

retail in this state, to collect use tax for the convenience of customers, or to report use tax; and to establish time limits within which the department will act on the application.

(2) **PERMITS AND CERTIFICATES REQUIRED.** (a) *Seller's permit.* Every individual, partnership, corporation or other organization making retail sales or rentals of tangible personal property or selling, performing or furnishing taxable services at retail in Wisconsin shall have a seller's permit for each place of operation, unless the seller is exempt from taxation.

Note: A nonprofit organization's gross receipts are exempt from taxation if it meets the requirements under s. 77.54 (7m), Stats. Also see s. Tax 11.35.

(b) *Use tax registration certificate.* Every out-of-state retailer engaged in business in this state and not required to hold a seller's permit or who is not engaged in business in this state but elects to collect use tax for the convenience of its Wisconsin customers shall have a use tax registration certificate.

(c) *Consumers use tax registration certificate.* Every person not required to have a seller's permit or use tax registration certificate who regularly has use tax obligations because purchases are made without sales or use tax being charged by the seller shall have a consumers use tax registration certificate.

(3) **APPLICATION FOR SELLER'S PERMIT OR USE TAX CERTIFICATES.** A person required to have a seller's permit or one of the use tax certificates described in sub. (2) shall file an "Application for Permit", form A-101, with the department at the address shown on the form. The application shall include all information and fees required and shall be signed by the appropriate person described on the form. Security, as described in s. Tax 11.925, may be required.

Note: Form A-101 may be obtained at any department office, or by writing or calling: Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708, telephone (608) 266-2776.

(4) **REVIEW AND ACTION BY DEPARTMENT.** The department shall review and make a determination on an application for a seller's permit or use tax certificate described in sub. (2) within 15 business days from the day the application is received by the department. For this purpose, a determination is made on the day whichever of the following events occurs first:

(a) The approved permit is mailed by the department to the applicant, or

(b) The department mails notification to the applicant that security is required or that the application is incomplete, incorrect or more information is needed. The 15-day period shall reapply from the day all information necessary to make a determination, including payment of a required fee, or payment of security is received by the department, or

(c) A notification of denial of the application with explanation for the denial is mailed by the department to the applicant.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; am. (2) (a), (3), and (4) (intro.), Register, March, 1991, No. 423, eff. 4-1-91.

Tax 11.01 Sales and use tax return forms. (ss. 77.58 and 77.75, Stats.)
(1) For filing sales and use tax returns, the following forms shall be used:

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(a) Form MV-1. A department of transportation form for occasional and dealer sales of motor vehicles, mobile homes, trailers and semi-trailers.

(b) Form S-012. Also called form ST-12. The monthly, quarterly or annual return for each person holding a Wisconsin seller's permit, use tax registration certificate or consumer's use tax registration certificate.

(c) Form S-013. The annual return for concessionaires and temporary sellers.

(d) Form S-014. The individual event permit and return for concessionaires and temporary sellers.

(e) Form SU-002. For occasional and dealer sales of boats, snowmobiles and all-terrain vehicles.

(f) Form SU-050. Also called form UT-5. For consumers other than persons holding a Wisconsin seller's permit, use tax registration certificate or consumer's use tax registration certificate.

(g) Form AR-1. A department of transportation form for occasional and dealer sales of aircraft.

(h) Form S-108. Also called form ST-12X. The amended sales and use tax return for filing refund claims or reporting additional taxes for prior periods.

(2) Forms required to be filed with the department shall be filed by mailing them to the address specified on the forms or by delivering them to 4638 University Avenue, Madison, Wisconsin.

Note: Forms may be obtained by writing or calling: Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708, telephone (608) 266-2776.

History: Cr. Register, February, 1978, No. 266, eff. 3-1-78; am. (1) (a), r. (1) (d), cr. (1) (m), Register, January, 1983, No. 325, eff. 2-1-83; r. and recr., Register, March, 1991, No. 423, eff. 4-1-91; r. (1) (e), renum. renum. (1) (f) to (i) to be (1) (e) to (h), Register, January, 1992, No. 433, eff. 2-1-92.

Tax 11.03 Elementary and secondary schools and related organizations. (ss. 77.52 (2) (a) and 77.54 (4), (9) and (9a), Stats.) (1) DEFINITIONS. (a) In this 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.

(b) Elementary and secondary schools include parochial and private schools not operated for profit which offer any academic levels comparable to those described in par. (a) and which are educational institutions having a regular curriculum offering courses for at least 6 months in the year.

(c) Elementary or secondary schools do not include flying schools, driving schools, art schools, music schools, dance schools, modeling schools, charm schools, or similar schools which do not offer systematic instruction of the scope and intensity common and comparable to elementary and secondary schools.

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(c) Antiembolism elastic hose and stockings prescribed by a physician and sold to the ultimate consumer.

(d) Artificial limbs, artificial eyes, hearing aids and batteries, colostomy, ileostomy and urinary appliances, artificial breast forms, pace-makers, and other equipment worn as a correction or substitute for any functioning part of the body. This exemption shall not apply to wigs or hair pieces, to garments designed to restrict or enhance the body shape for cosmetic purposes, nor to breathing therapy units which are not "worn" by a person.

(e) Crutches and wheelchairs including motorized wheelchairs and scooters for use by persons who are ill or disabled, open and closed end walkers with or without casters and canes which provide walking support by making contact with the ground at more than one point.

(f) Apparatus or equipment for the injection of insulin or treatment of diabetes and supplies used to determine blood sugar level.

(g) Equipment used to administer oxygen for medical purposes if the patient has a prescription for oxygen written by a person authorized to prescribe oxygen. The exemption for oxygen equipment applies to oxygen carts acquired for use by patients with a prescription for oxygen.

(h) Parts for and services to the exempt items listed in this subsection.

(4) **MEDICARE CLAIMS.** The administrator of Medicare claims, such as surgical care-blue shield, is under contract to withdraw funds from the United States treasury to pay the providers of medical services or for medical supplies and equipment. If the provider of a taxable item bills the administrator directly in full or in part, the sale shall be a tax exempt sale to the United States. If the provider of a taxable item bills an individual in full or in part who then seeks reimbursement from Medicare, the sale shall not be an exempt sale to the United States.

Note: The interpretations in s. Tax 11.45 are effective under the general sales and use tax law, on and after September 1, 1969, except: (a) Charges for oxygen equipment became exempt September 1, 1983, pursuant to 1983 Wis. Act 27; (b) Charges for motorized wheelchairs and scooters became exempt September 1, 1985, pursuant to 1985 Wis. Act 29; (c) Charges for apparatus or equipment for the injection of insulin or the treatment of diabetes and supplies used to determine blood sugar level became exempt March 1, 1989, pursuant to 1987 Wis. Act 399; and (d) Charges for antiembolism elastic hose and stockings prescribed by a physician became exempt October 1, 1989, pursuant to 1989 Wis. Act 31.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76; r. (2) (c) 5., am. (3) (intro.) and (e), Register, September, 1984, No. 345, eff. 10-1-84; am. (3) (d), Register, July, 1987, No. 379, eff. 8-1-87; am. (3) (a) and (b) and (4), cr. (3) (e), renum. (3) (c) to (3) (d), renum. (3) (d) to (3) (e), renum. (3) (e) to (3) (f) and (g) and am., renum. (3) (f) to (3) (h), Register, March, 1991, No. 423, eff. 4-1-91.

Tax 11.46 Summer camps. (ss. 77.52 (1) and (2) (a) 1 and 77.54 (7m), Stats.) (1) **DEFINITIONS.** In this section:

(a) "Agency camps" means camps operated by corporations or associations organized and operated exclusively for religious, charitable or educational purposes when no part of the net earnings inure to the benefit of any private shareholder or individual.

Example: The YMCA and Boy Scouts of America are agency camps.

(b) "Private camps" means all other camps including those camps organized and operated with the expectation of profit, whether or not profit is actually realized.

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(2) **TAXABLE RECEIPTS.** Receipts from the following are taxable unless sub. (4) applies:

(a) Meals or other tangible personal property sold by agency camps or private camps.

(b) Lodging provided by private camps for a continuous period of less than one month.

(3) **EXEMPT RECEIPTS.** Receipts from the following are exempt:

(a) All lodging provided by agency camps.

(b) Lodging provided by private camps for a continuous period of one month or more.

(c) Groceries sold to campers, such as for cookouts.

(4) **OCCASIONAL SALES.** (a) Gross receipts from the sale of tangible personal property or taxable services by agency camps not engaged in a trade or business and not otherwise required to hold a seller's permit are exempt from Wisconsin sales tax if entertainment as defined in s. 77.54 (7m) Stats., is not provided.

(b) An agency camp is not engaged in a trade or business if its sales of otherwise taxable tangible personal property or services or its events occur on 20 days or less during the calendar year or if its taxable receipts for the calendar year are \$15,000 or less.

Note: See Wisconsin publication 206, sales tax exemption for nonprofit organizations, for more detailed information about when one is engaged in a trade or business or required to hold a seller's permit.

(5) **COMBINED CHARGE.** An allocation between taxable and exempt receipts shall be made when a single, combined, charge is made for all the privileges extended by a camp. Adequate records shall be kept and maintained to enable the proper allocation; otherwise, the total charge shall be taxable.

(a) If there is no separate charge for meals, gross receipts from the sale of meals may be determined by adding 10% to the cost of the food and labor for food preparation to cover the overhead costs.

(b) If there is no separate charge for lodging, gross receipts from lodging furnished by private camps to any person residing for a continuous period of less than one month shall be presumed to be \$5 per person per night.

Note: The interpretations in s. Tax 11.46 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The provisions of sub. (4) became effective January 1, 1989, pursuant to 1987 Wis. Act 399; and (b) The amount shown in sub. (5) (b) became effective January 1, 1991. From September 15, 1970 to December 31, 1990, the rate was \$3 per person per night and prior to September 15, 1970, the rate was \$2 per person per night.

History: Cr. Register, September, 1977, No. 261, eff. 10-1-77; am. (1) (intro.) and (a) and (2) (intro), cr. (4), renum. (4) to be (5) and am., Register, June, 1991, No. 426, eff. 7-1-91.

Tax 11.47 Commercial photographers and photographic services. (ss. 77.51 (13) (e) and (f) and (14) (L), 77.52 (2) (a) 7, (2m) (b) and (13), 77.53 (10) and 77.54 (2), Stats.) (1) **TAXABLE GROSS RECEIPTS.** Taxable services and sales of tangible personal property of commercial photographers and others providing photographic services, including video taping, include gross receipts from:

(a) Taking, reproducing and selling photographs and video tapes.

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- (b) Processing, developing, printing and enlarging film.
- (c) Enlarging, retouching, tinting or coloring photographs.
- (d) Processing exposed film into color transparencies, mounted or unmounted.
- (e) Reproducing copies of documents, drawings, photographs, video tapes or prints by mechanical and chemical reproduction machines, blue printing and process camera equipment.
- (f) Sales of photographs to students through schools, even though school personnel may participate by collecting payments from students.

(2) AMOUNTS INCLUDED IN GROSS RECEIPTS. (a) Gross receipts subject to the tax include charges for photographic and video materials, time and talent.

(b) Modeling fees, mileage charges, equipment rental and charges for props or similar items made by photographers shall not be deducted from gross receipts subject to the tax, whether or not these charges are separately itemized on the billing to a customer.

(3) PURCHASES BY PERSONS PROVIDING PHOTOGRAPHIC SERVICES. (a) Commercial photographers and others providing photographic services, including video taping, may purchase, without paying sales or use tax, any item which will be resold or which becomes a component part of an article destined for sale if a properly completed resale exemption certificate is given the seller. These items include:

1. Mounts, frames and sensitized paper used in the finished photograph and transferred to the customer.
2. Video tapes and film, including colored transparencies and movie film, in which the negative and the positive are the same, and are permanently transferred to a customer as part of the taxable photographic service.
3. Containers, labels or other packaging and shipping materials used to transfer merchandise to customers.

(b) Photographers and others providing photographic services, including video taping, are required to pay tax when purchasing tangible personal property which is used, consumed or destroyed in providing photographic services. These items include:

1. Chemicals.
2. Trays.
3. Film, other than exempted in par. (a) 2.
4. Plates.
5. Proof paper.
6. Cameras.
7. Other photographic equipment.
8. Video tape, other than exempted in par. (a) 2.

(c) If a photographer or other person providing photographic services, including video taping, gives a resale certificate for property to a seller and then uses the property for a taxable purpose, the photographer or other person providing photographic services shall be liable for use tax at the time the property is first used in a taxable manner.

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Note: The interpretations in s. Tax 11.47 are effective under the general sales and use tax law on and after September 1, 1969, except the exemption for property resold by a photographer is effective September 1, 1983, pursuant to 1983 Wis. Act 27.

History: Cr. Register, September, 1977, No. 261, eff. 10-1-77; am. (3) (a) (intro.), 2. and (b) 3., cr. (3) (c), Register, March, 1991, No. 423, eff. 4-1-91; am. (1) (intro.), (a) and (e), (2) (a), (3) (a) (intro.), 2., (b) (intro.) and 3. and (c), cr. (3) (b) 8., Register, January, 1992, No. 433, eff. 2-1-92.

Tax 11.48 Landlords, hotels and motels. (ss. 77.51 (4) (c) 6 and (13) (n), 77.52 (2) (a) 1, 2 and 9 and (2m) and 77.54 (36), Stats.) (1) **LANDLORDS.** (a) Landlords are the consumers of household furniture, furnishings, equipment, appliances or other items of tangible personal property purchased by them for use by their tenants in leased or rented living quarters. The sales and use tax applies to a landlord's purchases of all these items. The gross receipts from a landlord's charges to the tenant for use of these items are not subject to the tax even though there may be a separate charge for them.

(b) The gross receipts from providing parking space for motor vehicles and aircraft and from providing docking and storage space for boats are taxable. If a separate charge is made for the parking, docking or storage space, the charge is taxable. However, if a separate charge is not made and the price of a rental unit includes a charge for a parking, docking or storage space, and if similar units are rented at a reduced price if the parking, docking or storage space is not utilized, the difference between the rental price of the 2 similar units is taxable as a charge for parking, docking or storage.

(c) 1. The furnishing of rooms or lodging through the sale of a time-share property, as defined in s. 707.02 (32), Stats., is taxable if the use of the rooms or lodging is not fixed at the time of the sale as to the starting day or the lodging unit, and is for a continuous period of less than one month.

2. The sale, furnishing or use of recreational facilities on a periodic basis and of other recreational rights, including membership rights, vacation services and club memberships, with respect to time-share property, is taxable.

Example: The charges for access to ski hills, golf courses, health clubs, swimming pools and similar recreational facilities with respect to time-share property are taxable.

(d) The rental of a mobile home, as defined in s. 66.058 (1) (d), Stats., used for lodging for a continuous period of one month or more is exempt from the sales and use tax, whether the mobile home is classified as real or personal property.

(2) **HOTELS AND MOTELS.** The furnishing of rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations to the public, regardless of whether membership is required for use of the accommodations, is a taxable service.

(a) "Transient" means any person residing at one location for a continuous period of less than one month. A continuing monthly rental of a particular room or rooms by a business, including a trucking company, railway or airline, to be used by its employees for layover is not taxable.

(b) The rental of space for meetings, conventions and similar activities is not taxable. However, the rental of hotel or motel rooms generally used as sleeping accommodations is taxable, regardless of the type of use.

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