

Chapter Tax 11

SALES AND USE TAX

Tax 11.001	Definitions and use of terms	Tax 11.49	Service station and fuel oil dealers
Tax 11.01	Sales and use tax return forms	Tax 11.50	Auctions
Tax 11.03	Elementary and secondary schools and related organizations	Tax 11.51	Grocers' guidelist
Tax 11.05	Governmental units	Tax 11.52	Coin-operated vending machines and amusement devices
Tax 11.08	Medical appliances, prosthetic devices and aids	Tax 11.53	Concessionaires
Tax 11.09	Medicines	Tax 11.54	Temporary amusement, entertainment, or recreational events or places
Tax 11.12	Farming, agriculture, horticulture and floriculture	Tax 11.55	Agents, consignees, lienors and brokers
Tax 11.13	Sale of a business or business assets	Tax 11.61	Veterinarians and their suppliers
Tax 11.17	Hospitals, clinics and medical professions	Tax 11.62	Barbers and beauty shop operators
Tax 11.26	Other taxes in taxable gross receipts and sales price	Tax 11.63	Radio and television stations
Tax 11.27	Warranties	Tax 11.64	Background music
Tax 11.28	Gifts, advertising specialties, coupons, premiums and trading stamps	Tax 11.65	Admissions
Tax 11.29	Leases and rentals of tangible personal property	Tax 11.66	Communication and CATV services
Tax 11.30	Credit sales, bad debts and reposessions	Tax 11.67	Service enterprises
Tax 11.32	"Gross receipts" and "sales price"	Tax 11.69	Financial institutions
Tax 11.38	Fabricating and processing	Tax 11.70	Advertising agencies
Tax 11.39	Manufacturing	Tax 11.78	Stamps, coins and bullion
Tax 11.40	Exemption of machines and processing equipment	Tax 11.79	Leases of highway vehicles and equipment
Tax 11.41	Exemption of property consumed or destroyed in manufacturing	Tax 11.80	Sales of ice
Tax 11.46	Sales by pharmacies and drug stores	Tax 11.81	Industrial gases, welding rods and fluxing materials
Tax 11.46	Summer camps	Tax 11.82	Mailing lists and mailing services
Tax 11.47	Commercial photographers and photographic services	Tax 11.83	Motor vehicles
Tax 11.48	Landlords, hotels and motels	Tax 11.87	Meals, food, food products and beverages
		Tax 11.91	Successor's liability
		Tax 11.92	Records and record keeping
		Tax 11.94	Wisconsin sales and taxable transportation charges
		Tax 11.95	Retailer's discount

Tax 11.001 Definitions and use of terms. In this chapter, unless otherwise specified:

(3) "Consumers" are persons who purchase and use tangible personal property, and sales to consumers are retail sales to which either the sales or use tax applies. Resale certificates should not be accepted from consumers.

(5) "Department" means the Wisconsin department of revenue.

(8) "Retailer" means a person who sells taxable tangible personal property or a taxable service and who shall comply with all requirements imposed upon retailers, including:

- (a) Obtaining a seller's permit for each place of business in this state;
- (b) Filing tax returns and paying tax;
- (c) Collecting use tax when applicable and remitting the tax with returns; and

(d) Keeping proper records. (See Tax 11.92)

(12) "Tax" means the 4% Wisconsin sales or use tax.

(13) "Taxable", "subject to the tax", "tax applies", "the sale is taxable", "_____ (specific tangible personal property or a specific service) is/are taxable", or "the purchase of _____ (specific tangible personal property or a specific service) is taxable", means that:

(a) The sales tax applies to a sale of the property or service, measured by the gross receipts from the sale; or

(b) The use tax applies to the storage, use or other consumption of the property or service sold, measured by the sales price.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

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

(a) Form S-010. For occasional sales of motor vehicles.

(b) Form S-011. For occasional and non-Wisconsin sales of snowmobiles.

(c) Form S-012 (also called "ST-12"). The monthly, quarterly or annual return for each registered retailer and consumer holding a Wisconsin seller's permit.

(d) Form S-012A (also called "ST-12A"). The annual information return for each registered retailer and consumer holding a Wisconsin seller's permit.

(e) Form S-013. For concessionaires. (Annual return).

(f) Form S-014. For concessionaires (single events) and temporary sellers (limited) periods).

(g) Form S-015. For occasional bingo sales.

(h) Form S-174. For determination of taxable status of temporary sellers and reporting of tax liability.

(i) Form S-001U. For occasional and non-Wisconsin sales of boats.

(j) Form S-050U (also called "UT-5"). For consumers other than persons holding a Wisconsin seller's permit, retailers having a use registration certificate and nonresident contractors.

(k) Form SU-051. For nonresident contractors having a use tax liability who do not have a Wisconsin seller's permit.

(l) Form A-R-1 (Department of Transportation form). For the occasional sale of aircraft.

(2) Returns required to be filed with the department shall be filed by mailing them to P.O. Box 8902, Madison, Wisconsin 53708 or by delivering them to 4638 University Avenue, Madison, Wisconsin.

Note: Forms may be obtained by mail request to the Wisconsin Department of Revenue, P.O. Box 8903, Madison, Wisconsin 53708.

History: Cr. Register, February, 1978, No. 266, eff. 3-1-78.

Register, May, 1978, No. 269

Tax 11.03 Elementary and secondary schools and related organizations. (section 77.54 (4), (9) and (9a), Wis. Stats.) (1) DEFINITIONS.

(a) In this rule, 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 section 119.30, Wis. 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 paragraph (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.

(2) SALES BY ELEMENTARY AND SECONDARY SCHOOLS. (a) Sales by elementary or secondary schools, the gross receipts from which are exempt, include:

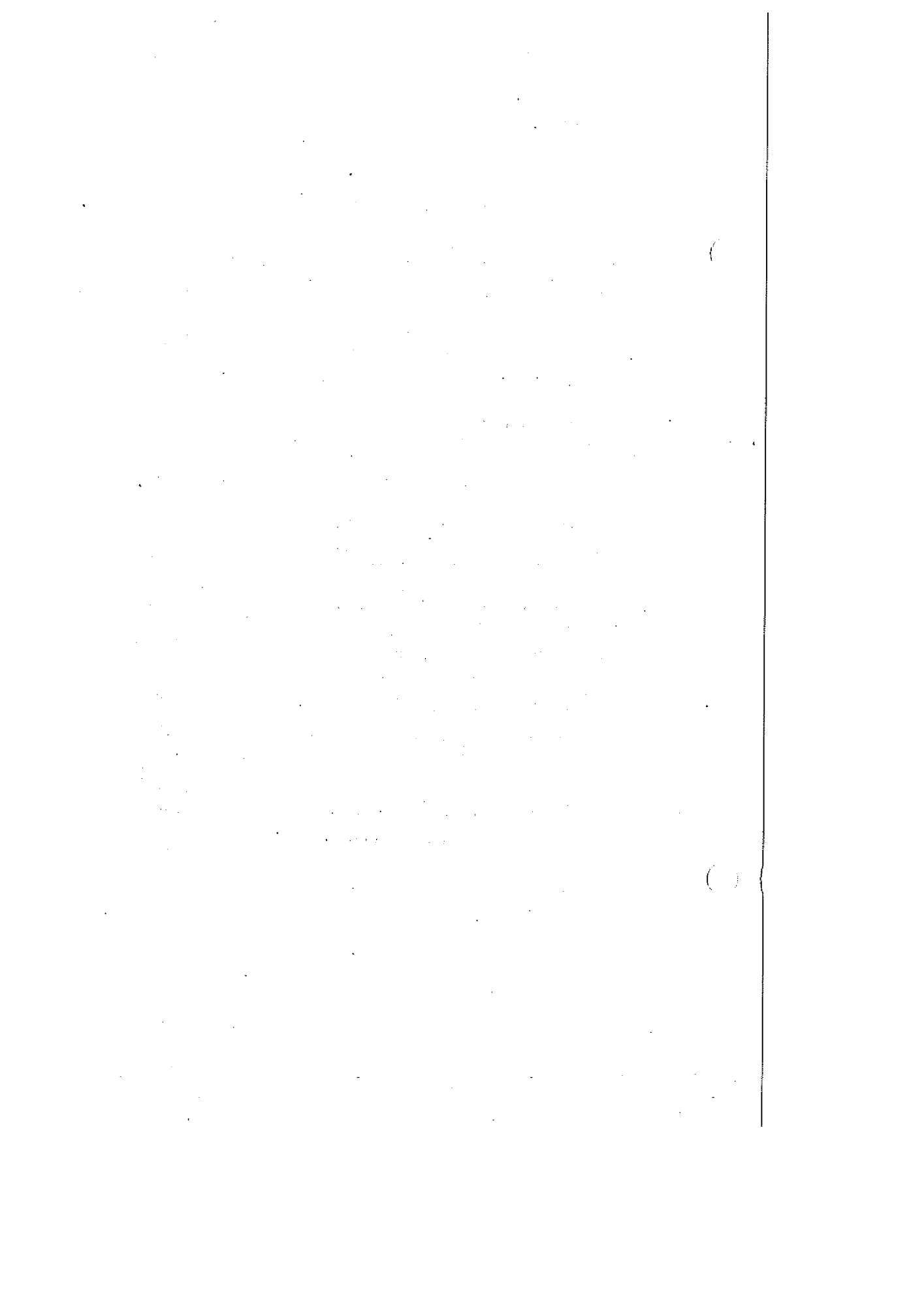
1. The sale or rental of books, yearbooks, annuals, magazines, directories, bulletins, papers or similar publications.
2. School lunches and library and book fines.
3. Rental of auditoriums or gymnasiums including any charges for lights, heat, janitor fees and equipment.
4. Admissions to school activities such as athletic events, art and science fairs, concerts, dances, film or other exhibits, lectures and school plays, if the event is sponsored by the school, the school has control over purchases and expenditures and the net proceeds are used for educational, religious or charitable purposes.

(b) The gross receipts of an elementary or secondary school from the sales of admissions to recreational facilities, such as golf courses which are open to the general public, are taxable.

(3) SALES BY SCHOOL-RELATED ORGANIZATIONS AND OTHERS. Sales by school-related organizations and others, the gross receipts from which are taxable, include:

(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

Next page is numbered 71



Tax 11.17 Hospitals, clinics and medical professions. (sections 77.51 (21), (22) and (22m), 77.52 (2) (a) 1 and 77.54 (14), (20) (c) 4 and (22), Wis. Stats.) (1) GENERAL. (a) Although professional personnel in hospitals and clinics and other members of medical professions (i.e., physicians, surgeons, oculists, optometrists and podiatrists) regularly transfer antibiotics, bandages, splints and other tangible personal property to their patients in the performance of professional services, the transfer of such property is an incident of a service rather than a retail sale of such property. The persons are, therefore, deemed the consumers of the items in the same way they are the consumers of other materials and supplies used by them in the performance of their services. Accordingly, the suppliers of hospitals, clinics and members of medical professions are retailers obligated to register and report tax on sales of tangible personal property or taxable services, unless the transaction is specifically exempt from the tax.

(b) Section 77.54 (14) (b), Wis. Stats., specifically provides an exemption for medicines furnished by a licensed physician, surgeon or podiatrist to that person's patient for medical treatment. Section 77.54 (22), Wis. Stats., provides an exemption for medical appliances and prosthetic devices. The scope of these exemptions is set forth in rules Tax 11.08, 11.09 and 11.45.

(2) PURCHASES BY HOSPITALS. Purchases by hospitals are exempt from the sales and use tax if the hospitals are nonprofit and, as such, qualify as charitable organizations under s. 77.54 (9a), Wis. Stats. Each is issued a Certificate of Exempt Status ("C.E.S.") by the department. When purchasing goods and services a hospital can furnish its C.E.S. number to its supplier, and the supplier may make sales of every type of tangible personal property or services to the hospital without tax. Hospitals organized for profit do not qualify for this exemption.

(3) PURCHASES BY CLINICS AND MEMBERS OF THE MEDICAL PROFESSIONS. (a) Purchases made by medical clinics and physicians are subject to the sales or use tax unless specifically exempt by law. To be exempt, the items on the exempt list must be furnished to patients at the direction of a physician, surgeon or podiatrist in conjunction with providing medical service, except for items noted with an asterisk. These items are exempt even though not purchased under the direction of such health professional. The following is a partial list of taxable and exempt purchases of clinics and members of the medical professions.

Taxable	Exempt
Adhesive tape	*Artificial eyes and limbs
Alcoholic beverages	Bone pins and plates
Bandages, gauze and cotton	*Crutches and wheel chairs
Bed pans	*Dietary foods
Beds and linens	*Disposable syringes containing insulin
Compresses and dressings	Dye
Cosmetics	*Hearing aids and parts
Deodorants and disinfectants	Medical oxygen
Diaphragms	Medicines
Distilled water	*Needles and syringes used by diabetics (effective November 19, 1975)
Enema kits	Oral contraceptives
Instruments	
Laboratory equipment and supplies	

Medical equipment	Pacemakers
Office equipment and supplies	Prescription drugs
Oxygen tanks	Prophylactics
Paper products	Rubbing alcohol
Printed material	Suppositories
Rib belts and supports	Sutures
Soda water beverages	Vaccines
Soap	Vaginal creams and jellies
Splints and cast materials	Vitamins
Uniforms and gowns	
X-ray film and machines	

(4) SALES BY HOSPITALS, HOSPITAL AUXILIARIES AND CLINICS. (a) The gross receipts from sales of the following are exempt from the tax: 1. Charges made by hospitals to patients for medical services or rooms.

2. Hospitals' sales of meals, food, food products and beverages to patients, staff or visitors.

(b) The gross receipts from the sales of the following are taxable: 1. A hospital's specific charge to a patient for the rental of a television set.

2. Parking fees.

3. Sales of tangible personal property or taxable service by a clinic, which sales are not directly related to the rendition of medical services.

4. Sales of meals and other tangible personal property by an organization affiliated with a hospital (e.g., if a ladies' auxiliary of a hospital operates a coffee shop on the hospital premises, gross receipts from this business are taxable).

(5) HOSPITAL DEFINITION. Section 50.33(1), Wis. Stats., provides the definition of hospital which is to be used for sales tax purposes.

Note: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969, unless otherwise noted in this rule.

History: Cr. Register, May, 1978, No. 269, eff. 6-1-78.

Tax 11.26 Other taxes in taxable gross receipts and sales price. (section 77.51(11)(a)4, (12)(a)4 and (26), Wis. Stats.) (1) GENERAL RULE. (a) Tangible personal property sold at retail often is subjected to many direct and indirect taxes prior to reaching a retailer. Such taxes are commonly included in the price the retailer pays for the property and are not separately identifiable as taxes. Occasionally, however, a tax is either separately passed on to a retailer or is imposed at the retail level of activity, but is different from and in addition to the sales tax. Such tax may be imposed by this state, the federal government or a municipality.

(b) In determining the measure of sales and use taxes, certain separately stated or separately passed on taxes are included in gross receipts and the sales price, while others are not. However, the same taxes that are included or excluded from gross receipts are also included or excluded from sales price. Thus, the treatment of such taxes for sales and use tax purposes is identical, even though the measure of tax for each is gross receipts and sales price, respectively.

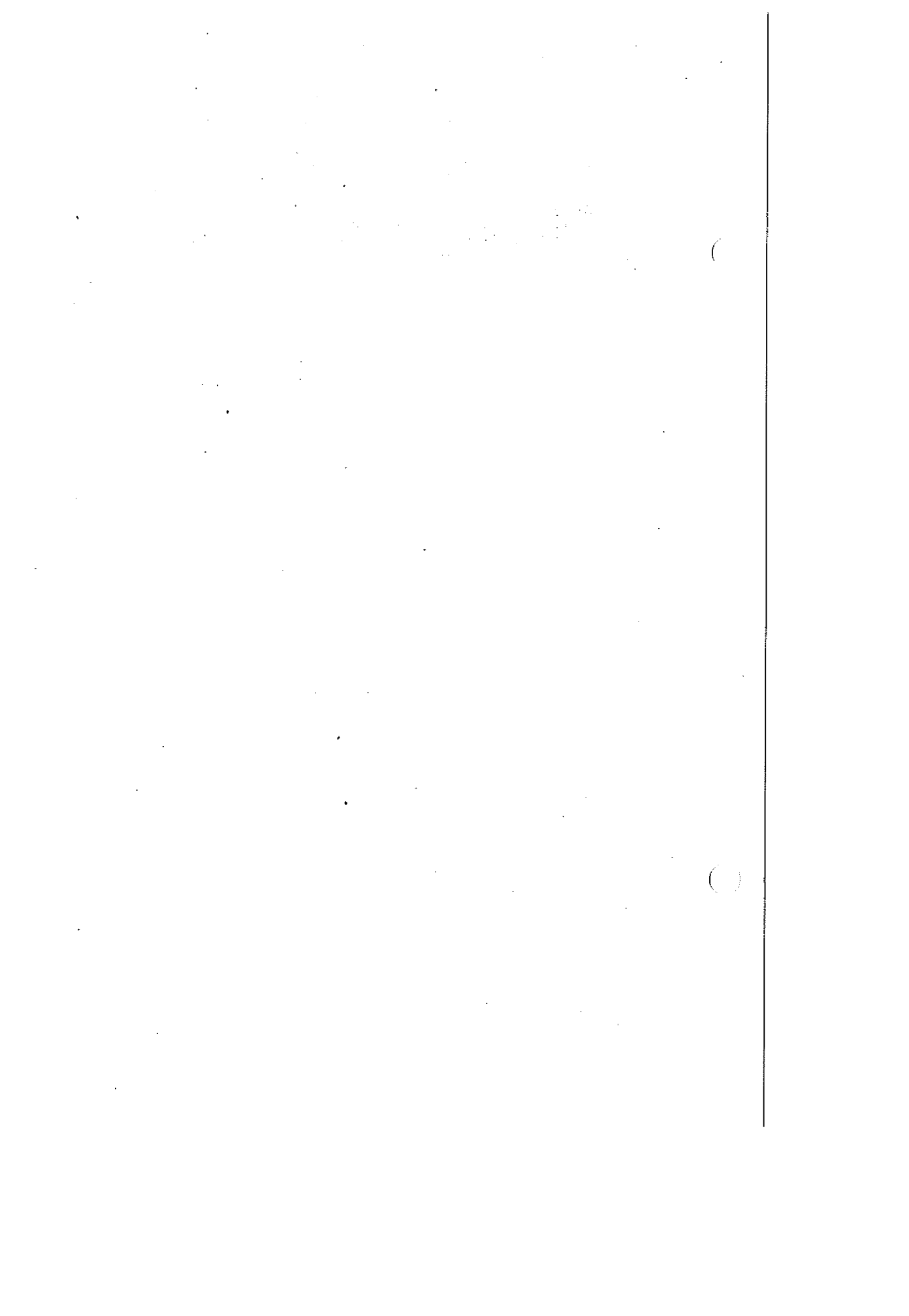
(2) TAXES SPECIFICALLY INCLUDED AS PART OF GROSS RECEIPTS AND SALES PRICE. The following taxes shall be included in a retailer's gross receipts and sales price:

Register, May, 1978, No. 269

(a) The fermented malt beverage tax imposed by section 139.02, Wis. Stats.

(b) The taxes imposed upon intoxicating liquors (including wine) by section 139.03, Wis. Stats.

(c) Any federal stamp tax and manufacturer's or importer's excise tax. Presently there are federal excise taxes on tires, inner tubes, tread rubber, certain trucks, truck parts, firearms, ammunition, lubricating oils, fishing equipment, cigarettes, beer, and intoxicating liquor (including wine).



(2) "Places of amusement, entertainment or recreation" for the purpose of this rule include, but are not limited to, auditoriums, race tracks, street fairs, rock festivals or other places where there is any show or exhibition for which any charge is made including, but not limited to, the sale of tickets, gate charges, seat charges, entrance fees and motor vehicle parking fees.

(3) Pursuant to section 77.51 (3), Wis. Stats., and as used in this rule, "person" includes any natural person, firm, partnership, joint venture, joint stock company, association, public or private corporation, cooperative, estate, trust, receiver, executor, administrator, any other fiduciary, and any representative appointed by order of any court or otherwise acting on behalf of others.

(4) Entrepreneurs, promoters, sponsors or managers of an amusement, entertainment or recreational event shall be regarded as retailers for the purposes of section 77.51 (7) (c), Wis. Stats., if said entrepreneurs, promoters, sponsors or managers have control and direction of the event including activities such as controlling the sale of admissions or admission tickets; controlling or regulating the admittance of all persons to the event or place; determining the nature of the amusement, entertainment or recreation to be offered; deciding the scale of prices to be charged for admission; receiving the proceeds from ticket sales, including amounts from ticket agents or brokers; and deciding, or having the right to decide, the disposition of the net profits, if any, realized from the event.

(5) As retailers such entrepreneurs, promoters, sponsors or managers are persons liable for the sales tax and are required to hold a seller's permit for each place of operations pursuant to section 77.52 (7), Wis. Stats., and may be required to post security as provided in section 77.61 (2), Wis. Stats. Such retailers are required to have a seller's permit on the first date on which tickets or admission to an event to be conducted in this state are offered for sale.

(6) This rule does not apply to traveling attractions which perform in stadiums, theaters or other places where the permanent management of such stadium, theater or other location holds a valid seller's permit, controls the sale of tickets or admissions and assumes the liability for the payment of the sales tax. Further, it does not apply to churches or other nonprofit groups which operate within the occasional sale limitations of section 77.51 (10) (c), Wis. Stats.

Note: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969.

History: Cr. Register, March, 1976, No. 243, eff. 4-1-76; renum. from Tax 11.02; Register, January, 1978, No. 265, eff. 2-1-78.

Tax 11.55 Agents, consignees, lienors and brokers. (Section 77.51 (4g) (f), (7) and (8), Wis. Stats. (1) **UNDISCLOSED PRINCIPAL.** A person who has possession of personal property owned by an unknown or undisclosed principal and has the power to transfer title to that property to a third person, and who exercises that power, is a retailer whose gross receipts are subject to the tax.

(2) **DISCLOSED PRINCIPAL.** (a) Gross receipts from the sale of tangible personal property made by a person with possession of the property, who is acting for a known or disclosed principal, are taxable to the principal if the principal is engaged in the full or part-time business of selling

Register, May, 1978, No. 269

tangible personal property. If the principal fails to pay the tax, the agent may be liable for it.

(b) A principal shall be deemed disclosed to a purchaser only when the evidence shows that the identity of the principal is made known to the purchaser at the time of the sale, and when the name and address of the principal appear on the books and records of the agent.

(3) **ENFORCEMENT OF LIENS.** Pawnbrokers, storage persons and others selling tangible personal property to enforce a lien are retailers with respect to such sales and tax applies to the gross receipts from such sales.

(4) **REPOSSESSIONS.** Repossessions of tangible personal property by a seller from a purchaser when the only consideration is cancellation of the purchaser's obligation to pay for the property is not a taxable transaction. However, sales at retail of repossessed property (e.g., by finance companies, insurance companies, banks and other financial institutions) are taxable sales.

Note: The interpretations in this rule are effective under the general sales and use tax law effective September 1, 1969.

History: Cr. Register, May, 1978, No. 269, eff. 6-1-78.

Tax 11.61 Veterinarians and their suppliers. (sections 77.51 (7) (m) and (o) and 77.52 (2) (a) 10, Wis. Stats.) (1) **VETERINARIANS.** (a) Charges made by veterinarians which shall be exempt from the sales tax include charges for the following professional services for animals:

1. Medical services.
2. Hospitalization services.

(b) Charges made by veterinarians which shall be subject to the sales tax include charges for the following activities for animals:

1. Boarding.
2. Grooming.
3. Clipping.

(c) Sales of tangible personal property by veterinarians which shall be taxable include the following:

1. Leashes, collars and other pet equipment.
2. Pets.
3. Pet food.

(2) (a) Sales to veterinarians of medicines for animals and sales of other tangible personal property to be used or furnished by them in the performance of their professional services to animals shall be subject to the sales or use tax. Prior to June 24, 1974 sales to veterinarians of medicine for animals were taxable if the medicine was to be used or furnished by a veterinarian in the performance of services, but were exempt if they were purchased for resale independent of the performance of such service.

(b) If the tax on sales to veterinarians is not collected by a supplier (for example, because the supplier is located out-of-state and is not required to be registered with the department), the veterinarian shall be

Register, May, 1978, No. 269

responsible for and shall report and pay a use tax on such purchases directly to the department.

History: Cr. Register, August, 1976, No. 248, eff. 9-1-76; am. (2) (a), Register, January, 1978, No. 265, eff. 2-1-78.

Tax 11.62 Barbers and beauty shop operators. (section 77.51 (7) (i) and 77.52 (2) (a) 10, Wis. Stats.) (1) **NONTAXABLE SALES AND SERVICES.** (a) Barbers and beauty shop operators are engaged primarily in a service occupation and charges for services on human beings shall be exempt from the sales tax.

(b) Barbers and beauty shop operators shall *not* be required to register as retailers with the department if their gross receipts from sales of tangible personal property or taxable services are \$1,000 or less within a calendar year. Persons who are exempt as such occasional sellers shall pay sales or use tax to their suppliers on all purchases, including items that may be resold to customers. Persons who exceed the standard shall register with the department and obtain a seller's permit. Persons who register may purchase tangible personal property (such as hair pieces) for resale without paying tax by issuing to their supplier a properly completed resale certificate.

(2) **TAXABLE SALES AND SERVICES.** (a) Barbers and beauty shop operators are the consumers of the materials and supplies which are used in performing their services and shall pay sales tax to their suppliers on such purchases.

(b) Over the counter sales by barbers or beauty shop operators of packaged cosmetics, hair tonics, lotions, wigs, falls, toupees or other merchandise and their charges for servicing wigs, hair pieces or other tangible personal property shall be subject to the sales tax. Unless a barber or beauty shop operator falls within the occasional sales standard set

Next page is numbered 109