

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

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

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

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

(a) The event does not involve professional entertainment;

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

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

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

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

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

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

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

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

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

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

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

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

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

**Tax 11.38 Fabricating and processing.** (ss. 77.51 (14) (f) and (h) and 77.52 (2) (a) 10 and 11, Stats.) (1) **TAXABLE FABRICATION.** Except for sales for resale described in s. 77.52 (13) to (15), Stats., types of fabrication charges which are taxable, regardless of whether the customer or fabricator furnishes the materials, include charges for the following:

- (a) Printing and imprinting.
- (b) Tailoring a suit.
- (c) Fabricating steel which may involve cutting the steel to length and size, bending and drilling holes in the steel to the specifications of a particular construction job. The end result of the fabrication is a modification of a previously manufactured article.
- (d) Making curtains, drapes, slip covers or other household furnishings.
- (e) Making a fur coat from pelts, gloves or a jacket from a hide.
- (f) Cutting lumber to specifications and producing cabinets, counter tops or other items from lumber for customers (often referred to as "millending").
- (g) Bookbinding.
- (h) Heat treating or plating.
- (i) Firing of ceramics or china.
- (j) Assembling kits to produce a completed article.
- (k) Production of a sound recording or a motion picture.
- (l) Threading pipe, or welding pipe.
- (n) Bending glass tubing into neon signs.
- (o) Laminating identification cards.

(2) **TAXABLE PROCESSING.** Except for sales for resale described in s. 77.52 (13) to (15), Stats., types of processing charges which are taxable, regardless of whether the customer or processor furnishes the materials, include charges for the following:

- (a) A caterer's preparation of food for consumption on or off the premises.
- (b) Dyeing or fireproofing fabric.
- (c) Cutting or crushing stones, gravel or other construction materials.
- (d) Retreading tires.
- (e) Drying, planing or ripping lumber.
- (f) Cleaning used oil.
- (g) Application of coating to pipe.

Note: 1) Sales or use tax may not apply in many cases because the customer is a manufacturer or other business entitled to issue a valid resale certificate to the producer, fabricator or processor. Such customer purchases the service "for resale" without tax. This rule does not impose a tax in such cases.

2) Tax applies to charges for producing, fabricating or processing tangible personal property for a consideration for consumers, whether or not the consumers furnish, either directly or indirectly, the materials used in the producing, fabricating or processing operation. Producing, fabricating and processing include any operation which results in the creation or production of tangible personal property, or which is a step in a process or series of operations resulting in the creation or production of tangible personal property except sales for resale. Sales or use tax applies to the entire amount charged for such services, including the charge for materials on which the service is performed.

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

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76.

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

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

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

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

- (a) Asphalt plants.
- (b) Bakeries.
- (c) Battery makers.
- (d) Breweries and soda water bottling plants.
- (e) Candy factories.
- (f) Cement and concrete plants.
- (g) Chemical processing plants.
- (h) Concrete block and tile producers.
- (i) Creameries and instant milk producers.
- (j) Dairies and cheeseplants.
- (k) Electric generating companies.
- (l) Flour and feed mills, including mobile units.

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