

ORDER OF THE DEPARTMENT OF REVENUE
CREATING RULES

The Wisconsin Department of Revenue adopts an order to create section Tax 11.535 relating to the requirement that operators of swap meets, craft fairs, flea markets and similar events identify vendors at these events for sales and use tax purposes.

Analysis by the Department of Revenue

Statutory authority: secs. 73.03(38) and 227.11(2)(a), Stats.

Statutes interpreted: sec. 73.03(38), Stats.

Related statutes administered: sec. 77.52(1) and (7), Stats.

This rule order pertains to sales and use taxation. It defines terms, clarifies requirements and establishes a time standard and a form for the reports required under s. 73.03(38), Stats., which was enacted as SECTION 272m of 1987 Wisconsin Act 399. Section 73.03(38), Stats., requires operators of swap meets, flea markets, craft fairs and similar events, as defined by rule, to report to the Department of Revenue the name, address, social security number and, if available, the seller's permit number of each vendor selling merchandise at these events.

SECTION 1. s. Tax 11.535 is created to read:

Tax 11.535 OPERATORS OF A SWAP MEET, FLEA MARKET, CRAFT FAIR OR SIMILAR EVENT (s. 73.03(38), Stats.) (1) PURPOSE. This section clarifies requirements and establishes a time standard for the reports required under s. 73.03(38), Stats., which authorizes the department to require operators of swap meets, flea markets, craft fairs and similar events to report to the department specific identifying information of each vendor selling merchandise at these events.

(2) DEFINITIONS. In this section: (a) "Event" means an occurrence, occasion, activity, or function at which merchandise is sold or traded.

(b) "Operator" means a person who, or an entity such as an association, partnership, corporation, or nonprofit organization, which arranges, organizes, promotes or sponsors an event.

(c) "Selling merchandise" means the sale, rental, lease, exchange, trade or barter of, or taking orders for merchandise, goods, or products for money or other consideration, or both.

(d) "Similar events" means events which are similar to swap meets, flea markets and craft fairs and includes tradeshow, carnivals, fairs and fund-raising events.

(e) "Vendor" means a person or entity selling merchandise at retail at an event. An operator might also be a vendor at an event.

(3) REPORT REQUIRED. Each operator shall furnish to the department within 10 days following the close of an event, the name of the event; the date or dates and location of the event; and the real name, business name, address, social security number and, if available, the seller's permit number of each vendor at the event.

(4) FORMS. Operators shall report the information required by sub. (3) on forms provided by the department or in a format similar to that form.

NOTE: Copies of the reporting form may be obtained at any Department of Revenue office, by calling (608) 266-2776, or by writing to: Wisconsin Department of Revenue, Post Office Box 8902, Madison, Wisconsin 53708.

(5) ALTERNATIVE REPORTING METHOD. Operators of continuing or successive events may report all vendors for each event or may report under an alternative method approved by the department. Any operator may request approval from the department of an alternative method of reporting which will provide the department with the required information on all vendors at each event. The request shall be made in writing to: Wisconsin Department of Revenue, Operator/Vendor Program, Post Office Box 8902, Madison, Wisconsin 53708. It shall list the dates and locations of events to be held during the calendar year and the proposed method for reporting the information required.

This rule shall take effect on the first day of the month following publication as provided in s. 227.22(2)(intro.), Stats.

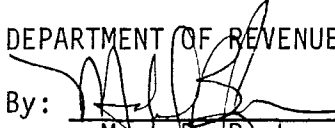
April 20, 1990

Final Regulatory Flexibility Analysis

Section 73.03(38), Wis. Stats., places a reporting requirement on event operators, which may include small businesses. Compliance with the reporting requirements will result in operators having to spend time obtaining and forwarding information to the department. Further, vendors who become registered as a result of this reporting will have some additional paperwork in accounting for and paying sales taxes; the majority of vendors will probably consist of small businesses. The reporting requirements imposed by sec. 73.03(38), thus, have an economic impact on those involved; however, the rule itself only provides for implementation of the statutory requirements and by itself does not have a significant negative economic impact on a substantial number of small businesses.

Under rule Tax 11.10(5)(c), vendors with taxable sales of less than \$1,000 in a calendar year are not required to register, nor are their sales subject to the sales and use tax. Under s. 77.61(4)(c), Stats., vendors who do register are compensated for administrative work related to collecting, accounting for, and remitting the sales and use tax. Furthermore, this rule will help to place vendors selling merchandise at itinerant events, who currently do not register to collect sales tax but will become registered as a result of compliance with the statute and rule, at the same competitive level as vendors who already register.

Dated: April 24, 1990

DEPARTMENT OF REVENUE
By: 
Mark D. Bugher
Secretary of Revenue

FISCAL ESTIMATE

DOA-2048 (R 10/88)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

Subject Reporting Requirements of Operators of Swap Meets,
Craft Fairs, Flea Markets and Similar Events

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation
or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb
Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 Counties Others _____

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This rule establishes procedures by which operators of swap meets, craft fairs, flea markets and similar events report to the Department of Revenue identifying information of each vendor selling merchandise at their events. These reporting requirements were created by 1987 Wisconsin Act 399. Since the rule simply provides the means for implementing current statutory law, it has no fiscal effect.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
 Wisconsin Department of Revenue
 Dennis Collier, 266-9706

Authorized Signature/Telephone No. 266-2700

Date

Harriet M. Deuss

4/21/89



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466

Tommy G. Thompson
Governor

Mark D. Bugar
Secretary of Revenue

RECEIVED

APR 26 1990

Revisor of Statutes
Bureau

April 25, 1990

Gary L. Poulson
Assistant Revisor
30 West Mifflin Street, Suite 702
Madison, Wisconsin 53703

Re: Clearinghouse Rule 89-90

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to the reporting requirements of operators of swap meets, flea markets, craft fairs, and similar events for sales and use tax purposes.

These materials are filed with you pursuant to s. 227.20 (1), Wis. Stats.

Sincerely,

Mark D. Bugar
Secretary of Revenue

MDB:VLG:lc
LEG/M021100K

Enclosure

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



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-8466

Tommy G. Thompson
Governor

RECEIVED

Mark D. Bugher
Secretary of Revenue

April 25, 1990

APR 26 1990

Revisor of Statutes
Bureau

Douglas LaFollette
Secretary of State
30 West Mifflin Street, 10th Floor
Madison, WI 53703

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 89-90.

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

Sincerely,

Mark D. Bugher
Secretary of Revenue

MDB:VLG:1c
LEG/M021100J

Enclosure

cc: Revisor of Statutes