to add references to the county sales and use tax law.

SECTION 5. Section Tax 11.68(12) is created to provide information about the county excise tax imposed on building materials installed by contractors at a job site located within a county that has adopted the county tax.

SECTION 6. Sections Tax 11.83(7)(a)1 and 2 are amended to provide motor vehicle dealers with the measure of the tax to be reported on the dealer's sales tax return filed for personal use of automobiles.

SECTION 8. Rule Tax 11.92(1)(d) is created to reflect s. 77.75, Stats., which provides that every person subject to the county sales and use tax shall keep a record of sales made by county and purchases subject to the use tax in each enacting county.

SECTION 10. Retailers are entitled to a retailer's discount for collecting and remitting timely the county and state sales tax. Section Tax 11.95(1) is amended to reflect the fact that the discount applies to both taxes.

SECTION 12. The activities which do and do not create "nexus" or "doing business in a county" are described in rule Tax 11.97(6).

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. 77.51(4)(j) and (18), 77.52(1), (2)(a)10 and (13), 77.60(8), 77.61(3), (4) and (9), 77.71(3), 77.73, 77.75, 77.76(3), 77.77(3) and 77.785(2), Stats., as follows:

SECTION 1. Tax 11.001 title and (intro.) are amended to read:

Tax 11.001. FOREWORD AND DEFINITIONS. (Subchapters III and V, Chapter 77, Stats.) Chapter Tax 11 is applicable to the state sales and use taxes imposed under subch. III of ch. 77, Stats., and is also applicable to county sales and use taxes authorized under subch. V of ch. 77, Stats.

In this chapter, unless otherwise specified:

SECTION 2. Tax 11.32(5)(a) is amended to read:

Tax 11.32(5)(a). The following bracket system shall be used in computing the amount of the state tax which may be collected from the retailer's customers.

<u>Amount of Taxable Sale</u>	<u>5% Tax Collectible</u>
\$.01 to \$.09	\$.00
.10 to .29	.01
.30 to .49	.02
.50 to .69	.03
.70 to .89	.04
.90 to 1.09	.05

On sales exceeding \$1.00, the state tax equals 5% of each full dollar plus the tax shown above for the applicable fractional part of a dollar.

SECTION 3. Tax 11.32(5)(am) is created to read:

Tax 11.32(5)(am). In counties having a county tax, the following bracket system is used.

<u>Amount of Taxable Sale</u>	<u>Combined State and County Tax of 5½%</u>
\$.01 - \$.09	0¢
.10 - .27	1¢
.28 - .45	2¢
.46 - .63	3¢
.64 - .81	4¢
.82 - .99	5¢
1.00 - 1.18	6¢
1.19 - 1.36	7¢
1.37 - 1.54	8¢
1.55 - 1.72	9¢
1.73 - 1.90	10¢
1.91 - 2.09	11¢

The state and county tax equals 11¢ for each \$2.00 of sales, plus the tax shown above for the fractional part of \$2. Example: For a sale of \$11.50, the 5½% tax is 63¢ (55¢ for \$10 sale plus 8¢ for \$1.50 sale).

SECTION 4. Tax 11.68 (title) is amended to read:

Tax 11.68 CONSTRUCTION CONTRACTORS. (ss. 77.51(4)(intro.), (g) and (i); (11)(intro.) and (c)4; (12)(intro.) and (c)2 and (18); 77.52(2)(a)10; 77.71(3) and 77.77(3), Stats.)

SECTION 5. Tax 11.68(12) is created to read:

Tax 11.68(12). COUNTY TAX ON BUILDING MATERIALS. (a) Section 77.71(3), Stats., imposes an excise tax upon a contractor engaged in construction activities, which includes constructing, altering, repairing or improving real property within a county which has adopted the county tax. The tax is measured by the sales price of the tangible personal property used in constructing, altering, repairing or improving real property which becomes a component part of real property in that county, unless the contractor has paid the county tax of a county in this state on that property.

(b) Building materials which become a component part of real property are used and consumed at the job site.

(c) In providing repair services to real property subject to taxation under s. 77.52(2)(a)10, Stats., a contractor may purchase without county tax for resale the building materials used in providing such taxable services, and the county excise tax imposed under s. 77.71(3) does not apply to such purchases.

(d) Section 77.77(3), Stats., provides that the sales tax under s. 77.71(1), Stats., and the excise tax under s. 77.71(3), Stats., on the sale of building materials to contractors engaged in the business of constructing, altering, repairing or improving real estate for others is not imposed, if the materials are affixed and made a structural part of real estate and the amount payable to the contractor is fixed without regard to the costs incurred in performing a written contract that was irrevocably entered into prior to the effective date of the county ordinance, or that resulted from the acceptance of a formal written bid accompanied by a bond or other performance guaranty that was irrevocably submitted before that date.

(e) The excise tax under s. 77.71(3), Stats., on building materials used in real property construction activities is not imposed if the contractor purchased

the building materials before the effective date of the county tax of that county or has paid the sales tax of another county in this state in purchasing the building materials.

SECTION 6. Tax 11.83(7)(a)1 and 2 are amended to read:

Tax 11.83(7)(a)1. In the case of motor vehicles licensed in the name of the retail dealer, the tax shall be \$2.25 per month until December 31, 1985, \$2.85 per month from January 1, 1986 through December 31, 1986, \$3.45 per month from January 1, 1987 through December 31, 1987 and \$4.15 per month January 1, 1988 and thereafter measure of the tax reported on the dealer's monthly sales and use tax return shall be \$45.00 until December 31, 1985, \$57.00 from January 1, 1986 through December 31, 1986, \$69.00 per month from January 1, 1987 through December 31, 1987 and \$83.00 per month January 1, 1988 and thereafter.

Tax 11.83(7)(a)2. In the case of motor vehicles being operated with retail dealer plates, the tax shall be \$.60 per month until December 31, 1985, \$.75 per month from January 1, 1986 through December 31, 1986, \$.90 per month from January 1, 1987 through December 31, 1987 and \$1.10 per month January 1, 1988 and thereafter measure of the tax reported on the dealer's monthly sales and use tax return shall be \$12.00 per month until December 31, 1985, \$15.00 per month from January 1, 1986 through December 31, 1986, \$18.00 per month from January 1, 1987 through December 31, 1987 and \$22.00 per month January 1, 1988 and thereafter.

SECTION 7. Tax 11.92 (title) is amended to read:

Tax 11.92 RECORDS AND RECORD KEEPING. (ss. 77.52(13), 77.60(8), 77.61(4)(a) and (9), 77.75, Stats.)

SECTION 8. Tax 11.92(1)(d) is created to read:

Tax 11.92(1)(d). Every person subject to the county sales and use tax shall keep a record of sales the person completes in each county enacting an ordinance under s. 77.70, Stats., imposing a county tax, separately from sales made

elsewhere in the state. Every person shall also keep a record of the sales price of items on which the person is subject to county use or excise tax in each enacting county.

SECTION 9. Tax 11.95 (title) is amended to read:

Tax 11.95 RETAILER'S DISCOUNT. (ss. 77.61(4)(b), 77.76(3) and 77.785(2), Stats.)

SECTION 10. Tax 11.95(1) is amended to read:

Tax 11.95(1). For timely reporting state and county sales or 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. Section 77.785(2), Stats., requires dealers to collect and remit the county tax to the state agency which registers or titles a boat, all-terrain vehicle, trailer, semi-trailer, aircraft, motor vehicle, mobile home not exceeding 45 feet in length or snowmobile, and the dealer is entitled to the retailer's discount on these county taxes paid timely.

SECTION 11. Tax 11.97 (title) is amended to read:

Tax 11.97 "ENGAGED IN BUSINESS" IN WISCONSIN. (ss. 77.51(4)(j), (7)(c) and (k) and (7g); 77.53(3), (5), (7), (9) and (9m); 77.73(1) and (2), Stats.)

SECTION 12. Tax 11.97(6) is created to read:

Tax 11.97(6) ACTIVITIES WHICH IN THEMSELVES DO AND DO NOT CREATE "NEXUS" FOR COUNTY SALES TAX PURPOSES. The activities described in sub. (3) which create "nexus" for state sales tax purposes also create "nexus" for county sales tax purposes if the activities take place in a county which has adopted the tax. The activities in sub. (4) which do not create "nexus" for state sales tax purposes also do not create "nexus" for county sales tax purposes, even if the activities take place in a county which has adopted the tax.

The rule contained in this order shall take effect as provided by
s. 227.026(1)(intro.), Wis. Stats.

Dated: September 4, 1986

DEPARTMENT OF REVENUE

By: Michael Ley
Michael Ley
Secretary of Revenue



State of Wisconsin \ DEPARTMENT OF REVENUE

INCOME, SALES, INHERITANCE AND EXCISE TAX DIVISION

125 SOUTH WEBSTER STREET
(608) 266-1911

September 4, 1986

ADDRESS MAIL TO
POST OFFICE BOX 8933
MADISON, WISCONSIN 53708

Orlan L. Prestegard
Revisor of Statutes
30 West Mifflin Street, Suite 904
Madison, Wisconsin 53703

Re: Clearinghouse Rule 86-69

Dear Mr. Prestegard:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue adopting rules relating to county sales and use taxes.

These materials are filed with you pursuant to s. 227.20, Wis. Stats.

Sincerely,

Michael Ley
Secretary of Revenue

ML:bet
Enclosure
430810

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