

or construction. The property tax exemption approvals for industrial and commercial waste treatment facilities are effective January 1 of each year. Any approvals issued prior to January 1 which apply to contemplated construction must of necessity be "tentative approvals" based on the information presented to the department by the applicant.

(c) Requests for approvals of an industrial waste treatment facility should be sent to the Department of Revenue, Bureau of Property Tax, 201 East Washington Avenue, Madison, WI 53702. Requests for approval by public utilities, railroads, airlines and pipelines should be sent to the Bureau of Utility and Special Taxes at the same address. The request should contain a thorough description of the waste treatment facility and include the Department of Natural Resources order number, if available.

(d) Requests for municipal approvals should be sent to the Department of Revenue, Technical Services Staff, Income, Sales, Inheritance and Excise Tax Division, 201 East Washington Avenue, Room 428, Madison, WI 53702. The municipality or solid waste recycling authority requesting an approval for a new waste treatment facility should provide a general description of the major waste processing units which are being added and describe their function and location. The applicant should also provide information regarding approvals of plans that previously were received from other governmental agencies.

(4) INDUSTRIAL WASTE TREATMENT EXEMPTION. (a) If an industrial or utility waste treatment facility qualifies for the property tax exemption under s. 70.11 (21) (a), or 76.02 (10), Stats., it qualifies for the sales and use tax exemption under s. 77.54 (26). Stats.

(b) When any plant or equipment has been approved as exempt from the property tax on January 1, the repair, service, alteration, cleaning, painting and maintenance of such exempt property and the repair parts and replacements therefor are also exempt through the following December 31. The exemption does not extend to supplies or services used to carry out the treatment process.

(5) MUNICIPAL WASTE TREATMENT EXEMPTION. (a) Storm sewers, water supply systems and private domestic waste water facilities do not qualify for the sales and use tax exemption.

(b) Prior to July 31, 1975, an entire municipal sanitary sewer, including its collection system, qualified for the sales and use tax exemption. On and after July 31, 1975, only the central waste treatment plant which actually treats the sewage qualifies for the exemption.

(c) The collection system throughout the area served by the treatment facility, the effluent pipeline carrying the treated sewage away from the central treatment plant, earthen dikes and chain link fences on the boundary of a treatment plant, and dredge material disposal sites are not exempt. The collection systems includes the lift stations, force mains and associated pumping equipment used to bring the raw sewage to the central treatment plant.

(d) When any municipal central waste treatment facility has been approved as exempt under s. 77.54 (26), Stats., the repair, service, alteration, cleaning, painting and maintenance of such property and the re-

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pair parts and replacements therefor are exempt from the sales and use tax.

**Note:** The interpretations in this rule are effective July 31, 1975 when ss. 70.11 (21) (a) and 77.54 (26), Stats., were revised, unless otherwise noted in this rule. Prior to that date, the exemption language was different and "approvals" were not obtained from the department of revenue.

**History:** Cr. Register, March, 1979, No. 279, off. 4-1-79.

**Tax 11.12 Farming, agriculture, horticulture and floriculture.** (ss. 77.52 (2) (a) 10 and 77.54 (3), (3m), (27) and (30), Stats.) (1) **STATUTES.** Sections 77.54 (3) and (3m), Stats., provide exemptions for certain sales to persons who are engaged in farming, agriculture, horticulture and floriculture as a business enterprise. Persons who contract with farmers to do agreed upon jobs are not engaged in farming as a business enterprise.

(2) **DEFINITIONS.** In this section and s. 77.54 (3), (3m), and (30), Stats.:

(a) 1. "Farming" means the business of producing food products or other useful crops by tilling and cultivating the soil or by raising cattle, sheep, poultry, domesticated rabbits or other animals which produce a food product or which are themselves a food product. In addition, consistent with chs. 29 and 94, Stats., "Farming" includes raising pheasants, foxes, fitch, nutria, marten, fisher, mink, chinchilla, rabbit, caracul and bees; producing honey products by a beekeeper of 50 or more hives; commercial raising of fish for food; commercial breeding and raising of horses for sale; and raising sod. "Farming" does not include home gardening and other similar noncommercial activities; breeding or raising dogs, cats, other pets or animals intended for use in laboratories; operating sporting or recreational facilities (e.g., riding stables or shooting preserves); operating stockyards, slaughterhouses or feed lots as described in subd. 2; lumbering and logging, and pulpwood and sawmill operations; milling and grinding grain; and preparing sausage, canned goods, jellies, juices or syrup.

2. Effective on December 1, 1981 and thereafter, "feed lot" means a restricted area containing pens or lots where livestock are held and fed. A person who holds livestock in a feed lot for less than 30 days is not engaged in farming. Feed purchased for livestock held in a feed lot for less than 30 days is taxable. However, a person who holds livestock in a feed lot for 30 days or more is engaged in farming and the feed purchased for such livestock is exempt. If a person holds some livestock for less than 30 days and some livestock for 30 days or more and purchases feed for both types at the same time, an allocation of the feed costs may be made so that tax is paid on the feed consumed by livestock held for less than 30 days and is not paid on feed consumed by livestock held for 30 days or more.

(b) "Horticulture" means the business of producing vegetables, vegetable plants, fruits and nursery stock, including the operation of commercial nurseries and orchards. "Nurseries" do not include businesses which hold stock for purposes other than propagation or growth. Horticulture does not include the business of servicing plants owned by others; the raising of trees as timber; or lumber or sawmill operations.

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(c) "Floriculture" means the business of producing flowers, Christmas trees or other decorative trees, plants or shrubs, including such operations as greenhouses.

(d) "Dairy farming" means the business of feeding and raising cattle and other milk producing animals, but does not include operations such as pasteurizing, homogenizing or making butter, cheese or ice cream.

(3) OBTAINING EXEMPTION CERTIFICATES. A retailer shall have a signed exemption certificate for every exempt sale made to a farmer. The standard "Farmer's Exemption Certificate" (Form S-206) provides for continuous use under certain conditions. The certificate shall be used only for categories of items listed on it. Every invoice to which the certificate refers must contain the seller's name, the farmer's name and address, the date of sale and a brief description of the product sold.

(4) STATUTORY EXEMPTIONS. (a) *Section 77.54 (3)*. Section 77.54 (3), Stats., exempts: "The gross receipts from the sales of and the storage, use or other consumption of tractors and machines, including accessories, attachments, fuel and parts therefor, used directly in farming, including dairy farming, agriculture, horticulture or floriculture, but excluding automobiles, trucks, and other motor vehicles for highway use, when engaged in by the purchaser or user as a business enterprise, but the purchaser of property exempt under this subsection shall be liable for use tax under s. 77.57 at the time any more than nominal other use, including job contracting other than the performance of farm services by one farmer for another with machinery customarily used by the performing farmer in his own farming operation, is made of such property." (Emphasis added.)

1. "Directly". Items used "directly" in farming include a plow and a combine. Items of "indirect" or non-qualifying use include typewriters, electric drills or other repair tools, dog and cat food, lawn and garden tractors and, prior to July 1, 1979, fuel oil for residential use.

2. *Accessories, attachments and parts*. Included within the exemption are accessories, attachments, parts and fuel for tractors and machines used directly in agriculture. "Accessories" and "attachments" include devices designed to be mounted on a machine or to be pushed or pulled by a machine. Examples include farm wagons and portable pipes attached to mobile irrigation pumps. A machine "part" means a durable unit of definite, fixed dimensions and includes tractor cabs, oil filters and slow-moving-vehicle signs. Canvas covers and paint for exempt machines are exempt. "Parts" does not include fluids (e.g., antifreeze or lubricants) nor milk filters which must be replaced every time a machine is used. These are "supplies" rather than "parts" and are not exempt. The exemption for fuel for farm machines does not apply to purchases of electricity.

3. *Machines*. "Machines" include auxiliary power generators, bale loaders, balers, barn cleaners, barn elevators, chain saws for orchard use (not for use in lumbering, pulping or cutting firewood), choppers, conveyors, corn pickers, crop conditioners, crop thinners, cultivators, discs, drags, and loaders, electric clippers and hoof trimmers, electric dehorners, electric fence charges (not fencing or insulators), electric foggers, feed elevators and augers, fork lifts, grain dryers and grinders, harrows, harvesting combines, hay wagons, manure spreaders, milk coolers, milking machines (including piping, pipeline washer and compressor),

mowers, planters, plows, powered feeders (not including platforms or troughs constructed from ordinary building materials), powered post-hole diggers, pumps and associated portable piping for irrigation, rock pickers, rotary hoes, silo unloaders, space heaters (not for residential use and not realty improvements), sprayers, stalk shredders and windrowers.

4. *Realty improvements.* a. Certain machines in addition to those in subd. 3 qualify for the exemption if purchased by farmers directly from retailers, even though they are used to make realty improvements. Machines included are automated livestock feeder bunks (but not ordinary building materials), automatic stock waterers (powered by electricity or water pressure and built into a permanent plumbing system), automatic water softeners (e.g., for milkhouses), barn fans and blowers and other ventilating units, unit heaters and other heating units, water heaters serving production areas, and water pumps serving production areas.

b. However, a person (such as a plumbing contractor) who contracts with a farmer to provide and install such a machine permanently into real estate is a consumer of the machine, not a seller. Such a contractor, not being a farmer, may not furnish a Farmer's Exemption Certificate on the person's purchase of the machine. Being the consumer, the contractor must pay the sales tax to the supplier or report the use tax on the purchase price directly to the department.

5. *Motor vehicles.* Specifically excluded from the statutory exemption are "motor vehicles for highway use". "For highway use" means licensed for that use or designed primarily for that use even though not licensed. Examples include motor trucks, automobiles, station wagons, self-propelled feed mills, buses and motorcycles. Sales of parts, supplies and repairs for these vehicles, nurse tanks and trailers designed primarily for highway use are also taxable.

6. *Other non-exempt sales.* The exemption does not apply to:

a. Tools used in construction or for making repairs to real estate or farm machinery, such as block and tackle sets, chain hoists, cutters, electric drills, hammers, hand tools, planers, sharpeners, sanders, saws and wheelbarrows.

b. Building materials used to repair or improve real estate such as cement, drain tile fencing, light fixtures, lumber, nails, stanchions and underground and fixed in place water supply systems.

c. Applicators for insecticides (non-powered), cattle chutes, farrowing crates, feed carts, fire extinguishers, flood gates, gravity flow feeders (non-powered), saddles and bridles, incinerators, lawn and garden tractors, portable calf stalls, rope and cable, scales, self-treating stations (oilers), snowmobiles, stationary salt and mineral feeders.

7. *Use tax.* A person who buys without tax by claiming the farming exemption owes the use tax at the time the person uses the item purchased more than nominally for a nonexempt purpose.

(b) Section 77.54 (3m), Stats., exempts: "The gross receipts from sales of and the storage, use or other consumption of seeds for planting, plants, feed, fertilizer, soil conditioners, sprays, pesticides, fungicides, breeding and other livestock, poultry, farm work stock, baling twine and baling wire, and containers for fruits, vegetables, grain and animal

wastes used exclusively in farming, including dairy farming, agriculture, horticulture or floriculture when engaged in by the purchaser or user as a business enterprise." Effective on December 1, 1981 and thereafter, "exclusively" as used in s. 77.54 (3m) and in this section means that the items mentioned in s. 77.54 (3m) are used solely in farming to the exclusion of all other uses, except that the sales and use tax exemption for such items will not be invalidated by an infrequent and sporadic use other than in farming.

1. *Seeds for planting.* "Seeds for planting" includes seeds for alfalfa, blue grass, canning peas, clover, field corn, field peas, rye grass, sweet corn, timothy and vegetable seeds; plant parts capable of propagation; and bulbs. "Seeds for planting" does not include sod.

2. *Plants.* "Plants" include herbs, shrubs or young trees, slips or saplings planted or ready to plant.

3. *Feed.* a. "Feed" includes processed vegetable and animal products and essential minerals required for the normal nutritional needs of livestock, poultry and domestic fur bearing animals and other materials which are required for the normal nutritional needs of animals in some domestic environments, such as vitamins A, B-complex, D and E. Essential minerals include phosphorous, calcium, sodium, chlorine, iodine, iron, copper, sulfur, potassium, magnesium and zinc. Common feed additives containing these substances include cod liver oil, salt (granular or block), ground limestone, fish oil, fish meal, oyster shells and bone meal.

b. "Feed" includes medicated feed or drug carriers purchased for use as an ingredient of medicated feed, the primary purpose of which is the prevention of diseases in livestock or poultry. "Feed" does not include a mixture labeled and sold for specific treatment or cure of a disease. Medicines (including antibiotics) which are administered to animals or poultry directly or as an additive to drinking water are taxable.

4. *Fertilizers and soil conditioners.* a. "Fertilizer" means any substance containing nitrogen, phosphoric acid, potash or any recognized plant food element or compound which is used primarily for its plant food content to improve the soil's agricultural qualities. "Fertilizer" and "soil conditioners" include fertilizer and insecticide combinations, agricultural minerals, carbon dioxide for application to land, urea, sewage sludge, liquid spray mixtures of minerals and plant nutrients, lime, compost, manure, peat moss and soy bean straw.

b. "Fertilizer" and "soil conditioners" do not include fill dirt, top soil, wood chips, wood shavings, litter and hormone growth stimulants. (The difference between fertilizers and hormone growth stimulants is that fertilizers nourish plants whereas hormone growth stimulants act upon the cellular structure.)

5. *Sprays, pesticides and fungicides.* "Sprays", "pesticides" and "fungicides" include disinfectant sprays, fly sprays and preparations used to destroy insects, mites, nematodes, slugs or other invertebrate animals injurious to plants and animals; chemicals used for crop disease, pest and weed control, including insecticides, rodenticides and pesticides used to sanitize and clean dairy equipment. Products used to sanitize dairy equipment are exempt, if registered with the department of agriculture under s. 94.68, Stats., as a pesticide or fungicide.

6. *Containers for fruits, vegetables, grain and animal wastes.* a. "Containers for fruits, vegetables, grain and animal wastes" includes any kind of personal property which is purchased exclusively for holding or storing fruit, vegetables, grains or animal wastes. The phrase does not include feed carts designed to hold various green and dry feeds.

b. A complete corn crib or grain bin may be purchased "knocked-down" in kit form and still qualify for this exemption. However, a person who contracts with a farmer to provide and install such a bin permanently into real estate is a consumer of the bin, not its seller. Such a contractor, dealer or installer, not being a farmer, may not furnish a Farmer's Exemption Certificate on the bin's purchase. Being the consumer, not a seller, the contractor must pay the sales tax to the supplier or report the use tax on the purchase price directly to the department. A farmer who wishes to utilize the farmer's exemption certificate on the purchase of a grain bin or corn crib normally built on a slab or otherwise affixed to real estate may purchase the crib or bin separately and do any necessary installation work.

c. The exemption for animal waste containers became effective July 31, 1975. As a result, farmers may purchase animal waste containers without tax or the component parts thereof, by issuing their supplier a properly completed "single purchase" Farmer's Exemption Certificate.

d. Silos are not included in the exemption. The purchaser of materials used in building a silo must pay the sales tax to the purchaser's supplier. A silo unloader may be purchased by a farmer as an exempt machine.

e. Milk cans are not covered by the farmer's exemption, but may be purchased without tax under the general exemption for shipping materials if they are used to transfer milk to the purchaser's customers.

7. *Livestock and poultry.* "Livestock" and "poultry" include animals, the products of which are normally used as food for human consumption, and domestically raised fur bearing animals (such as those purchased for breeding).

8. *Farm work stock.* "Farm work stock" means animals, such as draft horses and mules, which are used exclusively in farming. The phrase does not include dogs, riding horses, racing horses or laboratory animals. The food for animals which are not farm work stock is taxable (e.g., dog and cat food).

9. *Semen.* Effective July 22, 1971 semen used for artificial insemination of livestock is exempt.

(5) **SERVICES FURNISHED TO FARMERS.** (a) The repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection or maintenance of tangible personal property which farmers may purchase without tax under s. 77.54 (3) and (3m), Stats., are also exempt from the sales and use tax under s. 77.52 (2) (a) 10, Stats. Thus, farmers may claim an exemption on the repair services for their tractors and other farm machines, but not on their furnaces, office machines or electric drills. Similarly, they may claim an exemption when having draft horses shod, but not when having riding horses shod.

(b) Breeding fees, and charges for artificial insemination of animals and veterinarians' services are not taxable.

(c) The exemptions under s. 77.54 (3), Stats., do not apply to farmers' purchases of other services which are taxable under s. 77.52 (2) (a), Stats. (e.g., telephone, laundry, dry cleaning, photographic services and electricity and natural gas, except that beginning November 1, 1979, sales of electricity and natural gas for residential or farm use are exempt if billed during the period November 1 to April 30 each year).

(6) SERVICES PROVIDED BY FARMERS. (a) *Nontaxable services.* The following services performed by farmers are not subject to the sales tax:

1. *Custom work.* The performance of custom farm services by one farmer for another farmer, such as harvesting hay or grain.

2. *Training animals.* The training of horses, dogs or other animals.

(b) *Taxable services.* The following services performed by farmers are taxable:

1. *Boarding animals.* The boarding of dogs, cats, riding horses, ponies or other recreational animals. The entire boarding charge is taxable, but the retailer may purchase the feed for the animals without tax by supplying a properly completed Resale Certificate.

2. *Grooming animals.* The grooming of recreational animals.

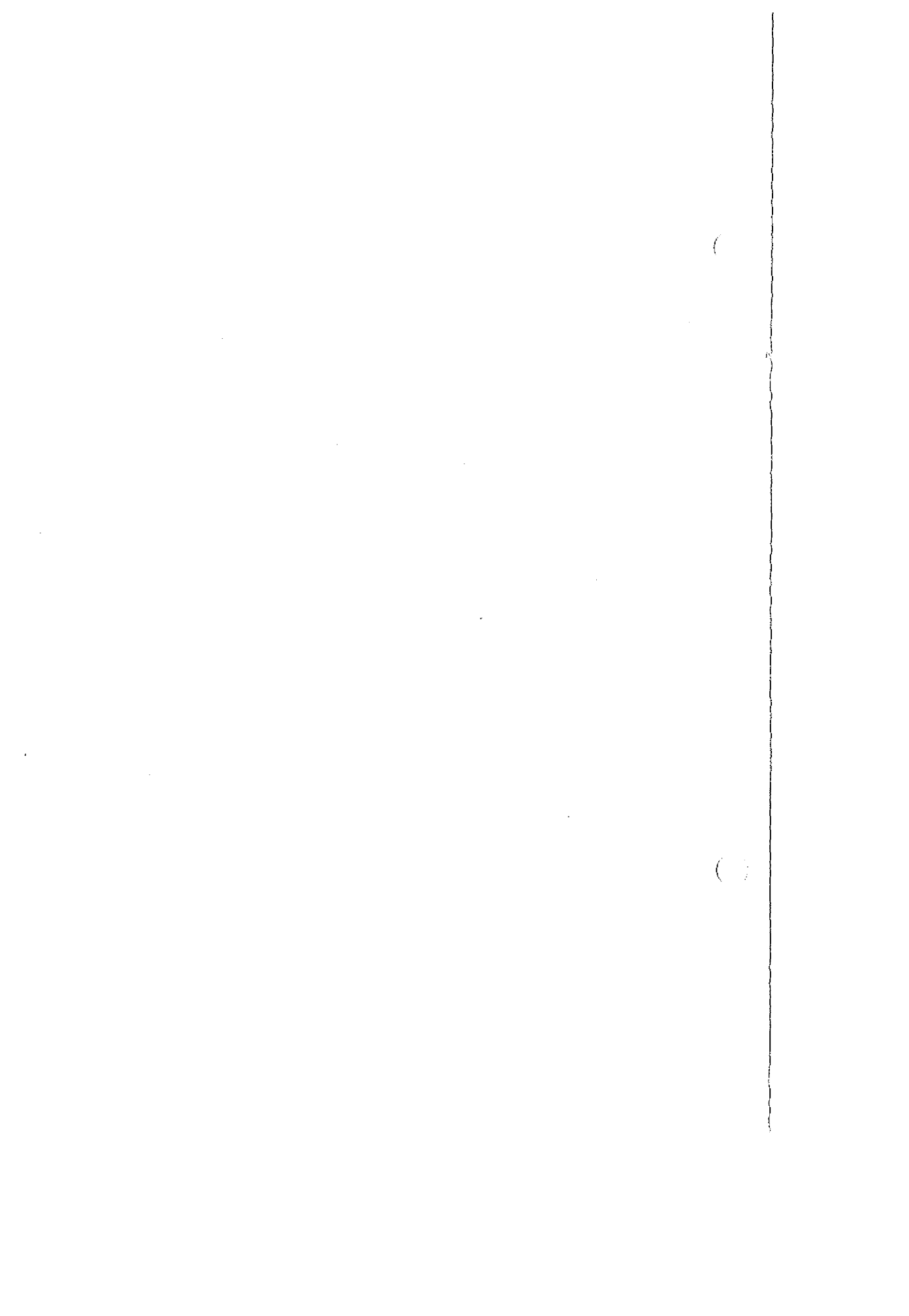
**Note:** The interpretations in this rule are effective under the general sales tax law on and after September 1, 1969 unless otherwise noted in the rule.

**History:** Cr. Register, March, 1978, No. 267, eff. 4-1-78; am. (2) (intro.), (4) (a) 1., (4) (b) (intro.) and (5) (c), renum. (2) (a) to be (2) (a) 1. and am., cr. (2) (a) 2., Register, November, 1981, No. 311, eff. 12-1-81.

**Tax 11.13 Sale of a business or business assets.** (ss. 77.51 (10) (a) and (b) and 77.54 (7), Stats.) (1) **GENERAL.** The sale of business assets consisting of tangible personal property by a person who holds or is required to hold a seller's permit at the time of the sale is subject to the sales tax.

(a) The tax applies if the business assets are sold as:

1. A disposition of surplus assets of a continuing business.





under s. 77.54 (6) (b), Stats., because they are used to transfer merchandise to customers.

**History:** Cr. Register, November, 1978, No. 275, off. 12-1-78.

**Tax 11.16 Common or contract carriers.** (ss. 77.54 (5) (b), (12) and (13) and 77.57, Stats.) (1) **MOTOR CARRIERS.** (a) Section 77.54 (5) (b), Stats., provides a sales and use tax exemption for: "Motor trucks, truck tractors, road tractors, busses, trailers and semitrailers, and accessories, attachments, parts, supplies and materials therefor, sold to common or contract carriers who use such motor trucks, truck tractors, road tractors, busses, trailers and semitrailers exclusively as common or contract carriers, including the urban mass transportation of passengers as defined in s. 71.18 (2) (a)." Effective on December 1, 1981 and thereafter, "exclusively" as used in s. 77.54 (5) (b) and this section means that the motor trucks, truck tractors, road tractors, busses, trailers and semitrailers are used solely as common or contract carriers to the exclusion of all other uses, except that the sales and use tax exemption for such tangible personal property will not be invalidated by an infrequent and sporadic use other than as a common or contract carrier.

(b) Accessories, attachments and parts for exempt vehicles shall be exempt from the sales and use tax. This includes tire chains, fire extinguishers, flares, bug deflectors, engine block heaters, defroster fans, auxiliary heaters and cooling units, and their fuel, radios, flag kits, including flags and reflectors, items designed to be used with a vehicle which protect the vehicle's load from the weather, such as fitted tarpaulins and tarpaulin straps, and items used to secure a vehicle's load, such as load holding chains, logistic straps and shoring beams.

(c) The sale or furnishing of repair, alteration, cleaning, painting and maintenance service to exempt vehicles shall be exempt.

(d) The exemption shall not apply to the following property used by common or contract carriers: automobiles, station wagons, and self-propelled vehicles for off-highway use such as road machinery, fork lifts and other industrial trucks.

(e) Items used for repair, service or maintenance of an exempt vehicle and items used to load or unload property being hauled shall not qualify for the exemption. Such non-exempt items include clean towel service, cleaning supplies, wrenches and repair tools, welding torches and welding gas, battery chargers, moving dollies, barrels and boxes, grinding discs, masking tape and shovels, conveyors, chutes, ramps, walk boards or similar equipment used in loading and unloading a truck or trailer.

(f) If a vehicle purchased without tax is converted to private use, a use tax is due. The tax is measured by the sales price of the vehicle to the purchaser, except that if the taxable use first occurs more than 6 months after the sale to the purchaser, the measure of the tax may be, at the purchaser's option, either the sales price or the vehicle's fair market value at the time the taxable use first occurs.

(g) Examples of special situations related to this exemption include:

1. *Moving.* A truck purchased to transport pads and packing materials to and from moving jobs qualifies for this exemption.

2. *Timber cutting and log hauling.* Cutting down trees, cutting them into logs and hauling them to a mill as a private business operation voids

the exemption, even though the trucker also hauls logs as a common or contract carrier for other persons at the same time.

3. *Refuse, garbage or snow hauling.* Trucks purchased for hauling refuse, garbage or snow do not qualify for the exemption.

4. *Milk hauling.* Vehicles of a milk or cheese factory that engages in hauling milk from farms to its plant for processing do not qualify for the exemption.

5. *Towing disabled vehicles.* Towing of vehicles to the repair facility of a garage-wrecker operator is part of a private repair business which is not exempt.

(2) RAILWAY ROLLING STOCK. (a) Section 77.54 (12), Stats., provides a sales and use tax exemption for: "The gross receipts from the sales of and the storage, use or other consumption in this state of rail freight or passenger cars, locomotives or other rolling stock used in railroad operations, or accessories, attachments, parts, lubricants or fuel therefor."

(b) The exemption for rolling stock includes:

1. The sale or furnishing of repair, alteration, cleaning, painting and maintenance service to exempt rolling stock.

2. Purchases of any equipment which is operated on railroad rails, except vehicles which may also be used on a highway.

3. Fuel used to heat a caboose, or run a compressor which cools a railway car.

4. A utility's coal cars used to haul coal from mines to the utility.

(c) The exemption does not apply to:

1. Rails, ties and other road building and maintenance materials.

2. Bracing materials, rough lumber and dunnage materials.

3. Ice to refrigerate a railway car.

(3) COMMERCIAL VESSELS. (a) Section 77.54 (13), Stats., provides a sales and use tax exemption for: "The gross receipts from the sales of and the storage, use or other consumption in this state of commercial vessels and barges of 50-ton burden or over primarily engaged in interstate or foreign commerce or commercial fishing, and the accessories, attachments, parts and fuel therefor."

(b) The exemption for commercial vessels applies to:

1. Vessels and barges primarily engaged in interstate or foreign commerce or commercial fishing which have a document issued by the U.S. customs service showing a gross tonnage of 50 tons or more.

2. Items that become a component part of the exempt commercial vessel.

3. The sale or furnishing of repair, alteration, cleaning, painting and maintenance of exempt commercial vessels.

(c) The exemption does not apply to consumable supplies or furnishings that are not attached to the vessel, such as bedding, linen, table and

kitchenware, tables, chairs, lubricants, work clothes, acetylene gas, nets, fishing tackle, lumber for dry docking, bracing, blocking and dunnage materials and other materials not incorporated into the vessel.

**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 the rule.

**History:** Cr. Register, November, 1978, No. 276, eff. 12-1-78; am. (1) (a) and (d), (3) (b) 1., Register, November, 1981, No. 311, eff. 12-1-81.

**Tax 11.17 Hospitals, clinics and medical professions.** (ss. 77.51 (21), (22) and (22m), 77.52 (2) (a) 1 and 77.54 (14), (20) (c) 4 and (22), 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), 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), 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), 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

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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	Pacemakers
Laboratory equipment and supplies	Prescription drugs
Medical equipment	Prophylactics
Office equipment and supplies	Rubbing alcohol
Oxygen tanks	Suppositories
Paper products	Sutures
Printed material	Vaccines
Rib belts and supports	Vaginal creams and jellies
Soda water beverages	Vitamins
Soap	
Splints and cast materials	
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), 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 11.18 Dentists and their suppliers.** (ss. 77.52 (1) and 77.54 (14) and (22) (c), Stats.) (1) DENTISTS. Charges by dentists for dental services are not subject to the sales tax. In addition, charges by dentists for artificial teeth, fillings, bridges, crowns or inlays are not subject to the tax.

(2) EXEMPT SALES TO DENTISTS. The gross receipts from the following sales to dentists are not taxable: medicines (such as nitrous oxide, oxy-  
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gen or novocain), gold, silver, other alloys used to fill teeth, cement, crowns, inlays, fillings and other items of tangible personal property sold to dentists which are installed in a patient's mouth and are intended to remain there. The labor charge of a dental supplier to fabricate such items also is not taxable.

(3) **TAXABLE SALES TO DENTISTS.** Equipment, materials and supplies sold to dentists which are used to conduct their business provided these items are not included in the list of exempt sales in part (2) above.

**Note:** The interpretations in this rule are effective under the general sales and use tax law effective September 1, 1969. In *Dept. of Revenue v. Milwaukee Refining Corp.*, 80 Wis. 2d 44 (1977), the Wisconsin Supreme Court held that gold bars sold to dentists who use the gold in the course of rendering their professional services are not subject to the sales and use tax.

**History:** Cr. Register, November, 1978, No. 275, eff. 12-1-78.

**Tax 11.19 Printed material exemptions.** (ss. 77.52 (2) (a) 11, 77.54 (9a), (15) and (25) and 77.55 (1), Stats.) (1) **GENERAL.** All retail sales of tangible personal property, including printed material, are subject to the tax, except when a specific exemption applies to the transaction. This rule describes exemptions which commonly apply to sales of printed material.

(2) **STATUTES.** (a) Section 77.52 (2) (a) 11 imposes the sales and use tax on certain services. However, an exemption (effective March 15, 1970) is provided for the printing or imprinting of tangible personal property furnished by consumers, which property will be subsequently transported outside the state for use outside the state by the consumer for advertising purposes.

(b) Section 77.54 (15) provides an exemption for newspapers and periodicals (effective September 1, 1969) and shoppers guides (effective July 1, 1978).

(c) Section 77.54 (25) (effective May 21, 1972) provides an exemption for printed material which is designed to advertise and promote the sale of merchandise, or to advertise the services of individual business firms, which printed material is purchased and stored for the purpose of subsequently transporting it outside the state by the purchaser for use thereafter solely outside the state.

(3) **NEWSPAPERS AND PERIODICALS DEFINED.** (a) The exemption for "newspapers" applies to those publications which are commonly understood to be newspapers and which are printed and distributed periodically at daily, weekly or other short intervals for the dissemination of current news and information of a general character and of a general interest to the public. In addition, any publication which qualifies as a newspaper under s. 985.03 (1), Stats., qualifies for the sales tax exemption. Advertising supplements are not subject to the tax if they are:

1. Printed by a newspaper and distributed as a component part of one of that newspaper's publications.

2. Printed by a newspaper or a commercial printer and sold to a newspaper for inclusion in publications of that newspaper.

(b) A "newspaper" does not include handbills, circulars, flyers, or the like, advertising supplements not described in par. (a) which are distributed with a newspaper, nor any publication which is issued to supply information on certain subjects of interest to particular groups, unless

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such publication otherwise qualifies as a newspaper within par. (a). Advertising is not considered news of a general character and of a general interest.

(c) The exemption for "periodicals" is limited to publications which appear at stated intervals, each issue of which contains news or information written by different authors which is of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues in respect to continuity of literary character or similarity of subject matter, and there must be some connection between the different issues of the series in the nature of the articles appearing in them. To qualify for the exemption, the publication must qualify for the second class mail rate or as a controlled circulation publication under U.S. postal laws and regulations.

(d) The newspaper and periodical exemption does not apply to books complete in themselves, even those issued at stated intervals (for example, books sold by the Book of the Month Club or similar organizations); paperback books; a new one of which may be issued once a month or some other interval; or so-called "one-shot" magazines that have no literary or subject matter connection or continuity between prior or subsequent issues. The exemption also does not apply to catalogs, programs, scorecards, handbills, maps, real estate brokers' listings, price/order books, corporate reports to stockholders, house organs, or to advertising materials which become a component part of a periodical.

(4) PRINTED ADVERTISING MATERIALS FOR OUT-OF-STATE USE. (a) Effective May 21, 1972 printed advertising materials such as catalogs and their mailing envelopes may be purchased from Wisconsin or out-of-state suppliers without tax pursuant to s. 77.54 (25), Stats., when such materials are purchased and stored for the purpose of subsequently transporting the same outside the state by the purchaser for use thereafter solely outside this state. The exemption applies to catalogs designed to be used by a retailer's potential customers.

(b) The exemption does not apply to materials shipped to Wisconsin addresses. It also does not apply to parts price lists, parts stock order books, order forms, and stocking and purchasing guides designed to be used by wholesalers and retailers. Matchbooks, calendars and playing cards also do not qualify for the exemption.

(5) EXEMPT PURCHASERS. Sales of printed material to governmental units, public schools, and certain nonprofit religious, charitable, educational or scientific organizations holding a certificate of exempt status are exempt under s. 77.54 (9a) or 77.55 (1), Stats. Sales to governmental units and public schools need not be supported by exemption certificates, if a copy of the purchase order from such organization is retained. Sales to persons holding a certificate of exempt status can be shown to be exempt by recording the certificate number on the bill of sale.

Note: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969 except: (a) where other dates are shown; and (b) the second class mail standard described in sub. (3) was effective August 1, 1974.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

**Tax 11.26 Other taxes in taxable gross receipts and sales price.** (s. 77.51 (11) (a) 4; (12) (a) 4 and (26), Stats.) (1) GENERAL RULE. (a) Tangible personal property sold at retail often is subjected to many di-

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rect 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:

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

(b) The taxes imposed upon intoxicating liquors (including wine) by s. 139.03, 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).

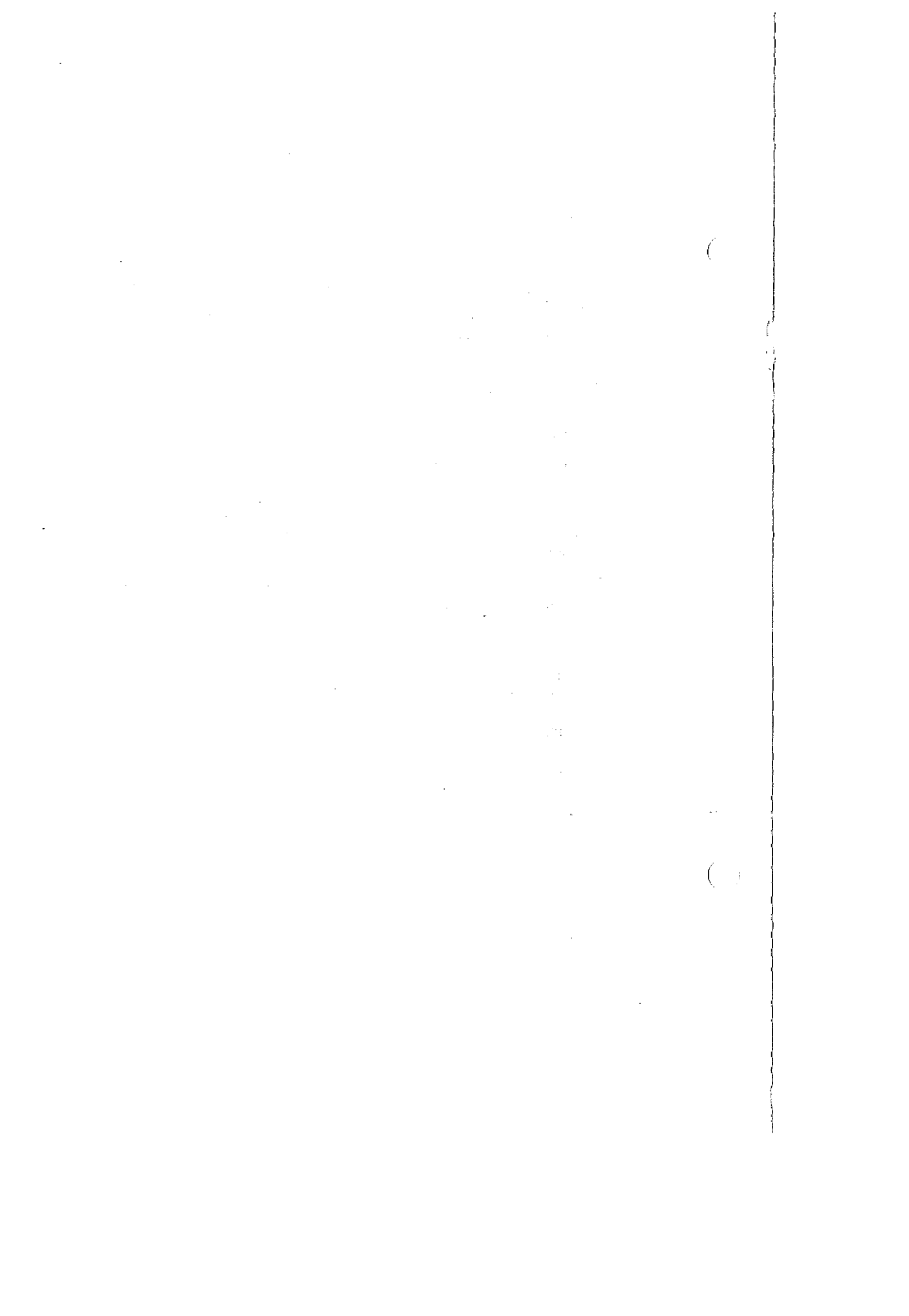
(d) The federal fuel tax included in the price of special fuels subject to the sales tax (e.g., sales for use in aircraft, boats and other non-highway use).

(e) The cigarette tax imposed by s. 139.31, Stats.

(3) TAXES SPECIFICALLY EXCLUDED FROM GROSS RECEIPTS OR SALES PRICE. The following taxes shall be excluded from a retailer's gross receipts or sales price:

(a) The federal communications tax imposed upon intrastate telegraph service and telephone service.

(b) Any tax imposed by the United States, this state or a Wisconsin municipality upon or with respect to retail sales, whether imposed upon





2. Performing custom work to the individual order of household consumers.
3. Experimental and development activities.
4. Grain drying.
5. Logging and forestry operations.
6. Mining.
7. Paper recycling.
8. Photography.
9. Popping corn.
10. Quarrying and rock crushing operations.
11. The business of raising and breeding animals.
12. Real property construction activities.
13. Typesetting.
14. Vending machine operations.

**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, November, 1977, No. 263, eff. 12-1-77.

**Tax 11.40 Exemption of machines and processing equipment.** (ss. 77.51 (27) and 77.54 (6) (a), Stats.) (1) **GENERAL.** (a) Section 77.54 (6) (a) exempts the gross receipts from the sale of and the storage, use or other consumption of "Machines and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property." Effective on December 1, 1981 and thereafter, "exclusively" as used in s. 77.54 (6) (a) and in this section means that the machines and specific processing equipment and repair parts or replacement thereof are used solely by a manufacturer in manufacturing tangible personal property to the exclusion of all other uses, except that the sales and use tax exemption will not be invalidated by an infrequent and sporadic use other than in manufacturing tangible personal property.

(b) Section 77.51 (27) provides "For purposes of s. 77.54 (6) (a) 'manufacturing' is the production by machinery of a new article with a different form, use and name from existing materials by a process popularly regarded as manufacturing."

(c) In determining whether a particular machine or piece of processing equipment is included in this exemption, these 2 statutes must be considered together.

(2) **CONDITIONS FOR EXEMPTION AND EXAMPLES.** This exemption shall apply if all the following conditions are met: (a) Machines and processing equipment shall be used by a *manufacturer* in manufacturing tangible personal property. The exemption shall not apply to machines and processing equipment used in providing services or in other nonmanufacturing activities. For example, machines and equipment of a dry cleaner are not used by a manufacturer in manufacturing, because a dry

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cleaner provides a service and is neither a manufacturer nor produces tangible personal property.

(b) Machines and processing equipment shall be used exclusively in manufacturing. For example, a forklift truck used on a production line to move products from machine to machine and used regularly or frequently in a warehouse to move and stack finished products is not used exclusively in manufacturing.

(c) Machines and processing equipment shall be used *directly in manufacturing*. The exemption shall not apply if machines and processing equipment are not used directly in the step-by-step processes by which an end product results, even though such machine and equipment are indirectly related to the step-by-step processes. For example, machines and equipment are not used directly in manufacturing if used for sweeping a plant; disposing of scrap or waste; plant heating or air conditioning; communications, lighting, safety, fire protection or prevention; research; storage; delivery to or from a plant or repair or maintenance of machines, processing equipment or facilities. In addition, electric substations, tool storage facilities, water softening equipment, refrigerated storage facilities and catwalks that provide access to various parts of a building are not used directly in manufacturing. Machine foundations are real property improvements rather than personal property.

(3) OTHER EXAMPLES OF THE EXEMPTION. Other examples of application of the exemption are as follows:

(a) Small tools used exclusively and directly in the manufacturing process qualify as "processing equipment". Small tools include hand tools such as drills, saws, micrometers and hammers. However, if such items are used regularly, frequently or totally for machine repair or general maintenance, they are not exempt.

(b) The exemption applies if machines and processing equipment are used exclusively and directly by a manufacturer to produce other machines or processing equipment which, in turn, are used by such manufacturer to produce tangible personal property. For example, a lathe purchased by a manufacturer and used directly and exclusively to produce machines which are used on the manufacturer's production line is exempt. However, if the lathe is used partly for production of such machines and partly for repair purposes, it is not exempt.

(c) The exemption applies if machines and processing equipment are used exclusively and directly by a manufacturer to produce component parts of tangible personal property.

(d) The exemption does not apply to machines or processing equipment used in whole or in part by a manufacturer before the manufacturing process has begun or after it has been completed (e.g., machines or equipment used for storage, delivery to or from a plant, repair or maintenance of facilities, research, or crating or packaging for shipment).

(e) The exemption does not apply to tangible personal property, which is not machinery or equipment, but is used in a manufacturing plant. For example, sweeping compounds are factory supplies rather than processing equipment.

Note: For the sales and use tax status of wearing apparel, see Tax 11.41 (3) (a) 16. and (4) (h).

(4) **REPAIR OF EXEMPT MACHINERY AND PROCESSING EQUIPMENT.** The gross receipts from the sale of and the storage, use or other consumption of repair or replacement parts and from repair service for exempt machines and processing equipment are exempt. Examples of such parts include conveyor belts, grinding wheels, grinding balls, machine drills, auger bits, milling cutters, emery wheels, jigs, saw blades, machine tool holders, reamers, dies, molds and patterns.

**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 the rule.

**History:** Cr. Register, November, 1977, No. 263, eff. 12-1-77; am. (4) (e), Register, October, 1979, No. 286, eff. 11-1-79; am. (1) (a), (2) (b), (3) (a) to (c), Register, November, 1981, No. 311, eff. 12-1-81.

**Tax 11.41 Exemption of property consumed or destroyed in manufacturing.** (ss. 77.54 (2) and 77.54 (6) (a), Stats.) (1) **GENERAL.** (a) Section 77.54 provides in part: "There are exempted from the taxes imposed by this subchapter: . . . (2) The gross receipts from sales of and the storage, use or other consumption of tangible personal property . . . which is consumed or destroyed or loses its identity in the manufacture of tangible personal property in any form destined for sale, but this exemption shall not include fuel or electricity."

(b) As used in s. 77.54 (2), Stats., "manufacture" shall conform to the definition of "manufacturing" in s. 77.51 (27), Stats.

(2) **RELATIONSHIP OF SS. 77.54 (2) AND 77.54 (6) (a).** In construing the exemption provided in s. 77.54 (2), it is necessary to refer to another exemption provided in s. 77.54 (6) (a). The latter section exempts gross receipts from the sale of certain machines, equipment and parts thereof used in manufacturing (this exemption is interpreted in rule Tax 11.40). Sections 77.54 (2) and 77.54 (6) (a) do not overlap and are mutually exclusive. Accordingly, machines, processing equipment and parts thereof must be within the exemption provided by s. 77.54 (6) (a) and if they are not, cannot be within the exemption provided by s. 77.54 (2).

(3) **EXAMPLES OF PERSONAL PROPERTY WITHIN S. 77.54 (2) EXEMPTION.** (a) The following property is within the exemption provided by s. 77.54 (2) if the property is consumed, destroyed or loses its identity in the manufacture of tangible personal property destined for sale:

1. Acids.
2. Bleaching agents.
3. Chemicals.
4. Cleaning compounds and solvents for maintaining manufacturing machinery during the manufacturing process.
5. Cutting and lubricating oils.
6. Filtering clay.
7. Fluxing material.
8. Foundry sand.
9. Greases.
10. Lapping and grinding compounds.

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11. Purification agents.
12. Sandpaper.
13. Shielding gases.
14. Wood used to smoke products.

15. Gloves and other wearing apparel used by employes on the production line to prevent contamination of the manufactured product.

(b) The exemption is not allowed when property is sold to and used by a person other than a manufacturer (e.g., by an automobile repair shop or other repair business). A purchaser also may not claim this exemption if the purchaser does not sell the item produced. For example, a modular home manufacturer-contractor is not entitled to the exemption when purchasing property consumed, destroyed or losing its identity in the manufacture of homes which it, as a contractor, will affix to real property, since the manufacturer-contractor is the consumer of all personal property used in such construction.

(4) **EXAMPLES OF PERSONAL PROPERTY NOT WITHIN S. 77.54(2) EXEMPTION.** The following property is not within the exemption provided by s. 77.54(2), although such property may be exempt under s. 77.54(6)(a) if the property is a part of a machine or processing equipment used exclusively and directly in manufacturing (as described in rule Tax 11.40):

- (a) Machine-drills and auger bits.
- (b) Milling cutters
- (c) Grinding wheels.
- (d) Chucks, jigs and dies.
- (e) Saw blades.
- (f) Machine tool holders.

(g) Hand tools, including files, wrenches, hammers, saws, screwdrivers, planes, punches, chisels and spray guns.

(h) Wearing apparel for the comfort or welfare of the employe or for the protection of the employe's clothing, such as helmets, hard hats, work gloves, aprons, coveralls, pants, coats, and fur-lined boots and jackets.

(5) **FUEL AND ELECTRICITY.** Fuel and electricity are specifically excluded from the exemption provided by s. 77.54(2) even though such property may be consumed, destroyed or lose its identity in the manufacture of products destined for sale. Since "fuel" is not defined in s. 77.54(2), it shall be given its ordinary meaning. Dictionaries generally define fuel as a material used to produce heat or power by burning, or something that feeds a fire. Fuel includes:

- (a) Oxygen used to enrich the fuel mixture in an industrial furnace, or oxygen and acetylene used in a welding process.

(b) Coal or coke used by a foundry, except the portion of the coke which actually becomes an ingredient or component part of any grey-iron produced.

**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, November, 1977, No. 263, eff. 12-1-77; cr. (3) (a) 15. and am. (4) (h), Register, October, 1979, No. 286, eff. 11-1-79.

**Tax 11.45 Sales by pharmacies and drug stores.** (ss. 77.51 (21) and (22) and 77.54 (14), (22) and (28), Stats.) (1) **TAXABLE SALES.** All sales of tangible personal property by a pharmacy or drug store shall be taxable under the general sales tax law unless exempted by a specific statute. The most common exemptions are described and enumerated in this section.

(2) **EXEMPT SALES: MEDICINES AND PRESCRIPTION DRUGS.** (a) Medicines shall be exempt from the tax if prescribed by a licensed physician, surgeon, podiatrist or dentist to a patient for treatment.

(b) "Medicines" prescribed by an appropriate health care provider enumerated in paragraph (a) which shall be exempt from the tax include:

1. Pills and capsules.
2. Powders.
3. Liquids.
4. Salves and ointments.
5. Insulin (furnished by a registered pharmacist).
6. Other preparations consumed orally, injected or applied.
7. Sutures.
8. Pacemakers.
9. Suppositories.
10. Bone pins.
11. Dyes.
12. Other articles permanently implanted in the human body which remain or dissolve in the body.
13. Medical oxygen.
14. Vitamins.
15. Vaccines.
16. Oral contraceptives.

(c) This exemption shall *not* include:

1. Auditory, prosthetic, ophthalmic or ocular devices or appliances.
2. Splints, bandages, pads, compresses, supports, dressings, instruments or equipment.

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3. Alcoholic beverages, soda water beverages or distilled water.
4. Cast materials.
5. Oxygen tanks.

(3) **EXEMPT SALES: MEDICAL APPLIANCES AND PROSTHETIC DEVICES.** The exemption for medical appliances and prosthetic devices under s. 77.54 (22) and (28), Stats., shall apply to sales of the following:

(a) Artificial devices individually designed, constructed or altered solely for the use of a particular crippled person which become a brace, support, supplement, correction or substitute for a bodily structure, including the extremities, of the individual.

(b) Trusses, supports, shoes, braces and elastic hose only when specially fitted or altered to fit a particular person. "Altered" includes the bending of metal stays but does not include adjusting straps or seams.

(c) Artificial limbs, artificial eyes, hearing aids and batteries, colostomy, ileostomy and urinary appliances, artificial breast forms, pacemakers, 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.

(d) Crutches and wheelchairs for the use of invalids and crippled persons, 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.

(e) Apparatus or equipment for the injection of insulin.

(f) 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 such administrator directly, the sale shall be a tax exempt sale to the United States. If the provider of a taxable item bills an individual who then seeks reimbursement from Medicare, the sale shall not be an exempt sale to the United States.

**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, October, 1976, No. 260, eff. 11-1-76.

**Tax 11.46 Summer camps.** (s. 77.52 (1) and (2) (a) 1, Stats.) (1) **DEFINITIONS.** In this rule:

(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 (e.g., the YMCA and Boy Scouts of America).

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(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.

(2) **TAXABLE RECEIPTS.** Receipts from the following are taxable:

(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) **COMBINED CHARGE.** An allocation between taxable and exempt receipts must be made when a single (combined) charge is made for all the privileges extended by a camp. Adequate records must 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 cover overhead costs) to the cost of the food and labor for food preparation.

(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 \$3 per person per night.

**Note:** The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969, except that the amount shown in sub. (4) (b) became effective September 15, 1970. Prior to that date the tax was based on \$2 per person per night.

**History:** Cr. Register, September, 1977, No. 261, eff. 10-1-77.

**Tax 11.47 Commercial photographers and photographic services.** (ss. 77.52 (2) (a) 7 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 include gross receipts from:

(a) Taking, reproducing and selling photographs.

(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, 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.

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(2) AMOUNTS INCLUDED IN GROSS RECEIPTS. (a) Gross receipts subject to the tax include charges for photographic 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 may purchase, without paying sales or use tax, any item which becomes a component part of an article destined for sale if a properly completed exemption certificate is given the seller. Such items include:

1. Mounts, frames and sensitized paper used in the finished photograph and transferred to the customer.

2. Film (i.e., 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 are required to pay tax when purchasing tangible personal property which is used, consumed or destroyed in providing photographic services. Such items include:

1. Chemicals.

2. Trays.

3. Film (other than noted in sub. (3) (a) 2).

4. Plates.

5. Proof paper.

6. Cameras.

7. Other photographic equipment.

**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, September, 1977, No. 261, eff. 10-1-77.

**Tax 11.48 Landlords, hotels and motels.** (ss. 77.51 (7) (n) and (24) and 77.52 (2) (a) 1 and 9, 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 or use tax applies to a landlord's purchases of all such 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 such 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, dock-



ing 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.

(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 for a continuous period of less than one month. A continuing monthly rental of a particular room or rooms by a business (such as a trucking company, railway or airline) to be used by its employes 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 use to which the room is put. For example, the rental of a motel sleeping room