

CR 90-123

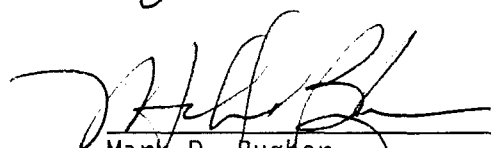
CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

I, Mark D. Bugher, Secretary of the Department of Revenue and custodian of the official records certify that the annexed rule, relating to sales to and by elementary and secondary schools and related organizations was duly approved and adopted by this department on July 29, 1991.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 29th day of July, 1991.



Mark D. Bugher
Secretary of Revenue

MDB:VLG:eem
CKLEG/EEM3040R

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10-1-91

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

The Wisconsin Department of Revenue adopts an order to renumber Tax 11.03(2)(a)4; to amend Tax 11.03(title), (1)(a), (2)(a)3, (3)(a) and (4)(c); to repeal and recreate Tax 11.03(2)(b); and to create Tax 11.03(2)(a)4, relating to sales to and by elementary and secondary schools and related organizations.

Analysis by the Department of Revenue

Statutory authority: s. 227.11(2)(a), Stats.

Statutes interpreted: ss. 77.52(2)(a) and 77.54(4), (9) and (9a), Stats.

SECTION 1. Tax 11.03(title) is amended to add s. 77.52(2)(a), Stats., which relates to taxable services (see SECTION 4). Tax 11.03(1)(a) and (2)(a)3 are amended to update language and clarify the department's position that not all rentals of auditoriums and gymnasiums by a school are exempt from tax.

SECTION 2 AND 3. Tax 11.03(2)(a)4 is renumbered and new subd. 4 is created to clarify that the rental of auditoriums or gymnasiums for resale is exempt from tax.

SECTION 4. Tax 11.03(2)(b) is repealed and recreated to clarify that services subject to tax by schools include taxable services under s. 77.52(2)(a), Stats., and that rental of auditoriums and gymnasiums is taxable if used by persons for self-enjoyment rather than for resale. Ball fields are added to the list of recreational facilities.

SECTION 5. Tax 11.03(3)(a) and (4)(c) are amended to update language per Legislative Council Rules Clearinghouse standards.

SECTION 1. Tax 11.03(title), (1)(a) and (2)(a)3 are amended to read:

Tax 11.03(title) ELEMENTARY AND SECONDARY SCHOOLS AND RELATED ORGANIZATIONS.

(ss. 77.52(2)(a) and 77.54(4), (9) and (9a), Stats.)

(1)(a) In this ~~rule~~ section, elementary school means a school providing any of the first 8 grades of a 12 grade system and kindergarten where applicable.

Secondary school means a school providing grades 9 through 12 of a 12 grade system and includes the junior and senior trade schools described in s. 119.30, Stats.

(2)(a)3 Rental of auditoriums or gymnasiums, including any charges for lights, heat, janitor fees and equipment, when used for other than recreational, athletic, amusement or entertainment purposes.

Example: A school auditorium is rented to a religious group which conducts a religious revival. The gross receipts from the rental are exempt.

SECTION 2. Tax 11.03(2)(a)4 is renumbered Tax 11.03(2)(a)5.

SECTION 3. Tax 11.03(2)(a)4 is created to read:

Tax 11.03(2)(a)4 Rental of auditoriums or gymnasiums, including any charges for lights, heat, janitor fees and equipment, when used by a promoter or professional group which will sell admissions to the public for recreational, athletic, amusement or entertainment purposes.

Examples: (1) A school gymnasium is rented to a professional basketball team which will sell tickets to the event. The gross receipts from the rental are exempt.

(2) A school auditorium is rented to a popular band for one night. The band will sell tickets to its performance. The gross receipts from the rental are exempt.

SECTION 4. Tax 11.03(2)(b) is repealed and recreated to read:

Tax 11.03(2)(b) Sales by elementary or secondary schools, the gross receipts from which are taxable, include:

1. Admissions to recreational facilities, such as golf courses, swimming pools, ball fields and gymnasiums which are open to the general public for recreational purposes.

2. Rental of auditoriums or gymnasiums, including any charges for lights, heat, janitor fees and equipment, when used by persons for their own recreation, entertainment or amusement where there is no charge for admission.

Example: A local neighborhood group rents the school gymnasium for its residents to play volleyball. The neighborhood group does not charge its residents to play volleyball. The gross receipts from the rental are taxable. If the group charged an entry fee to play volleyball, the gross receipts from the rental of the gymnasium are not taxable because the rental is for resale.

3. Taxable services under s. 77.52(2)(a), Stats., such as parking and repair services.

Example: A school sponsors an athletic tournament and charges \$1 for parking. The gross receipts from parking are taxable.

SECTION 5. Tax 11.03(3)(a) and (4)(c) are amended to read:

Tax 11.03(3)(a) The sale of class rings, photographs or caps and gowns rented or sold to students by retailers or photographers whereby the school acts as a collection agent for the seller, whether or not the school receives a commission for such the collection. The retailer ~~(e.g., a,~~ such as a photographer), is subject to the tax on these sales.

(4)(c) Related organizations of private or public schools having certificates of exempt status. ~~Such organizations include,~~ such as parent-teacher associations and student organizations.

The rules contained in this order shall take effect on the first day of the month following publication as provided in s. 227.22(2)(intro.), Stats.

Final Regulatory Flexibility Analysis

The rule order does not have a significant economic impact on a substantial number of small businesses.

Dated: July 29, 1991

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

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FISCAL ESTIMATE

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

DOA-2048 (R 10/88)

Subject

Rules Relating to Sales and Use Tax Treatment of Schools

Fiscal Effect

State: No State Fiscal Effect

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

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

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

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

The rule clarifies longstanding Department of Revenue positions on the rental of school facilities and the sale of taxable services by elementary and secondary schools, and updates language in conformance with Legislative Rules Clearinghouse standards. It has no fiscal effect.

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Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Wisconsin Department of Revenue
Dennis Collier, 266-9706

Authorized Signature/Telephone No. 266-2700

Harriet M. Deuss

Date

6/4/90

FISCAL ESTIMATE WORKSHEET

1989 Session

Detailed Estimate of Annual Fiscal Effect ORIGINAL UPDATED
 DOA-2047(R 10/88) CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Amendment No.
 Tax 11.03

Subject: Rules Relating to Sales and Use Tax Treatment of Schools

I. One-time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
Note: Treat fiscal costs like a "checkbook": increased costs reduce available funds (-); decreased costs increase available funds (+).			
A. State Costs by Category			
Salaries and Fringes		\$ -	\$ +
Staff Support Costs		-	+
Other State Costs		-	+
Local Assistance		-	+
Aids to Individuals or Organizations		-	+
TOTAL State Costs by Category		\$ -	\$ +
B. State Costs by Source of Funds			
GPR		\$ -	\$ +
FED		-	+
PRO/PRS		-	+
SEG/SEG-S		-	+
C. FTE Position Changes		Increased Pos. + ()	Decreased Pos. - ()
III. State Revenues-			
Complete this only when proposal will increase or decrease state revenues, such as taxes, license fees, etc.			
GPR Taxes		\$ -	\$ +
GPR Earned		-	+
FED		-	+
PRO/PRS		-	+
SEG/SEG-S		-	+
TOTAL State Revenues		\$ -	\$ +

Net Annualized Fiscal Impact on State & Local Funds

State	Annual Increases	Annual Decreases	Local	Annual Increases	Annual Decreases
Total Costs	\$ -	\$ +	Total Costs	\$ -	\$ +
Total Revenues	+	-	Total Revenues	+	-
NET Impact on State Funds			NET Impact on Local Funds		
\$ (+) or None (-)			\$ (+) or None (-)		

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

Authorized Signature/Telephone No. 266-2700 Date
Margaret M. Deane 6/4/90



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

July 29, 1991

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Gary L. Poulson
Assistant Revisor
2nd Floor
119 Martin Luther King, Jr. Blvd.
Madison, Wisconsin 53703

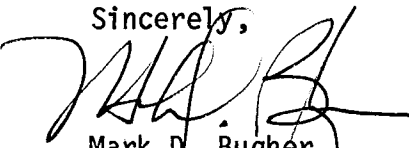
Re: Clearinghouse Rule 90-123

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to sales to and by elementary and secondary schools and related organizations.

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

Sincerely,



Mark D. Bugher
Secretary of Revenue

MDB:VLG:eem
CKLEG/EEM3040Q

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 ● 608-266-6466 ● FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

July 29, 1991

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

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 90-123.

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

Sincerely,

Mark D. Bugher
Secretary of Revenue

MDB:VLG:eem
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Enclosure

cc: Revisor of Statutes

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