

Clearinghouse Rule 16-053

PROPOSED ORDER OF THE DEPARTMENT OF REVENUE REPEALING, RENUMBERING, RENUMBERING AND AMENDING, AMENDING, REPEALING AND RECREATING, AND CREATING RULES

The Wisconsin Department of Revenue proposes an order to: **repeal** Tax 11.84 (2) (a) 3.; **renumber** Tax 11.30 (2) (b) and (c); **renumber and amend** Tax 11.16 (1) (am), 11.30 (2) (a), and 11.63 (3); **amend** Tax 11.01 (1) (g), 11.05 (2) (gm), 11.11 (3) (intro.), 11.13 (6) (b) 2., 11.16 (1) (am) (title) and (b) and (3) (Note 2), 11.30 (2) (a) and (e) 2. and (3) (Note 2), 11.33 (4) (a) (intro.) and 3. and (5) (c), 11.34 (3) (bg), 11.50 (4) (a) 1.a. and (5) (title), 11.51 (2) (a) and (b), 11.56 (9) (b) (intro.), (Example 1) to (Example 4), and (Note 2), 11.63 (1) (intro.) and (5) (Note 1) and (Note 2), 11.68 (3) (b) (Example), (6) (d) and (h), (7) (a) 2. and 4., and (11) (c) (intro.), 11.83 (1) (b), 11.84 (1) (a) and (c), (2) (a) (title) and 2., (3) (title), (a), and (b), and (4) (Note 1) and (Note 2), and 11.945 (2) (intro.); **repeal and recreate** Tax 11.56 (9) (a) and (b) 1. to 3.; and **create** Tax 11.16 (1) (am) (intro.), 1., and 2., 11.30 (2) (am), (b) 2., (c) 2., and (d) 3., 11.42, 11.50 (5) (a) 7m., 11.56 (9) (b) (Example 5) to (Example 8), 11.63 (1) (c) and (d), (2) (d), (e), and (f), and (3) (intro.), (b), (c), and (d), 11.68 (4) (h) and (h) (Note) and (7) (a) 7m., and 11.84 (2) (a) 2. (Example 1) to (Example 3), (3) (c), and (4) (j); **relating to** sales and use tax provisions.

The scope statement for this rule, SS 071-14, was approved by the Governor on July 24, 2014, published in Register No. 704 on August 14, 2014, and approved by the Secretary of Revenue on August 27, 2014.

Analysis by the Department of Revenue

Statutes interpreted: ss. 77.52 (2) (a) 10. and (ag), 77.54 (5) (a) and (b), (6) (am) 4. and 5., (bn), and (cn), (23n), and (61), and 77.585 (1), Stats.

Statutory authority: ss. 77.65 (3) and 227.11 (2) (a), Stats.

Explanation of agency authority: Section 77.65 (3), Stats., provides “[t]he department may promulgate rules to administer this section...”

Section 227.11 (2) (a), Stats., provides “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute...”

Related statute or rule: There are no other applicable statutes or rules.

Plain language analysis: The rule (1) reflects various law changes, (2) clarifies multiple rules, and (3) corrects an error in current rule provisions.

a. Aircraft

- **Clarify Rule.** Amend s. Tax 11.84 (1), to add that a credit is permitted against the Wisconsin use tax for sales or use tax paid to another state where the aircraft was purchased.
- **Exemption for Aircraft Parts, Maintenance, and Labor.** Reflect 2013 Wisconsin Act 185, which repeals and recreates the exemption in s. 77.54 (5) (a), Stats., and amends s. 77.52 (2) (a) 10., Stats. These provisions exempt

the sale of aircraft parts, as well as the services performed to aircraft. This requires updates to s. Tax 11.84.

- b. Bad Debts - Private Label Credit Card Companies.** Reflect 2013 Wisconsin Act 229, as affected by 2015 Wisconsin Act 55, ss. 4750 and 9437 (2L), which allows sales tax return adjustments for bad debts incurred by private label credit card companies and dual purpose credit card companies. This requires an update to s. Tax 11.30 (2).
- c. Clarify Rule.** Amend s. Tax 11.11 (3), to clarify that the list of facilities is not an all-inclusive list but only types of municipal waste facilities currently recognized by the department.
- d. Common Motor Carriers.**
 - Reflect 2013 Wisconsin Act 364, which amends the definition of "common motor carrier" in s. 194.01 (1), Stats. For purposes of the sales and use tax exemption in sec. 77.54 (5) (b), Stats., "common carrier" has the same meaning as s. 194.01 (1), Stats. This requires updates to s. Tax 11.16.
 - **Clarify Rule.** Amend s. Tax 11.16 (1) (b), to include "cell phones," "tracking devices," "GPS units," and "on board recorders" to the list of items in the rule to make it clear that these items qualify as exempt accessories and attachments if they are assigned to and carried on vehicles used exclusively as common and contract carriers.
- e. Construction Contractors.**
 - **Clarify Rule.** Amend the example following s. Tax 11.68 (3) (b), to remove "hot" from "hot water heater" in the example.
 - **Clarify Rule.** Amend s. Tax 11.68 (6) (d), to include "underground wiring" to the list of items in the rule to make it clear that the underground wiring becomes part of the realty.
 - **Clarify Rule.** Amend s. Tax 11.68 (7) (a) 2, by removing "satellite dishes" from items listed. Create additional item number to be inserted in between s. Tax 11.68 (7) (a) 6. & 7. that clarifies tax treatment for both satellite dishes mounted to concrete foundation and the compact roof mounted satellite dishes that are installed in a residence or a business.
 - **Clarify Rule.** Amend s. Tax 11.68 (11) (c), to clarify that the items listed only retain their character as tangible personal property for repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance.
- f. Correct Error.** Amend s. Tax 11.945 (2) (intro.), to remove "telecommunications message services" from the list, since "telecommunications message services" are sourced under the general sourcing hierarchy.
- g. Fertilizer Blending, Feed Milling, and Grain Drying Machinery and Equipment.** Reflect 2013 Wisconsin Act 324, which creates exemptions in s.

77.54 (6) (am) 4. and 5., Stats., for equipment used in a fertilizer blending, feed milling, or grain drying operation and building materials used in constructing or repairing certain holding structures used in a fertilizer blending, feed milling, or grain drying operation. This requires the creation of s. Tax 11.68 (4) (h). It will also be useful to (1) create a new section to explain the exemption, and (2) add examples to s. Tax 11.68 (6) and (7).

h. Grocers' Guidelist.

- **Clarify Rule.** Amend s. Tax 11.51 (2) (a), to include potato chips that are chocolate covered in the taxable list, unless they contain flour.
- **Clarify Rule.** Amend s. Tax 11.51 (2) (b), to clarify "chips, potato, corn and similar items" and "potato chips" are exempt unless they are chocolate covered and do not contain flour as provided in par. (a).
- **Clarify Rule.** Amend s. Tax 11.51 (2) (b), to clarify "ice cream in cones" is exempt only when prepackaged by someone other than the retailer.

i. Printing Industry. Reflect 2013 Wisconsin Act 145, which, in part, amends the exemptions for the printing industry in s. 77.54 (61) (intro), (a), and (b), and creates s. 77.54 (61) (c), Stats. This requires updates to the provisions in s. Tax 11.56.

j. Radio and Television Broadcasting Equipment. Reflect 2013 Wisconsin Act 346, which creates an exemption in s. 77.54 (23n), Stats., for property used by certain commercial radio and television stations. This requires an update to s. Tax 11.63.

k. Utility Terrain Vehicles. Reflect 2011 Wisconsin Act 208, which relates to the registration and operation of utility terrain vehicles. This requires updates to ss. Tax 11.01 (1); 11.05 (2) (gm); 11.13 (6) (b) 2.; 11.33 (4) (a) (intro) and 3. and (5)(c); 11.34 (3) (bg); 11.50 (4) (a) 1.a., (5) (title) and (a); and 11.83 (1) (b).

Summary of, and comparison with, existing or proposed federal regulation:

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states: The department is not aware of a similar rule in an adjacent state.

Summary of factual data and analytical methodologies: 2011 Wisconsin Act 208 and 2013 Wisconsin Acts 145, 185, 229, 324, 346, and 364 have made numerous changes to Wisconsin's sales and use tax laws. The department has created this proposed rule order to reflect these statutory changes, as well as provide needed clarification and correction as described above. No other data was used in the preparation of this proposed rule order or this analysis.

Analysis and supporting documents used to determine effect on small business: This rule order makes changes to reflect current law and current department policy. It makes no policy or other changes having an effect on small business.

Anticipated costs incurred by private sector: This proposed rule does not have a fiscal effect on the private sector.

Effect on small business: This proposed rule does not affect small business.

Agency contact person: Please contact Jen Chadwick at (608) 266-8253 or jennifer.chadwick@wisconsin.gov, if you have any questions regarding this proposed rule.

Place where comments are to be submitted and deadline for submission: Comments may be submitted to the contact person shown below no later than October 28, 2016. Information as to the place, date, and time of the public hearing will be published in the Wisconsin Administrative Register.

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SECTION 1. Tax 11.01 (1) (g) is amended to read:

Tax 11.01 (1) (g) Form 9400–376. A department of natural resources form for occasional and dealer sales of all–terrain vehicles and utility terrain vehicles.

SECTION 2. Tax 11.05 (2) (gm) is amended to read:

Tax 11.05 (2) (gm) Sales of motor vehicles, boats, snowmobiles, recreational vehicles as defined in s. 340.01 (48r), Stats., trailers, semitrailers, all–terrain vehicles, utility terrain vehicles, and aircraft. Governmental units must collect the sales tax on its sales of these items. If the governmental unit does not collect the tax from the purchaser, the purchaser shall file a sales tax return and pay the tax prior to titling or registering the property in this state.

SECTION 3. Tax 11.11 (3) (intro.) is amended to read:

Tax 11.11 (3) (intro.) MUNICIPAL WASTE TREATMENT EXEMPTION. Tangible personal property and items and property under s. 77.52 (1) (b) and (c), Stats., which become a component or ingredient part of ~~the following~~ municipal facilities that treat waste qualifies for exemption from Wisconsin sales and use tax under s. 77.54 (26), Stats. Municipal facilities that treat waste include:

SECTION 4. Tax 11.13 (6) (b) 2. is amended to read:

Tax 11.13 (6) (b) 2. Motor vehicles, boats, snowmobiles, recreational vehicles as defined in s. 340.01 (48r), Stats., trailers, semitrailers, all-terrain vehicles, utility terrain vehicles, or aircraft.

SECTION 5. Tax 11.16 (1) (am) (title) is amended to read:

Tax 11.16 (1) (am) (title) *Exclusively Definitions*.

SECTION 6. Tax 11.16 (1) (am) is renumbered Tax 11.16 (1) (am) 3. and amended to read:

Tax 11.16 (1) (am) 3. ~~As used in s. 77.54 (5) (b), Stats., and this section, "exclusively"~~ "Exclusively" means that the motor trucks, truck tractors, road tractors, buses, 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 this tangible personal property will not be invalidated by an infrequent and sporadic use other than as a common or contract carrier.

SECTION 7. Tax 11.16 (1) (am) (intro.), 1., and 2. are created to read:

Tax 11.16 (1) (am) (intro.) For purposes of the exemption in s. 77.54 (5) (b), Stats., and this section:

1. "Common carrier" has the same meaning as "common motor carrier" in s. 194.01 (1), Stats.

2. "Contract carrier" has the same meaning as "contract motor carrier" in s. 194.01 (2), Stats.

SECTION 8. Tax 11.16 (1) (b) and (3) (Note 2) are amended to read:

Tax 11.16 (1) (b) *Accessories and attachments*. Accessories, attachments, parts, and supplies for exempt vehicles are exempt from the sales and use tax under s. 77.54 (5) (b), Stats. This exemption includes the following items if they are assigned to and carried on vehicles used exclusively as common or contract carriers: dollies, pianoboards, ladders, walkboards, 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, cell phones, tracking devices, global positioning system or "GPS" units, on board recorders, and items designed to be used with a vehicle which protect or secure the vehicle's load including tape, fitted tarpaulins, tarpaulin straps, furniture pads and covers, load holding chains, logistic straps, and shoring beams. This exemption does not include corrugated boxes, containers, and related materials that are transferred to customers in conjunction with the selling, performing, or furnishing of a moving service, as provided in par. (g).

(3) (Note 2) **Note:** The interpretations in s. Tax 11.16 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The sale of packing materials to a service provider became taxable effective September 1, 1983, pursuant to 1983 Wis. Act 27; (b) The exemption for certain railroad crossties became effective July 20, 1985, pursuant to 1985 Wis. Act 29; (c) Section 340.01 (61), Stats., which defined "station wagon" was repealed pursuant to 1999 Wis. Act 80; (d) In *Freight Lime and Sand Hauling, Inc. v. Wisconsin Department of Revenue*, Wisconsin Tax Appeals Commission, November 20, 2002 (CCH 400-646), trucks hauling property of

others for hire were found to qualify for exemption, even though the property being hauled had no value; (e) Section 77.57, Stats., was amended to remove the portion of the statute that allowed a purchaser to use the lesser of the cost or fair market value of an item that was purchased exempt and whose first taxable use occurred more than 6 months after it was purchased, pursuant to 2009 Wis. Act 2; and (f) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; and (g) The definition of "common motor carrier" was amended, pursuant to 2013 Wis. Act 364, which first applies to motor carrier operations occurring on April 25, 2014.

SECTION 9. Tax 11.30 (2) (a) is amended to read:

Tax 11.30 (2) (a) Definition of bad debt for sales completed prior to July 1, 2017. "Bad debt" is defined in s. 77.585 (1) (a), Stats., ~~to mean the portion of the sales price or purchase price that the seller has reported as taxable and for which the seller has paid the tax under subch. III of ch. 77, Stats., and that the seller may claim as a deduction under section 166 of the Internal Revenue Code. "Bad debt" does not include financing charges or interest, sales or use taxes imposed on the sales price or purchase price, uncollectible amounts on tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., that remain in the seller's possession until the full sales price or purchase price is paid, expenses incurred in attempting to collect any debts, debts sold or assigned to 3rd parties for collection, and repossessed property or items (2013-14).~~

SECTION 10. Tax 11.30 (2) (am) is created to read:

Tax 11.30 (2) (am) *Definitions relating to bad debts for sales completed on or after July 1, 2017.*

1. "Bad debt" is defined in s. 77.585 (1) (a) 1., Stats., as renumbered, amended in part, and created, in part, by 2013 Wis. Act 229, as affected by 2015 Wis. Act 55.

2. "Dual purpose credit card" has the meaning in s.77.585 (1) (a) 2., Stats., as created by 2013 Wis. Act 229, as affected by 2015 Wis. Act 55.

3. "Dual purpose credit debt" has the meaning in s.77.585 (1) (a) 3., Stats., as created by 2013 Wis. Act 229, as affected by 2015 Wis. Act 55.

4. "Lender" has the meaning in s.77.585 (1) (a) 4. a. and b., Stats., as created by 2013 Wis. Act 229, as affected by 2015 Wis. Act 55.

5. "Private label credit card" has the meaning in s.77.585 (1) (a) 5., Stats., as created by 2013 Wis. Act 229, as affected by 2015 Wis. Act 55.

6. "Private label credit debt" has the meaning in s.77.585 (1) (a) 6., Stats., as created by 2013 Wis. Act 229, as affected by 2015 Wis. Act 55.

SECTION 11. Tax 11.30 (2) (b) is renumbered Tax 11.30 (2) (b) 1.

SECTION 12. Tax 11.30 (2) (b) 2. Is created to read:

Tax 11.30 (2) (b) 2. For bad debts resulting from sales completed on or after July 1, 2017, a seller may claim the deduction under subd. 1. for bad debts incurred by the seller or the lender.

SECTION 13. Tax 11.30 (2) (c) is renumbered Tax 11.30 (2) (c) 1.

SECTION 14. Tax 11.30 (2) (c) 2. is created to read:

Tax 11.30 (2) (c) 2. For bad debts resulting from sales completed on or after July 1, 2017, subd. 1. applies to bad debts found worthless and charged off as bad debts that are thereafter in whole or in part collected by the seller or by the lender. If payment is received on an account for which the balance reflects multiple sales transactions, the payment is applied to the sales transactions in the same order in which the sales transactions occurred.

SECTION 15. Tax 11.30 (2) (e) 2. and (3) (Note 2) are amended to read:

Tax 11.30 (2) (e) 2. A retailer who sells its receivables and agrees to bear any bad debt loss on them is entitled to a bad debt deduction to the same extent as if the accounts were not sold. However, a bad debt deduction is not allowable when receivables are sold outright at a discount, except for dual purpose credit debts and private label credit debts resulting from sales completed on or after July 1, 2017.

(3) (Note 2) **Note:** The interpretations in s. Tax 11.30 are effective under the general sales and use tax law on and after September 1, 1969, except that (a) the 4% tax rate was increased to 5% on May 1, 1982; (b) The deduction for bad debts was revised effective October 1, 2009 pursuant to 2009 Wis. Act 2; ~~and~~ (c) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; and (d) The law was amended to allow a deduction for bad debts incurred by private label credit card companies and dual purpose credit card companies, effective July 1, 2017, and first applying to bad debts resulting from sales completed on July 1, 2017, pursuant to 2013 Wis. Act 229, as affected by 2015 Wis. Act 55, ss. 4750 and 9437 (2L).

SECTION 16. Tax 11.33 (4) (a) (intro.) and 3. and (5) (c) are amended to read:

Tax 11.33 (4) (a) (intro.) The sale of a motor vehicle, snowmobile, recreational vehicle as defined in s. 340.01 (48r), Stats., trailer, semitrailer, all-terrain vehicle, utility terrain vehicle, or aircraft that is registered or titled in Wisconsin or required to be registered or titled in Wisconsin is an exempt occasional sale only if one of the following applies:

3. The motor vehicle, snowmobile, recreational vehicle as defined in s. 340.01 (48r), Stats., trailer, semitrailer, all-terrain vehicle, utility terrain vehicle, or aircraft is sold by a nonprofit organization meeting the requirements in s. Tax 11.35 (4).

(5) (c) Sales of motor vehicles, aircraft, boats, recreational vehicles as defined in s. 340.01 (48r), Stats., snowmobiles, trailers, semitrailers, ~~and all-terrain vehicles~~, and utility terrain vehicles. Unless exempt, a use tax or sales tax pursuant to s. Tax 11.14 (2) (c) shall be paid by the purchaser at the time the motor vehicle, aircraft, boat,

recreational vehicle as defined in s. 340.01 (48r), Stats., snowmobile, trailer, semitrailer, ~~or all-terrain vehicle, or utility terrain vehicle~~ is registered or titled within Wisconsin.

SECTION 17. Tax 11.34 (3) (bg) is amended to read:

Tax 11.34 (3) (bg) A sale of a motor vehicle, snowmobile, recreational vehicle as defined in s. 340.01 (48r), Stats., trailer, semitrailer, all-terrain vehicle, utility terrain vehicle, or aircraft that is registered or titled in Wisconsin or required to be registered or titled in Wisconsin, is subject to tax unless s. Tax 11.33 (4) (a) 1. or 2. apply.

SECTION 18. Tax 11.42 is created to read:

Tax 11.42 **Fertilizer blending, feed milling, and grain drying operations.** For purposes of s. 77.54 (6) (bn), Stats., primarily engaged in fertilizer blending, feed milling, or grain handling operations does not include the planting, harvesting, and tilling of grain, but may include the custom farming services of grain drying.

Examples: 1) Individual operates a dairy farm and also grows corn and soybeans. Individual conducts corn and soybean drying operations on the farm with respect to corn and soybeans grown and harvested by Individual. Individual also mills corn, soybeans, and other grains into feed for Individual's dairy cattle. Individual's primary activity is operating a dairy farm and the grain drying and feed milling operations are conducted as an incident to Individual's grain growing and dairy farming activities. Individual is not a person described in s. 77.54 (6) (bn), Stats.

2) Business' primary business activity is the operation of a grain dryer. For a fee, Business will dry grain owned by farmers. Business is primarily engaged in "grain handling operations which include grain drying operations" for purposes of this section. Drying grain owned by a farmer for a fee is a "custom farming service" as defined in s. Tax 11.12 (2) (b). Business' drying of a farmer's grain for a fee, while a "custom farming service," constitutes being engaged in "grain handling operations which include grain drying operations" for purposes of this section.

Note: Section Tax 11.42 interprets s. 77.54 (6) (am) 4. and 5., (bn), and (cn), Stats.

Note: The interpretations in s. Tax 11.42 are effective under the general sales and use tax law on and after September 1, 1969, except that the exemption for fertilizer blending, feed milling, and grain drying operations became effective on April 19, 2014, pursuant to 2013 Wis. Act 324.

SECTION 19. Tax 11.50 (4) (a) 1.a. and (5) (title) are amended to read:

Tax 11.50 (4) (a) 1.a. Highway motor vehicles or trailers, snowmobiles, all-terrain vehicles, utility terrain vehicles, mini bikes, aircraft, and boats.

(5) (title) AUCTION SALES OF MOTOR VEHICLES, BOATS, SNOWMOBILES, RECREATIONAL VEHICLES AS DEFINED IN S. 340.01 (48R), STATS., TRAILERS, SEMI-TRAILERS, ALL-TERRAIN VEHICLES, UTILITY TERRAIN VEHICLES, AND AIRCRAFT.

SECTION 20. Tax 11.50 (5) (a) 7m. is created to read:

Tax 11.50 (5) (a) 7m. Utility terrain vehicles.

SECTION 21. Tax 11.51 (2) (a) and (b) are amended to read:

Tax 11.51 (2) (a) *Taxable sales by grocers.* Taxable sales include sales of the following items:

- Adhesive tape.
- Air fresheners.
- Albums.
- Alcoholic beverages.
- Almond bark.
- Ammonia.
- Anti-acid products.
- Anti-freeze.
- Appliances.
- Ash trays.
- Aspirin.
- Auto supplies.
- Baby needs, except food.
- Bags of all kinds.
- Bakeware.
- Baking chips, sweetened.
- Baking chocolate that contains a sweetener in the form of bars, drops, or pieces.
- Barbecue supplies.
- Baskets.
- Batteries, except hearing aid batteries.
- Beauty aids.
- Beer.
- Binders.
- Bird food and supplies.
- Bleach.
- Blueing.
- Bobby pins and rollers.
- Books.
- Bottled water, sweetened.
- Bottles.
- Bowl cleaner.
- Breath mints, unless they contain flour.
- Breath sprays and strips.
- Brooms.
- Brushes.
- Bubble bath.
- Butterscotch chips.
- Cake decorations, non-edible.
- Cake decorations that are candy.
- Calcium tablets.
- Cameras and supplies.
- Can openers.
- Candy.
- Candy apples.
- Canning and freezer supplies.
- Caramel apples.
- Caramel corn.

Cat food and supplies.
Cereal bars, unless they contain flour.
Charcoal and starter.
Chewing gum.
Chocolate chips and other flavored chips, if sweetened.
Chocolate covered potato chips, unless they contain flour.
Chocolate covered raisins and nuts.
Cigarette lighter fluid, wicks, flints.
Cigarettes.
Cigars.
Cleaning equipment and supplies.
Cleansers.
Clocks.
Clothes lines.
Clothespins.
Clothing.
Cocktail mixes containing 50% or less fruit or vegetable juice.
Cod liver oil.
Coffee drinks that contain sweeteners, unless it also contains milk or milk products.
Cold remedies.
Combs and brushes.
Confections that are candy.
Cough drops.
Crayons.
Deli items, as explained in sub. (3) (e) 2.
Dental aids.
Deodorants.
Deodorizers.
Detergents.
Diapers.
Dietary supplements.
Dinnerware.
Disinfectants.
Distilled spirits.
Dog food and supplies.
Dolls.
Drain cleaners.
Dried fruit with sweeteners.
Drug sundries.
Dry cleaners.
Dry ice.
Dye.
Electrical supplies.
Facial tissues.
Farm and garden implements.
Feminine hygiene needs including napkins and tampons.
Fermented malt beverages.
Fertilizers.
Film.
First aid products.
Flaked coconut with sweetener.
Flash bulbs.

Flatware.
Floor care products.
Flowers and seeds.
Foil, aluminum and similar products.
Foot care products.
Frames.
Fruit drinks that contain a sweetener and have 50 percent or less fruit juice by volume.
Fruit roll-ups.
Fuel and lubricants.
Furniture polish.
Games.
Garbage bags and cans.
Garden needs.
Gifts, non-food and nonexempt food.
Ginseng sold as a dietary supplement.
Glassware.
Gloves.
Glue.
Granola bars, unless they contain flour.
Greeting cards.
Grilling supplies.
Grooming aids.
Gum.
Hair care products.
Hardware.
Health and beauty aids.
Heated foods and beverages, as explained in sub. (3) (c).
Honey roasted and honey coated nuts.
Hosiery.
Household equipment and supplies.
Hygiene products.
Ice blocks.
Insect and pest control products.
Insulated containers.
Internal remedies.
Intoxicating liquor.
Iron tablets.
Jewelry.
Juices that contain sweeteners and 50% or less fruit or vegetable juice by volume.
Laundry products.
Lawn furniture.
Licorice, unless it contains flour.
Light bulbs and fuses.
Lozenges.
Lunch boxes.
Lye.
Magazines.
Manicure needs.
Marshmallows, unless they contain flour.
Mason jars.
Matches.

Medicinal preparations.
Milk of magnesia.
Mineral tablets.
Nail polish and remover.
Nails.
Napkins.
Nonalcoholic beer that contains a sweetener.
Notebooks.
Nursery stock.
Nuts that are candy, such as honey roasted cashews.
Pails.
Paint and paint supplies.
Paper products, including tissues, plates, cups, towels, napkins, and writing
paper.
Peanuts that are candy, such as honey roasted peanuts.
Pens and pencils.
Periodicals.
Pet food and supplies.
Plants.
Plastic utensils.
Polishes.
Popcorn that is candy, such as caramel corn.
Potato chips that are chocolate covered, unless they contain flour.
Pots and pans.
Powder, face and body.
Prepared foods as explained in sub. (4).
Raisins that are candy, such as yogurt coated raisins.
Razors and blades.
Records.
Root beer.
Rotisseries.
Rubber bands.
Salt, water softener.
Sandwiches that are prepared food.
Sanitary goods.
School supplies.
Scissors.
Sewing aids.
Shampoo and rinse.
Shaving supplies.
Shelf coverings.
Shoe laces and polishes.
Soaps.
Soft drinks.
Sponges.
Starch.
Stationery.
Steel wool.
Stockings.
Sun glasses.
Sun tan lotion.
Tableware.
Taffy apples.

Tape.
Tea drinks that contain sweeteners.
Thread.
Tobacco products.
Toilet tissue.
Tonics.
Tools.
Tooth brushes.
Toothpaste and powders.
Toothpicks.
Toys.
Utensils.
Vegetable juices that contain a sweetener and 50% or less juice by volume.
Video rentals.
Vitamins.
Wash cloths.
Waste baskets.
Watches.
Water, sweetened.
Water conditioners.
Wax paper.
Waxing.
Wearing apparel.
Wine making supplies.
Wrap, foil, plastic and waxed paper.
Writing supplies.
Yogurt covered raisins and nuts.
Zippers.

(b) *Exempt sales by grocers.* Exempt sales include sales of the following items, but not if the items meet the definition of candy, soft drinks, dietary supplements, or prepared foods:

Apple cider, sweet.
Baby food.
Bakery goods.
Baking powder and soda.
Barbecue potato chips.
Barbecue sauces.
Barbecue sunflower seeds.
Berries.
Beverage powders, unless they are a dietary supplement.
Beverages that contain milk.
Biscuit mix.
Bouillon cubes.
Bread and rolls.
Breakfast cereals.
Breakfast pastries.
Brownies.
Butter.
Cake mixes and flour.
Cakes, prepared, mixes and snack type.
Candy bars containing flour.

Canned foods, except candy, soft drinks, dietary supplements, and prepared foods.

Catsup.

Cereal and cereal products.

Cereal bars containing flour.

Cheese.

Chicken.

Chip dip.

Chips, potato, corn and similar items, unless chocolate covered and do not contain flour as provided in par. (a).

Chocolate, unsweetened or not sold in form of bars, drops, or pieces.

Citrus fruits.

Cocoa.

Coffee beans, grounds, freeze dried and coffee substitutes.

Coffee drinks that contain no sweeteners or that contain a milk or milk product.

Condiments.

Cookies and crackers.

Cooking oils.

Cones, ice cream cups.

Cotton candy not sold as prepared food.

Cream.

Dairy products.

Deli items, as explained in sub. (3) (e).

Desserts and toppings.

Dinners, frozen.

Doughnuts.

Dressings.

Dried fruits, unsweetened.

Dried milk products.

Eggs.

Fish and fish products.

Flaked coconut without sweetener.

Flavoring extracts.

Flour.

Food coloring.

Frosting in containers.

Frozen desserts.

Frozen fruit juices.

Frozen fruits and vegetables.

Frozen juice bars.

Frozen pizza.

Frozen TV dinners.

Fruit.

Fruit juices that contain more than 50% fruit juice by volume.

Garlic.

Gelatin.

Granola bars that contain flour.

Gravy extracts and mixes.

Grits.

Hash.

Honey.

Ice cream.

Ice cream bars and similar products.

Ice cream in cones, if prepackaged by someone other than the retailer.
Ice cubes.
Icing in tubes.
Jams.
Jellies.
Juices that contain more than 50% fruit or vegetable juice by volume.
Ketchup.
Licorice containing flour.
Lobster.
Luncheon meats.
Macaroni.
Malted milk powder.
Maraschino cherries.
Margarine.
Marshmallow creme.
Marshmallows that contain flour.
Mayonnaise.
Meal.
Meat and meat products.
Meat extracts and tenderizers.
Melons.
Milk and milk products.
Mustard.
Newspapers, as defined in s. 77.51 (8), Stats.
Noodles.
Nuts, except as provided in par. (a).
Oil, cooking, salad.
Oleomargarine.
Olives.
Pancake mix.
Pasta.
Peanut butter.
Peanuts, in shell or canned, salted or not, except as provided in par. (a).
Pectins.
Pepper.
Pickles.
Pie and pie fillings.
Pie crust and mixes.
Popcorn, that is not candy as defined in sub. (3) (a).
Popcorn, unpopped.
Popsicles.
Potato chips, unless chocolate covered and do not contain flour as provided in par. (a).
Potato salad, as explained in sub. (3) (e).
Poultry and poultry products.
Powdered drink mixes, except dietary supplements.
Preserves.
Pretzels.
Puddings.
Raisins, except as provided in par. (a).
Ravioli.
Relishes.
Rice.

Rolls and biscuits.
Salad dressing.
Salt and salt substitutes.
Salted nuts.
Sardines.
Seafood.
Seasonings.
Sherbet.
Shortening.
Soup.
Spaghetti products.
Spices.
Spreads.
Sugar.
Sugar cubes.
Sweeteners.
Syrup.
Tea, bags, leaves or instant.
Tea and ice tea beverages that are not sweetened.
Trail mix.
Turkey.
Vanilla and vanilla extract.
Vegetable juices that contain more than 50% juice by volume.
Vegetables.
Vinegar.
Waffle mix.
Water, carbonated, unsweetened.
Water, flavored, unsweetened.
Water, unsweetened.
Yeast.
Yogurt and yogurt bars, cones and sundaes.

SECTION 22. Tax 11.56 (9) (a) is repealed and recreated to read:

Tax 11.56 (9) (a) *Definitions*. In s. 77.54 (61), Stats., and this subsection:

1. "Book printing" means activities described under 323117 of the North American Industry Classification System.

2. "Commercial printing" means activities described under 323111 of the North American Industry Classification System.

3. "Copies of the product" means finished artwork in a digital form that is generated, furnished, and used for the purpose of printing; represents the object, such as a book, catalog, pamphlet, or magazine, as it is to appear in a printed form; and includes files containing instructions or other information required by the printer for printing the product, such as instructions for plate-making or setting ink-levels at the printing press, whether these instructions or other information are furnished to the printer or derived by the printer from the finished artwork files.

4. "Finished artwork" has the meaning given in s. 77.51 (3rm), Stats.

5. "Primarily" has the meaning given in s.77.51 (10rn), Stats.

6. "Stored" has the meaning of the term "storage" as defined in s. 77.51 (18), Stats.

7. "Support activities for printing" means activities described under 323120 of the North American Industry Classification System.

8. "Used" has the meaning of the term "use" as defined in s. 77.51 (22), Stats.

SECTION 23. Tax 11.56 (9) (b) (intro.) is repealed and recreated to read:

Tax 11.56 (9) (b) (intro.) *Exemptions.* Section 77.54 (61), Stats., provides exemptions for purchases of tangible personal property described under ss. 77.54 (61) (a) and (b), Stats., by a person primarily engaged in commercial printing, book printing, or support activities for printing, as determined by the department.

SECTION 24. Tax 11.56 (9) (b) (Example 1) to (Example 4) are amended to read:

Tax 11.56 (9) (b) (Example 1) Newspaper publishes a daily edition of a newspaper. Newspaper operates its own printing plant. The printing plant prints Newspaper's publications as well as printing under contract for third parties. More than 50 percent of Newspaper's sales are from sales of its newspaper and advertising revenues associated with sales of its newspaper. Newspaper's primary activity is described by NAICS code 511110: *Newspaper Publishers*. Newspaper does not qualify for the ~~exemption~~ exemptions under s. 77.54 (61), Stats.

(Example 2) Insurance Company operates its own printing plant. Insurance Company's primary source of revenues is insurance premiums. Insurance Company's primary NAICS code is described within NAICS subsector code 524: *Insurance Carriers and Related Activities*. Insurance Company does not qualify for the ~~exemption~~ exemptions under s. 77.54 (61), Stats.

(Example 3) Business is engaged in screen printing of T-shirts, caps, and jackets. This is Business' only activity and source of revenue. Business' primary activity is described by NAICS code 323113: *Commercial Screen Printing*. Business does not qualify for the ~~exemption~~ exemptions under s. 77.54 (61), Stats.

(Example 4) Company is primarily engaged in the business of printing on fabric grey goods. Company's primary activity is described by NAICS code 313310: *Textile and Finishing Mills*. ~~As such,~~ Company does not qualify for the ~~exemption~~ exemptions under s. 77.54 (61), Stats.

SECTION 25. Tax 11.56 (9) (b) (Example 5) to (Example 8) are created to read:

Tax 11.56 (9) (b) (Example 5) **(5)** Printer is primarily engaged in commercial printing as described in NAICS code 323111. Company B contracts with Advertising Agency to produce finished artwork that represents Company B's holiday catalog and to furnish the finished artwork to Printer in the formats specified by Printer. Company B contracts with Printer to print and mail the catalogs to addresses Company B furnishes to Printer. Printer uses the finished artwork in the printing of the catalog. Printer owns servers that it uses primarily to store the finished artwork it receives from its customers. The servers are exempt under sec. 77.54 (61), Stats.

(Example 6) **(6)** Printer is primarily engaged the printing and binding of books, as described in NAICS code 323117. Publisher enters into a contract with Printer to print and bind one of Publisher's books. Publisher provides Printer with the finished artwork files in the formats specified by Printer. Printer has computer programs that translate the finished artwork files into files that are sent to and used by a plate-making machine to make the plates for printing the book, and into files that are sent to and used by the printing press to print the pages in the book. The computers and server used by Printer to store Publisher's finished artwork are primarily used by Printer to store copies of products printed or to be printed by Printer. The computers and servers used to store the finished art furnished to Printer by Publisher are exempt under s. 77.54 (61), Stats.

(Example 7) **(7)** Printer has printing plants in Wisconsin and Minnesota. Printer places an order for office supplies from an out-of-state seller. The office supplies are delivered to Printer's location in Wisconsin. The office supplies are to be used in Printer's offices in Wisconsin and Minnesota. Printer sets aside the office supplies it will deliver to its Minnesota office, and delivers these supplies to that office one week later. During the week the office supplies being sent to Minnesota are in Wisconsin and prior to being delivered to Minnesota, the office supplies were only stored, remained idle, and were not used by Printer. Printer's purchase of the office supplies delivered to it in Wisconsin and then delivered by Printer to its office in Minnesota are exempt under s. 77.54 (61), Stats.

(Example 8) **(8)** Printer has printing plants in Wisconsin, Iowa, and Indiana. Printer is primarily engaged in activities described by NAICS code 323111. Printer is moving a printing press from its Indiana plant to its Iowa plant. The printing press was originally purchased by Printer in Indiana. The printing press is used exclusively and directly by Printer in manufacturing. Printer has the printing press shipped to its Wisconsin facility. The press is in Wisconsin for not more than 180 days before it is transported to Iowa. While in Wisconsin, Printer performs repairs to the press. Printer's purchase of the printing press is not subject to Wisconsin use tax. Repair of the printing press while in Wisconsin is a use of the printing press in Wisconsin by the printer. However, Printer is not liable for Wisconsin use tax on its purchase of the printing press as the printing press is an exempt manufacturing machine under s. 77.54 (6) (a), Stats.

SECTION 26. Tax 11.56 (9) (b) (Note 2) is amended to read:

Tax 11.56 (9) (b) (Note 2) **Note:** The interpretations in s. Tax 11.56 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) Sales of typeset material shall first be considered sales of tangible personal property on April 1, 1983; (b) The exemption in sub. (3) (b) 2. for ingredients of publications became effective July 2, 1983, pursuant to 1983 Wis. Act 27; (c) The definition of storage and use for purposes of imposing use tax does not include storing or using raw materials becoming printed materials to be shipped outside Wisconsin effective October 1, 1993, pursuant to 1993 Wis. Act 16; (d) The sales and use tax exemption for raw materials transported and used solely outside Wisconsin became effective December 1, 1997, pursuant to 1997 Wis. Act 27; (e) The exemption for fuel and electricity consumed in manufacturing became effective January 1, 2006, pursuant to 2003 Wis. Act 99; (f) The exemption for catalogs and the envelopes in which they are mailed became effective April 1, 2009 pursuant to 2007 Wis. Act 20; (g) The requirement that property and items which qualify for exemption under s. 77.54 (2) and (2m), Stats., be consumed exclusively and directly by a manufacturer in manufacturing property and items destined for sale became effective August 1, 2009 pursuant to 2009 Wis. Act 28; (h) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face

value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; (i) The sales and use tax exemption for advertising and promotional direct mail became effective July 1, 2013, pursuant to 2011 Wis. Act 32; (j) Services resulting in advertising and promotional direct mail were excluded from taxable services effective July 1, 2013, pursuant to 2013 Wis. Act 20; and (k) The additional printing exemptions under s. 77.54 (61), Stats., became effective October 1, 2013, pursuant to 2013 Wis. Act 20; and (L) Amendments to the additional printing exemptions under s. 77.54 (61), Stats., became effective retroactively to October 1, 2013, pursuant to 2013 Wis. Act 145.

SECTION 27. Tax 11.63 (1) (intro.) is amended to read:

Tax 11.63 (1) (intro.) NONTAXABLE PRODUCTS AND SERVICES. Sales of the following products and services are not subject to the sales and use tax:

SECTION 28. Tax 11.63 (1) (c) and (d) and (2) (d), (e), and (f) are created to read:

Tax 11.63 (1) (c) Motion picture film or tape, and motion pictures or radio or television programs for listening, viewing, or broadcast, and advertising material related to such film or tape or programs, which are sold, leased, or rented to a motion picture theater or to a radio or television station.

(d) The lease of space on a broadcast tower if the radio or television station owns both the broadcast tower and the land on which the tower is located.

(2) (d) Charges by a radio or television station for access to a website that provides news or other information products. This is the sale of an additional digital good, regardless of whether sold for a one-time use or sold on a subscription.

(e) Sales of program material, except as provided in sub. (1) (c).

(f) The lease of space on a broadcast tower if the radio or television station owns the broadcast tower, but does not own the land on which the broadcast tower is located.

SECTION 29. Tax 11.63 (3) is renumbered Tax 11.63 (3) (a) and amended to read:

Tax 11.63 (3) (a) ~~The sale, license, lease, or rental of motion picture films or tape, and motion pictures or radio or television programs for listening, viewing, or broadcast, and the advertising materials related to the motion picture films or tape, and motion pictures or radio or television programs, to a motion picture theater or radio or television station are~~ Products exempt from the sales and use tax under s. 77.54 (23m), Stats. Sales of blank or raw video or audio tapes to television or radio stations are included in this exemption.

SECTION 30. Tax 11.63 (3) (intro.), (b), (c), and (d) are created to read:

Tax 11.63 (3) (intro.) Purchases of the following products and services are not subject to the sales and use tax:

(b) Tangible personal property and property exempt from the sales and use tax under s. 77.54 (23n), Stats.

(c) Property described in s. 77.54 (23n), Stats., which is exempt from tax includes:

1. Computers, software, and monitors used to draft the program material.
2. Printers used to print scripts.
3. Graphics generators used to prepare weather forecasts and other on-screen graphics for a newscast.
4. Traffic monitors to monitor traffic on a highway.
5. Edit equipment.
6. Audio monitoring speakers.
7. Servers used solely to store current program material.
8. Alarms that go off if there is a problem with the signal.
9. Radio modulation monitoring equipment to ensure that the signal is compliant with the legal requirements.
10. Decoders in a satellite control room.
11. Satellite receivers.
12. Equipment used at mobile news sites by camera persons and reporters, such as cameras, data cards to store video images, microphones, headsets, and two-way radios.
13. Motor vehicles, including microwave and satellite trucks and other vehicles used solely to bring reporters, camera persons, and other personnel to a location where live or recorded material is filmed or transmitted back to the radio or television station.

14. Fuel and electricity.

(d) The exemption in s. 77.54 (23n), Stats., does not include:

1. Real property improvements.
2. Property that is not used directly in the manner described in par. (b), such as desks and chairs where program material is drafted, surge protectors and external power supplies for equipment, backup servers, and general lighting.
3. Property that is not used exclusively in the manner described in par. (b), such as servers used to store current and archived program material, computer software used to draft program material and to create station advertising materials, and an intercom system to communicate with the studio and others in the building.
5. Property that is used in the transmission of finished program material, such as transmitters and antennas used to transmit signals.

6. Fuel and electricity used in providing building heating, cooling, air conditioning, communications, general lighting, safety and fire prevention, storage, sales, advertising or administrative department activities, or used in transmitting the final program material.

SECTION 31. Tax 11.63 (5) (Note 1) and (Note 2) are amended to read:

Tax 11.63 (5) (Note 1) **Note:** Section Tax 11.63 interprets ss. 77.51 (14), 77.52 (2) (a) 11., and 77.54 (23m) and (23n), Stats.

(Note 2) **Note:** The interpretations in s. Tax 11.63 are effective under the general sales and use tax law on and after September 1, 1969, except that (a) the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2 and (b) the exemption for tangible personal property and property under s. 77.52 (1) (c), Stats., used in the origination and integration of certain program material became effective July 1, 2014, pursuant to 2013 Wis. Act 346.

SECTION 32. Tax 11.68 (3) (b) (Example) is amended to read:

Tax 11.68 (3) (b) (Example) **Example:** A hot water heater or water softener sold and installed in a purchaser's residence by a retailer becomes real property after installation. The retailer is considered to be a real property contractor.

SECTION 33. Tax 11.68 (4) (h) and (h) (Note) are created to read:

Tax 11.68 (4) (h) Under s. 77.54 (6) (bn), Stats., contractors and subcontractors may purchase without sales and use tax the items described in s. 77.54 (6) (am) 4. and 5., Stats., and used by the contractor or subcontractor in real property construction activities which satisfy the conditions described in s. 77.54 (6) (am) 4. and 5. and (bn), Stats., regarding a fertilizer blending, feed milling, or grain drying operation.

(h) (Note) **Note:** Refer to s. Tax 11.42 for additional information on the application of s. 77.54 (6) (am) 4. and 5. and (bn), Stats.

SECTION 34. Tax 11.68 (6) (d) and (h) and (7) (a) 2. and 4. are amended to read:

Tax 11.68 (6) (d) Personal property that is used to construct buildings, and structural and other improvements to buildings, including awnings, canopies, carpeting, foundations for machinery, floors, including computer room floors, partitions and movable walls attached in any way to realty, holding structures used in fertilizer blending, feed milling, or grain drying operations, underground wiring, general wiring and lighting facilities, roofs, stairways, stair lifts, sprinkler systems, storm doors and windows, door controls, air curtains, loading platforms, central air conditioning units, building elevators, sanitation and plumbing systems, and heating, cooling, and ventilation systems.

(h) ~~Silos~~ Personal property that is used to construct silos and the building portion of grain elevators.

(7) (a) 2. Communication equipment, including intercoms, pneumatic tube systems, ~~satellite dishes~~, roof mounted antennas, CATV wiring, and music and sound equipment in business, industrial, or commercial buildings, schools, and hospitals, but not in apartment buildings, convalescent homes, or other residential buildings.

4. Machinery, including safety attachments, equipment, tools, appliances, process piping and wiring, and grain handling equipment and grain elevator legs used exclusively by manufacturers, industrial processors, and others performing a processing function with the items.

SECTION 35. Tax 11.68 (7) (a) 7m. is created to read:

Tax 11.68 (7) (a) 7m. Satellite dish systems installed on residential and commercial buildings, but not satellite dish systems that are installed by permanently affixing the satellite dish to a concrete foundation in apartment buildings, convalescent homes, or other residential buildings.

SECTION 36. Tax 11.68 (11) (c) (intro.) is amended to read:

Tax 11.68 (11) (c) (intro.) Section 77.52 (2) (ag), Stats., provides in part that the following items shall be considered to have retained their character as tangible personal property for purposes of repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance, regardless of the extent to which the item is fastened to, connected with or built into real property:

SECTION 37. Tax 11.83 (1) (b) is amended to read:

Tax 11.83 (1) (b) "Motor vehicle" means a self-propelled vehicle, such as an automobile, truck, truck-tractor, or motorcycle, designed for and capable of transporting persons or property on a highway. In this section, "motor vehicle" does not include a self-propelled vehicle which is not designed or used primarily for transportation of persons or property, and is only incidentally operated on a public highway, such as a farm tractor, snowmobile, all-terrain vehicle, utility terrain vehicle, fork lift truck, or road machinery as defined in s. 340.01 (52), Stats. "Motor vehicle" does not include a vehicle which is not self-propelled, such as a trailer or semitrailer.

SECTION 38. Tax 11.84 (1) (a) and (c) and (2) (a) (title) and 2. are amended to read:

Tax 11.84 (1) (a) The sales and use tax applies to the sales price from the sale, license, lease, or rental of aircraft, and The sales and use tax also applies to the sales price from the sale of accessories, components, attachments, parts, supplies, and materials for aircraft, unless the item qualifies as a "part used to modify or repair an aircraft" as provided in sub. (3) (c).

(c) Section 77.61 (1) (a), Stats., provides that no aircraft may be registered in Wisconsin unless the registrant presents proof that the sales tax has been paid or a valid exemption was claimed. If the registrant does not present proof that the tax has been paid, the registrant shall pay the tax to the department of transportation at the time the aircraft is registered or titled in Wisconsin. The tax applies to aircraft registered or customarily hangared or both in Wisconsin, even though the aircraft also may be used out-of-state. If the purchase of an aircraft subject to Wisconsin use taxes was subject to a sales or use tax in the state in which the purchase was made or in a state where the aircraft was stored, used, or consumed prior to being stored, used, or consumed in

Wisconsin, the amount of the sales or use taxes paid to the other state or states shall be applied as a credit against and deducted from, to the extent thereof, the Wisconsin state, county, and stadium district use taxes imposed on the storage, use, or consumption of the aircraft in Wisconsin.

(2) (a) (title) *Aircraft, supplies, ~~and repairs~~ accessories, and ground equipment.*

2. The sale and delivery in Wisconsin of oil, ~~equipment, parts, and other~~ supplies, accessories, and ground equipment for ~~operation of~~ aircraft, regardless of where the aircraft is flown or used. Sales of general aviation fuel subject to taxation under ch. 78, Stats., are exempt from the sales and use tax.

SECTION 39. Tax 11.84 (2) (a) 2. (Example 1) to (Example 3) are created to read:

Tax 11.84 (2) (a) 2. (Example 1) **Examples: 1)** Engine oil, gear lubricants, hydraulic fluids, fuel additives, anti-seize coatings, deicing and anti-icing fluids, oxygen, cleaners, and waxes and polishes are examples of supplies for aircraft.

(Example 2) **2)** Pens, kneeboards, maps, charts, logbooks, flashlights, flight bags, headsets, tools, first-aid kits, life jackets, inflatable rafts, and items such as radios, avionics, coolers, air conditioners, fire extinguishers, carbon monoxide detectors and oxygen equipment, when such items are portable rather than built into the aircraft, are examples of accessories for aircraft.

(Example 3) **3)** Equipment used to deice aircraft, aircraft tugs, engine preheaters, wheel chocks, tie-down equipment, aircraft covers and repair tools and diagnostic equipment are examples of ground equipment for aircraft.

SECTION 40. Tax 11.84 (2) (a) 3. is repealed.

SECTION 41. Tax 11.84 (3) (title) and (a), and (b) are amended to read:

Tax 11.84 (3) (title) EXEMPT SALES OF AIRCRAFT AND PARTS USED TO MODIFY OR REPAIR AIRCRAFT.

(a) Section 77.54 (5) (a) 1., Stats., provides ~~that the tax does not apply to the price from an exemption for the sale of aircraft, including accessories, attachments, parts, and fuel therefor, sold to persons using the aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce, under authority of the laws of the United States or any foreign government, or to aircraft sold to a nonresident of this state who will not use the aircraft in this state other than to remove it from Wisconsin.~~ Scheduled air carriers and commuter carriers with air carrier operating certificates shall qualify for this exemption. This exemption does not apply to persons with air worthiness certificates which indicate certain safety standards have been met, if they do not otherwise qualify.

SECTION 42. Tax 11.84 (3) (b) is repealed and recreated to read:

(b) Section 77.54 (5) (a) 2., Stats., provides an exemption for sales of aircraft to persons who are not residents of this state who will not use such aircraft in this state other than to remove the aircraft from this state. The exemption also applies to repair or other services performed on the aircraft.

SECTION 42. Tax 11.84 (3) (c) and (4) (j) are created to read:

Tax 11.84 (3) (c) Section 77.54 (5) (a) 3., Stats., provides an exemption for sales of parts used to modify or repair aircraft. For purposes of this exemption, the following definitions apply:

1. "Part" means a durable unit of definite, fixed dimensions that is attached to the aircraft.

2. "Parts used to modify or repair aircraft" include tires, oil filters, spark plugs, engine cowls, built-in radios and avionics equipment, strobes, and flap cable. "Parts used to modify or repair aircraft" does not include supplies, accessories, or ground equipment in sub. (2) (a) 2., and does not include parts used in the original construction of an aircraft as such parts are not used to modify or repair an aircraft.

(4) (j) Repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of any aircraft or any part used to modify or repair an aircraft.

SECTION 43. Tax 11.84 (4) (Note 1) and (Note 2) are amended to read:

Tax 11.84 (4) (Note 1) **Note:** Section Tax 11.84 interprets ss. 77.52 (2) (a) 9. and 10., 77.53 (16), (17r), and (18), 77.54 (5) (a) and (7) and 77.61, Stats.

(Note 2) **Note:** The interpretations in s. Tax 11.84 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) the exemption for federal aviation fuel is effective January 1, 1982, pursuant to Chapter 20, Laws of 1981; (b) The exemption for aircraft brought into Wisconsin by new residents became effective August 1, 1987, pursuant to 1987 Wis. Act 27; (c) The exemption for certain nonresidents' aircraft became effective May 15, 1988, pursuant to 1987 Wis. Act 399; (d) The exemption for transfers of aircraft to in-laws became effective August 15, 1991, pursuant to 1991 Wis. Act 39; (e) The requirement to collect the tax on sales of aircraft by persons who are not dealers but who hold a Wisconsin seller's permit became effective October 1, 2009, pursuant to 2009 Wis. Act 2; ~~and~~ (f) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; (g) The repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of aircraft and aircraft parts, under sec. 77.52 (2) (a) 10., Stats., became nontaxable effective July 1, 2014, pursuant to 2013 Wis. Act 185; and (h) The exemption for parts used to modify or repair aircraft under sec. 77.54 (5) (a) 3., Stats., became effective July 1, 2014, pursuant to 2013 Wis. Act 185.

SECTION 44. Tax 11.945 (2) (intro.) is amended to read:

Tax 11.945 (2) (intro.) SOURCING—GENERAL. Except as provided in subs. (3), (4), and (5), and except as provided in s. Tax 11.66 (3) relating to the sourcing of telecommunications services, ancillary services, and Internet access services, and telecommunications message services, a sale is sourced to a location based on the following:

SECTION 45. EFFECTIVE DATE; GENERAL. Except as otherwise provided in SECTION 47 of this rule, this rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 47. EFFECTIVE DATE; S. TAX 11.30. The treatment of s. Tax 11.30 by SECTIONS 9 to 15 of this rule shall take effect on July 1, 2017.

DEPARTMENT OF REVENUE

Dated: _____

By: _____

Richard G. Chandler
Secretary of Revenue

E:Rules/154 (Internal Number)/Chapter 11 (2014 Revisions) Proposed Order 8-15-16