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

The Wisconsin Department of Revenue proposes an order to repeal Tax 11.01(1)(e); to renumber Tax 11.01(1)(f), (g), (h) and (i); to amend Tax 11.47 (title), (1)(intro.), (a) and (e), (2)(a) and (3)(a)(intro.) and 2, (b)(intro.) and 3 and (c); and to create Tax 11.47(3)(b)8, relating to sales and use taxes.

Analysis by the Department of Revenue

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

Statutes interpreted: ss. 77.51(13)(e) and (f) and (14)(L), 77.52(2)(a)7, (2m)(b) and (13), 77.53(10), 77.54(2), 77.58 and 77.75, Stats.

SECTIONS 1 and 2. Tax 11.01(1)(e) is repealed to delete a reference to the obsolete Form S-174, which was used for determination of taxable status of sellers at an event. Accordingly, pars. (f), (g), (h) and (i) are renumbered (e), (f), (g) and (h).

SECTIONS 3 and 5. Tax 11.47(title), (1)(intro.), (a) and (e), (2)(a) and (3)(a)(intro.) and 2, (b)(intro.) and 3 and (c) are amended to correct punctuation, update language per Clearinghouse standards, and reflect that video taping is a photographic service subject to Wisconsin sales tax.

SECTION 4. Tax 11.47(3)(b)8 is created to reflect that persons providing photographic services are required to pay Wisconsin sales tax when purchasing video tape other than that specifically exempted.

SECTION 1. Tax 11.01(1)(e) is repealed.

SECTION 2. Tax 11.01(1)(f), (g), (h) and (i) are renumbered Tax 11.01(1)(e), (f), (g) and (h).

Note to Revisor: Delete the second "Wisconsin" in the address given in the note at the end of s. Tax 11.01, and substitute "WI" for it.

SECTION 3. Tax 11.47(title), (1)(intro.), (a) and (e), (2)(a) and (3)(a)(intro.) and 2 and (b)(intro.) and 3 are amended to read:

Tax 11.47(title) 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)(intro.) 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.

(e) Reproducing copies of documents, drawings, photographs, video tapes or prints by mechanical and chemical reproduction machines, blue printing and process camera equipment.

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

(3)(a)(intro.) 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. ~~Such~~ These items include:

2. ~~Film~~ 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.

(b)(intro.) 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. ~~Such~~ These items include:

3. Film, other than exempted in ~~sub--(3)~~ par. (a)2.

SECTION 4. Tax 11.47(3)(b)8 is created to read:

Tax 11.47(3)(b)8. Video tape, other than exempted in par. (a)2.

SECTION 5. Tax 11.47(3)(c) is amended to read:

Tax 11.47(3)(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.

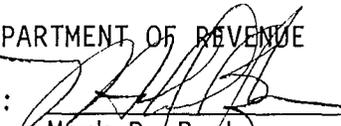
The rules contained in this order shall take effect on the first day of the month following publication as provided in s. 227.22(2)(intro.), Stats.

Initial Regulatory Flexibility Analysis

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

Dated: April - 19, 1991

DEPARTMENT OF REVENUE

By: 

Mark D. Bugher
Secretary of Revenue

CKLEG/719

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LRB or Bill No./Adm. Rule No.
Tax 11.01, 11.47
Amendment No. if Applicable

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

FISCAL ESTIMATE

DOA-2048 (R11/90)

Subject
Sales Tax Treatment of Video Taping; Miscellaneous Rule Changes

Fiscal Effect
State: No State Fiscal Effect
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

<input type="checkbox"/> Increase Existing Appropriation	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Decrease Existing Appropriation	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Decrease Costs	

Local: No local government costs

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> VTAE Districts
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	Affected Ch. 20 Appropriations
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Assumptions Used in Arriving at Fiscal Estimate

The proposed rule clarifies existing sales and use tax treatment of video taping, deletes a reference to an obsolete form and updates language and style to conform with Legislative Council 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 <i>Margaret A. Dennis</i>	Date 5/13/91
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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. Bugar
Secretary of Revenue

November 20, 1991

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

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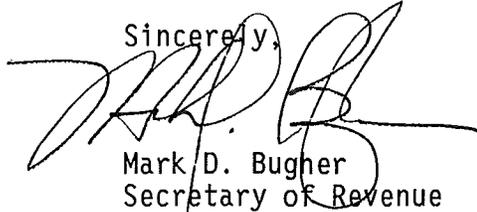
Re: Clearinghouse Rule 91-79

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 and use tax.

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

Sincerely,



Mark D. Bugar
Secretary of Revenue

MDB:MPW:1c
CKLEG/832

Enclosure

cc: Douglas J. LaFollette, Secretary of State
Commerce Clearing House, Inc.
Maxwell Macmillan



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6468 ● FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

November 20, 1991

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

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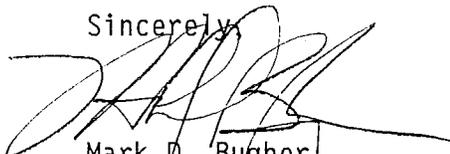
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Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 91-79.

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

Sincerely,



Mark D. Bugher
Secretary of Revenue

MDB:MPW:1c
CKLEG/831

Enclosure

cc: Revisor of Statutes