

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Form S-174. For determination of taxable status of sellers at an event.

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

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

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

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

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

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

History: Cr. Register, February, 1978, No. 266, eff. 3-1-78; am. (1) (a), r. (1) (d), cr. (1) (m), Register, January, 1983, No. 325, eff. 2-1-83; r. and recr., Register, March, 1991, No. 423, eff. 4-1-91.

Tax 11.03 Elementary and secondary schools and related organizations. (ss. 77.52 (2) (a) and 77.54 (4), (9) and (9a), Stats.) (1) DEFINITIONS. (a) In this section, elementary school means a school providing any of the first 8 grades of a 12 grade system and kindergarten where applicable. Secondary school means a school providing grades 9 through 12 of a 12 grade system and includes the junior and senior trade schools described in s. 119.30, Stats.

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

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

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(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, when used for other than recreational, athletic, amusement or entertainment purposes.

Example: A school auditorium is rented to a religious group which conducts a religious revival. The gross receipts from the rental are exempt.

4. Rental of auditoriums or gymnasiums, including any charges for lights, heat, janitor fees and equipment, when used by a promoter or professional group which will sell admissions to the public for recreational, athletic, amusement or entertainment purposes.

Examples: 1) A school gymnasium is rented to a professional basketball team which will sell tickets to the event. The gross receipts from the rental are exempt.

2) A school auditorium is rented to a popular band for one night. The band will sell tickets to its performance. The gross receipts from the rental are exempt.

5. Admissions to school activities such as athletic events, art and science fairs, concerts, dances, films 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) Sales by elementary or secondary schools, the gross receipts from which are taxable, include:

1. Admissions to recreational facilities, such as golf courses, swimming pools, ball fields and gymnasiums which are open to the general public for recreational purposes.

2. Rental of auditoriums or gymnasiums, including any charges for lights, heat, janitor fees and equipment, when used by persons for their own recreation, entertainment or amusement where there is no charge for admission.

Example: A local neighborhood group rents the school gymnasium for its residents to play volleyball. The neighborhood group does not charge its residents to play volleyball. The gross receipts from the rental are taxable. If the group charged an entry fee to play volleyball, the gross receipts from the rental of the gymnasium are not taxable because the rental is for resale.

3. Taxable services under s. 77.52 (2) (a), Stats., such as parking and repair services.

Example: A school sponsors an athletic tournament and charges \$1 for parking. The gross receipts from parking 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 a collection agent for the seller, whether or not the school receives a com-

mission for the collection. The retailer, such as a photographer, is subject to the tax on these sales.

(b) Sales made by school-related organizations, such as parent-teacher associations and student organizations, not subject to the control and supervision of school officials.

(c) Sales of tangible personal property or taxable services by vocational, technical and adult education schools.

(4) SALES TO SCHOOLS AND SCHOOL-RELATED ORGANIZATIONS. Under s. 77.54, Stats., gross receipts from sales to the following organizations are exempt:

(a) All public schools, vocational schools, state colleges and universities and public school districts. This exemption may be claimed without use of an exemption certificate. A purchase order shall be acceptable evidence of a sale's exempt status.

(b) Private schools having certificates of exempt status.

(c) Related organizations of private or public schools having certificates of exempt status, such as parent-teacher associations and student organizations.

Note: The interpretations in s. Tax 11.03 are effective under the general sales and use tax law on and after September 1, 1969, except that gross receipts from sales by vocational, technical and adult education schools are exempt for the period from July 1, 1972, through October 3, 1973.

History: Cr. Register, November, 1977, No. 263, eff. 12-1-77; am. (1) (a), (2) (a) 3., (3) (a) and (4) (c), renum. (2) (a) 4. to be 5., cr. (2) (a) 4., r. and recr. (2) (b), Register, September, 1991, No. 429, eff. 10-1-91.

Tax 11.04 Constructing buildings for exempt entities. (ss. 77.51 (2) and (14), 77.54 (9a) and 77.55 (1), Stats.) (1) DEFINITION. In this rule, "exempt entity" means a person qualifying for an exemption under s. 77.54 (9a) or 77.55 (1), Stats. Section 77.54 (9a), Stats., provides an exemption for sales to this state or any agency thereof, or any county, municipality as defined in s. 41.02 (4), Stats., school district or other political subdivision; any corporation, community chest fund, foundation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals. Section 77.55 (1), Stats., provides an exemption for sales to the United States, its unincorporated agencies and instrumentalities, and any unincorporated agency of instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

(2) TAXABLE GROSS RECEIPTS. Sales of building materials to contractors or subcontractors used in the construction of buildings or structures, or the alteration, repair or improvement of real property for exempt entities, are subject to the tax.

(3) PURCHASES PRESUMED TAXABLE. When a contractor and an exempt entity enter into a construction contract to improve real property, which provides that the contractor is to furnish the building materials, it is presumed until the contrary is established, that deliveries of building materials to the contractor are made pursuant to purchases made by the contractor.

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(4) **SUPPLIER IS CONTRACTOR.** A supplier, who is also the contractor who uses the building materials in the construction of buildings or structures, or the alteration, repair or improvement of real property for an exempt entity, is the consumer of such building materials, not the seller of personal property to the exempt entity. The sale of building materials to the consumer is subject to the tax.

(5) **EXEMPT GROSS RECEIPTS.** A supplier's sales of building materials made directly to an exempt entity are not taxable, even though such tangible personal property is used by the contractor in the erection of a building or structure, or in the alteration, repair or improvement of real property for the exempt entity. Suppliers of building materials may presume that a sale is made directly to an exempt entity if the supplier receives a purchase order from the exempt entity, and payment for such building materials is received from the exempt entity.

Note: The interpretations in s. Tax 11.04 are effective under the general sales and use tax law on and after September 1, 1969.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

Tax 11.05 Governmental units. (ss. 77.51 (4) (c) 6 and (10), 77.52 (2) (a) 1, 2, 9 and 20 and 77.54 (9a), (10), (15), (17), (20), (30), (32) and (37), Stats.) (1) **GENERAL.** Sales by the state of Wisconsin, any agency thereof and governmental units within this state are generally subject to the Wisconsin sales tax. However, sales by the United States government or any agency thereof are not taxable.

(2) **TAXABLE RECEIPTS.** Taxable receipts of governmental units include gross receipts from the following:

- (a) Admissions to recreational facilities.

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