

(g) Cutting lumber to specifications and producing cabinets, counter tops or other items from lumber for customers, often called "millending."

(h) Cutting or crushing stones, gravel or other construction materials.

(i) Drying, planing or ripping lumber.

(j) Dyeing or fireproofing fabric.

(k) Fabricating steel which may involve cutting the steel to length and size, bending and drilling holes in the steel to specifications of a particular construction job.

(l) Firing of ceramics or china.

(m) Heat treating or plating.

(n) Laminating identification cards.

(o) Making a fur coat from pelts, gloves or a jacket from a hide.

(p) Making curtains, drapes, slip covers or other household furnishings.

(q) Production of a sound recording or motion picture.

(r) Retreading tires.

(s) Tailoring a suit.

(t) Threading pipe or welding pipe.

(3) PURCHASES BY FABRICATORS OR PROCESSORS. Persons providing fabricating, processing and printing services, including those services listed in sub. (2), may qualify as manufacturers. If the service provider qualifies as a manufacturer as provided in s. 77.54 (6m), Stats., the following items may be purchased by the service provider without Wisconsin sales or use tax:

(a) Machinery and equipment used exclusively and directly in manufacturing.

Example: Company PQR is in the business of heat treating metal for steel manufacturers. Company PQR uses its machinery and equipment only in providing this heat treating to steel manufacturers. Company PQR is performing a manufacturing process in acting as a submanufacturer. Since the machinery and equipment is used exclusively and directly in manufacturing, it may be purchased without Wisconsin sales or use tax provided Company PQR gives its supplier a properly completed manufacturer's exemption certificate.

(b) Tangible personal property consumed or destroyed or losing its identity in the manufacture of tangible personal property in any form destined for sale.

Example: Company VWX is an electroplater. Company STU is a manufacturer of car bumpers. Company STU hires Company VWX to electroplate the bumpers. Company VWX may purchase the caustic soda, boric acid, etc., that is consumed or destroyed in the electroplating without Wisconsin sales or use tax when acting as a submanufacturer. These items are consumed or destroyed in the manufacture of tangible personal property, bumpers, destined for sale.

Note: 1) For information regarding what is manufacturing and exemptions for machinery and equipment and other items used in manufacturing, refer to ss. Tax 11.39, 11.40 and 11.41.

2) The interpretations in s. Tax 11.38 are effective under the general sales and use tax law on and after September 1, 1969.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76; r. and recr. Register, June, 1993, No. 450, eff. 7-1-93.

Tax 11.39 Manufacturing. (s. 77.54 (2), (6) (a) and (6m), Stats.) (1) **DEFINITION.** Manufacturing means an operation complete in itself, or one of a series of operations, whereby, through the application of machines to tangible personal property by a process popularly regarded as manufacturing, a new article of tangible personal property with a different form, use and name is produced.

(2) **SCOPE OF MANUFACTURING.** (a) Manufacturing includes the assembly of finished units of tangible personal property and packaging when it is a part of an operation performed by the producer of the product or by another on his behalf and the package or container becomes a part of the tangible personal property as such unit is customarily offered for sale by the manufacturer. It includes the conveyance of raw materials and supplies from plant inventory to the work point of the same plant, conveyance of work in progress directly from one manufacturing operation to another in the same plant, and conveyance of finished products to the point of first storage on the plant premises. It includes the testing or inspection throughout the production cycle.

(b) Manufacturing does not include storage, delivery to or from the plant, repairing or maintaining facilities or research and development.

(3) **MANUFACTURERS.** Manufacturers ordinarily include the following:

- (a) Asphalt plants.
- (b) Bakeries.
- (c) Battery makers.
- (d) Breweries and soda water bottling plants.
- (e) Candy factories.
- (f) Cement and concrete plants.
- (g) Chemical processing plants.
- (h) Concrete block and tile producers.
- (i) Creameries and instant milk producers.
- (j) Dairies and cheeseplants.
- (k) Electric generating companies.
- (l) Flour and feed mills, including mobile units.
- (m) Food processing plants (canning and freezing).
- (n) Foundries.
- (o) Glass making plants.
- (om) Heat treaters and metal platers performing these services on semi-finished products furnished by manufacturers.
- (p) Limestone calcination plants.

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effective on January 1, 1988. The amount for calendar years 1985, 1986 and 1987 was \$2,500. Prior to January 1, 1985, the standard was \$1,000 per year.

(1) Sales of tangible personal property and taxable services are not taxable if they are exempt "occasional sales". However, if the number, scope and character of the sales are such that they exceed the standards in the statutes and this section, a taxable sale occurs.

(2) No special statute exempts all sales by nonprofit organizations. However, the sales described in subs. (3), (4) and (5) shall be occasional sales under the standards given.

(3) **ADMISSIONS OR TICKETS.** Sales of admissions or tickets to an event conducted by a nonprofit organization shall be exempt occasional sales if:

(a) The event does not involve professional entertainment;

(b) The organization is not engaged in a trade or business and is not otherwise required to have a seller's permit; and

(c) The organization did not conduct more than 3 events involving sales of admissions or tickets in the previous calendar year, no more than 3 are anticipated during the current calendar year and the events do not fall on more than 9 different days or 9 consecutive 24-hour periods within the calendar year. If 3 or less events are anticipated, but a fourth event takes place during the year, only the fourth event shall be taxable. However, in the following year, all events shall be taxable, even though there are 3 or less events in that year.

(4) **MEALS, FOOD AND BEVERAGES.** Sales of meals, food, food products, and beverages, including beer, for direct consumption at an event, including a church supper or refreshment stand at a fair, by a nonprofit organization shall be exempt if:

(a) The organization is not engaged in a trade or business and is not otherwise required to have a seller's permit; and

(b) The organization conducted no more than 3 events involving sales of meals, food, food products and beverages in the previous calendar year, no more than 3 are anticipated during the current calendar year and the events do not fall on more than 9 different days or 9 consecutive 24-hour periods within the calendar year. If 3 or less events are anticipated, but a fourth event takes place during the year, only the fourth event shall be taxable. However, in the following year, all events shall be taxable, even though there are 3 or less of the events in that year.

(5) **OTHER SALES OF TANGIBLE PERSONAL PROPERTY AND SERVICES.** Except for sales under subs. (3) and (4), sales of tangible personal property and taxable services, including light bulbs, Christmas trees, candy or parking, by a nonprofit organization shall be exempt occasional sales if:

(a) The organization is not engaged in a trade or business and is not otherwise required to have a seller's permit; and

(b) The gross receipts from sales of property and services otherwise subject to tax under s. 77.52 (1) and (2), 1985 Stats., do not exceed \$7,000 within a calendar year.

(6) **EXCEEDING THE \$7,000 STANDARD.** Nonprofit organizations with sales exceeding \$7,000 annually are taxable on all receipts unless the department of revenue determines that their sales of property or services are isolated and sporadic and that the organizations are not engaged in a part-time business or a partial vocation or occupation. Any organization may request a determination from the department as to whether it qualifies for the exemption. The request should be made in writing, listing items or services sold, unit costs and selling prices, anticipated total gross receipts from all sales activities for the calendar year, the number of days duration of sales throughout the year, and any other information that will assist the department in its determination.

(7) **SEPARATE TREATMENT OF SUBS. (4), (5) and (6).** Each category of sales listed in subs. (4), (5) and (6) shall be treated separately. However, if an organization exceeds the exempt occasional sales standard in any category, it shall obtain a seller's permit and collect and remit the tax on sales in all categories. If the \$7,000 standard described in sub. (6) is exceeded, all receipts from sales of property or services described in that subsection and all subsequent receipts from admissions and meals shall be taxable.

Example: If a nonprofit organization engages in separate activities described in subs. (4), (5) and (6) during a year and has a fourth "admissions" event, but only one "meal" event and \$500 receipts from sales of other tangible personal property at that time, it shall obtain a seller's permit and pay the tax on receipts from the fourth "admission" event and all subse-

quent receipts from "meal" events and from subsequent sales of other taxable tangible personal property or services.

History: Cr. Register, June, 1991, No. 426, eff. 7-1-91.

Tax 11.38 Fabricating and processing. (ss. 77.51 (14) (f) and (h), 77.52 (2) (a) 10 and 11, 77.54 and 77.55, Stats.) (1) SALES OF FABRICATING, PROCESSING AND PRINTING SERVICES. The producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish directly or indirectly the materials used in the producing, fabricating, processing, printing or imprinting is subject to Wisconsin sales or use tax unless:

(a) The printing or imprinting is done on tangible personal property which will subsequently be shipped outside Wisconsin by the consumer for advertising purposes.

Example: Printer ABC prints an advertising flyer for Company DEF. Company DEF furnishes the paper and the ink. Company DEF will send the flyer to its customers outside Wisconsin. The charge by Printer ABC for printing the advertising flyer is not subject to Wisconsin sales tax provided Company DEF provides Printer ABC with a properly completed exemption certificate.

(b) An exemption under s. 77.54 or 77.55, Stats., applies.

Examples: 1) Company GHI is in the business of cleaning used oil. A Wisconsin municipality contracts with Company GHI to have all used oil it collects from residents cleaned by Company GHI. The charge by Company GHI to the municipality for cleaning the oil is not subject to Wisconsin sales or use tax because sales to Wisconsin municipalities are exempt from Wisconsin sales tax under s. 77.54 (9a), Stats.

2) The charge by a feed mill to grind corn a farmer will use as feed is not subject to Wisconsin sales or use tax because the sale of feed to a farmer is not subject to Wisconsin sales or use tax under s. 77.54 (3m), Stats. The farmer must provide the feed mill with a properly completed farmer's exemption certificate.

3) The charge by a cooperative to age tobacco for a cigar manufacturer is not subject to Wisconsin sales or use tax because the sale of the tobacco to the manufacturer is not subject to Wisconsin sales or use tax under s. 77.54 (2), Stats. The cigar manufacturer must provide the cooperative with a properly completed manufacturer's exemption certificate.

(c) The producing, fabricating or processing is for resale.

Example: Company JKL is in the business of custom making cabinets. A customer orders a cabinet from Company JKL. Due to time constraints, Company JKL is unable to make the cabinet. Therefore, Company JKL contracts with Company MNO to make the cabinet from materials provided by Company JKL. Company MNO is not subject to Wisconsin sales or use tax on the charge to Company JKL for making the cabinet if Company JKL provides Company MNO with a properly completed resale certificate.

(2) EXAMPLES OF FABRICATING AND PROCESSING SERVICES. Fabricating and processing services, where materials are furnished directly or indirectly by the customer, that are subject to Wisconsin sales or use tax include, except as provided in sub. (1) (a) through (c):

- (a) Application of coating to pipe.
- (b) Assembling kits to produce a completed product.
- (c) Bending glass tubing into neon signs.
- (d) Bookbinding.
- (e) Caterer's preparation of food for consumption on or off the caterer's premises.
- (f) Cleaning used oil.

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- (q) Machine and equipment producers.
 - (r) Malting plants.
 - (s) Meat packing and processing plants.
 - (t) Motor vehicle and aircraft factories.
 - (u) Oil refineries.
 - (v) Paint factories.
 - (w) Paper making plants.
 - (x) Printers.
 - (y) Sawmills.
 - (z) Scrap processors.
 - (za) Shoe and clothing factories.
 - (zb) Smelting and steel mills.
 - (zc) Tanneries.
 - (zd) Tool and die making plants.
 - (ze) Crushing, washing, grading and blending sand, rock, gravel and other minerals.
 - (zf) Ore dressing, including the mechanical preparation, by crushing and other processes, and the concentration, by flotation and other processes, of ore, and beneficiation, including but not limited to the preparation of ore for smelting.
 - (zg) Tire retreaders.
- (4) NONMANUFACTURERS. Examples of nonmanufacturers are:
- (a) Automobile and auto parts rebuilders.
 - (b) Contractors.
 - (c) Butcher shops.
 - (d) Dental labs.
 - (e) Farmers.
 - (f) Fish hatcheries.
 - (g) Freezer and locker plants.
 - (h) Highway truckers.

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