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CERTIFICATE

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STATE OF WISCONSIN)
DEPARTMENT OF REVENUE) SS

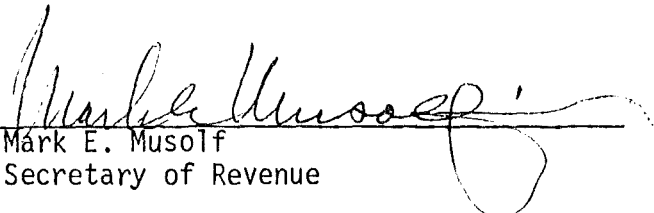
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Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Mark E. Musolf, Secretary of the Department of Revenue and custodian of the official records of said department do hereby certify that the annexed Order relating to various sales tax rules was duly approved and adopted by this department on November 16, 1982.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this sixteenth of November 1982.


Mark E. Musolf
Secretary of Revenue

2-1-83

ORDER OF THE DEPARTMENT OF REVENUE
REPEALING, AMENDING AND CREATING RULES

To repeal Tax 11.01(1)(d); to renumber Tax 11.87(1)(b); to amend Tax 11.01 (1)(a), Tax 11.05 title, (2)(e), (g) and (i), Tax 11.08(1), (2) and (3), Tax 11.10(4)(b) and (c), Tax 11.16(3)(b)1, Tax 11.17(4) title and (4)(a)1, Tax 11.26(2)(d) and (e), Tax 11.38 title, Tax 11.49 title and (1)(a), Tax 11.57 title, Tax 11.66 title and (2), Tax 11.69(5)(a), Tax 11.84 (2)(b)1 and 2, Tax 11.85 (1)(d) and (2)(a) and (b), Tax 11.87 (3) (a), (b) and (c), Tax 11.97 title, (2)(b) and (c); to repeal and recreate Tax 11.05(3)(b); to create Tax 11.01(1)(m), Tax 11.05(2)(r), Tax 11.17 (4)(b)5, Tax 11.26(2)(f), Tax 11.49(2) (f), Tax 11.57(2)(L), Tax 11.87(1)(b), (c), (d), (e) and (f) and Tax 11.93(4); relating to administrative rules in Chapter 11 of the Wisconsin Administrative Code interpreting Subchapter 3 of Chapter 77 of the Statutes.

Analysis by the Department of Revenue

SECTIONS 1 and 3. Additional sales and use tax forms currently in use are added to rule Tax 11.01, and Form MV-1, a Department of Transportation form, is substituted for Form S-010, effective June 2, 1980.

SECTION 2. The annual information return filing requirements were eliminated by Chapter 221, Laws of 1979 for the 1981 tax year and thereafter. Therefore, since Form ST-12A will no longer be used, the reference to it is deleted.

SECTIONS 4, 5 and 6. The title of rule Tax 11.05 is amended by adding statutory references. Subsection (3)(b) is repealed and (2)(r) is created to indicate Chapter 221, Laws of 1979, imposed the sales tax on a governmental unit's gross receipts from parking motor vehicles and aircraft and for docking and storing boats, effective June 1, 1980. Subsection (2)(e) is amended and (3)(b) is recreated to reflect the exemption in s. 77.54(30) for electricity and natural gas for residential use and electricity for farm use six months each heating season effective November 1, 1979, and the full year exemption for fuel sold for residential use effective July 1, 1979 (Chapter 1, Laws of 1979). Subsection (2)(i) is amended to show that s. 77.52(2)(a)1, Stats., contains an exemption for lodging receipts received by certain governmental institutions.

SECTION 7. Rule Tax 11.08 is amended to add additional non-exempt items under s. 77.54(22)(a)(b) and (d), Stats.

SECTION 8. Subsection (4)(b) of rule Tax 11.10 is amended to refer to rule Tax 11.13, titled "Sale of a business or business assets", which describes how a seller can deliver its seller's permit to the Department for cancellation and qualify for the occasional sale exemption. Subsection (4)(c) is amended to reflect the changes in s. 77.54(7), Stats., made by Chapter 418, Laws of 1977, effective July 1, 1978, which provided an occasional sale exemption for mobile homes exceeding 45 feet in length.

SECTION 9. Subsection (3)(b) of rule Tax 11.16 is amended to properly reflect the exemption language in s. 77.54(13), Stats., which refers to a "50-ton burden" standard. Burden is carrying capacity or net tonnage, as provided in Title 46, U.S. Code.

SECTION 10. Rule Tax 11.17(4) title is revised to refer to members of the medical professions. Rule Tax 11.17(4)(a) is amended to add additional information regarding nontaxable hospital charges.

SECTION 11. Many optometrists have nominal receipts from sales of items that are subject to the tax, such as nonprescription glasses, contact lens solutions and thermal and chemical care units for contact lenses. This provision allows optometrists with receipts of under \$1,000 each year from sales of these items to treat such sales as occasional sales and to pay tax on the cost of the items sold, rather than on the gross receipts from such sales, and thereby eliminate the requirement to register and file periodic sales tax returns. The same treatment is permitted barbers and beauty shop operators in rule Tax 11.62.

SECTION 12. Subsection (2)(d) of rule Tax 11.26 is revised to indicate a county or municipal fuel tax is part of the price of special fuels and general aviation fuel subject to the sales tax. One Wisconsin county has such a tax. Subsection (2)(e) is amended to refer to the use tax on cigarettes imposed under s. 139.33 if the tax due under s. 139.31 is not paid. General aviation fuel, formerly a type of special fuel, was created by Chap. 20, Laws of 1981.

SECTION 13. Subsection (2)(f) is added to rule Tax 11.26 to provide that the current Canadian export tax, and other export taxes that may arise in the future, are a part of the price of fuels subject to the sales tax. Section 77.51(11)(a)4 indicates gross receipts subject to the tax may only be reduced by taxes measured by a stated percentage of sales price or gross receipts. The Canadian export tax is based on volume, not sales price or gross receipts.

SECTION 14. The statutory references following the title to rule Tax 11.38 are corrected to refer to s. 77.51(4)(f). The current reference to s. 77.61(4)(f) is in error.

SECTION 15, 16, 17 and 18. Rules Tax 11.49 and 11.57 are revised to recognize the exemption in s. 77.54(30), Stats., for fuels sold for residential use effective July 1, 1979, electricity and natural gas sold for residential use, and electricity sold for farm use six months each year effective November 1, 1979 (Chapters 1, 34 and 87, Laws of 1979).

SECTION 19. Rule Tax 11.66 title is revised to refer to s. 77.52(2)(a)3, Stats., the sale of intrastate telegraph services referred to in paragraph (1)(a) of the rule. Subsection (2) of the rule is amended to correct a spelling error and refer to a court decision holding that certain equipment that is leased or rented to customers may be purchased by a telephone company without tax.

SECTION 20. Rule Tax 11.69 is amended to reflect the fact that sales to federally chartered credit unions are exempt under federal law from state sales and use taxes.

SECTION 21. Rule Tax 11.84 is amended to reflect that a governmental unit's charges for aircraft parking became taxable on June 1, 1980 (Chapter 221, Laws of 1979).

SECTION 22. Subsection (1)(d) of rule Tax 11.85 is amended to recognize that a governmental unit's charges for docking and storing boats became taxable on June 1, 1980 (Chapter 221, Laws of 1979). Subsections (2)(a) and (b) are amended to indicate that occasional sales of boats used in Wisconsin which are documented with the U.S. Coast Guard became taxable effective February 28, 1979 (Chapter 34, Laws of 1979).

SECTION 23. Definitions formerly in Subsection (3) have been moved to Subsection (1), titled "Definitions". The statutory reference to a nursing home has been changed to s. 50.01(3), because of the moving of this definition from s. 146.30 by Chapter 124, Laws of 1979. New definitions for "retirement home" and "personal care" have been added.

SECTION 24. Subsection (3) of rule Tax 11.87 is amended to describe the exemption for sales of meals, food, food products and beverages made by retirement homes (Chapter 250, Laws of 1977, effective April 25, 1978). Subsections (3) (b) and (c) are amended to eliminate references to 1973. These dates have become obsolete due to the passing of time. Definitions formerly in Subsection (3) have been moved to Subsection (1), titled "Definitions".

SECTION 25. Subsection (4) of rule Tax 11.93, titled "Annual filing of sales tax returns", is created to indicate 1980 was the last year retailers were required to file the annual information return, pursuant to Chapter 221, Laws of 1979.

Section 26. Rule Tax 11.97 title and Subsection (2)(b) are amended to reflect the renumbering of the definition of a "Retailer engaged in business in Wisconsin" from s. 77.53(3) to s. 77.51(7g), Stats., and other statutory changes in Chapter 1, Laws of 1979. Subsection (2)(c) is amended to properly quote s. 77.53(5), Stats., which says "The tax required to be collected by the retailer...".

Pursuant to the authority vested in the Department by section 227.014, Stats., the Department of Revenue hereby repeals, amends and creates rules contained in Chapter Tax 11 which interprets Chapter 77, Subchapter 3, Stats., as follows:

SECTION 1. Tax 11.01(1)(a) of the Wis. Adm. Code is amended to read:

Tax 11.01(1)(a) Form ~~S-010~~ MV-1. For occasional and dealer sales of motor vehicles, mobile homes, trailers and semitrailers.

SECTION 2. Tax 11.01(1)(d) of the Wis. Adm. Code is repealed.

SECTION 3. Tax 11.01(1)(m) of the Wis. Adm. Code is created to read:

Tax 11.01(1)(m) Form S-108 (also called "ST-12X"). The amended sales and use tax return for filing refund claims or reporting additional taxes for prior periods.

SECTION 4. Tax 11.05 title and (2)(e), (g) and (i) of the Wis. Adm. Code are amended to read:

Tax 11.05 GOVERNMENTAL UNITS. (ss. 77.51(3), 77.52(2)(a)(1), (2) and (9), 77.54(9a), (17) and (30), Stats.)

Tax 11.05(2)(e) Sales of electricity, gas and steam by municipal utilities ~~However, water sold through mains is exempt~~ , except as provided in sub. (3)(b).

Tax 11.05(2)(g) ~~Sales~~ Sales or rental of equipment and office furniture, including the rental of motor vehicles to employes. Governmental units shall not collect tax on their sales of motor vehicles. Instead, the purchaser shall pay the tax to the department of transportation when the motor vehicle is registered.

Tax 11.05(2)(i) Rental of lodging facilities to any person residing for a continuous period of less than one month, except that the tax does not apply to the receipts from accommodations furnished by any hospitals, sanitoriums nursing homes, colleges or universities operated by governmental units.

SECTION 5. Tax 11.05(2)(r) of the Wis. Adm. Code is created to read:

Tax 11.05(2)(r) The gross receipts from parking and providing parking space for motor vehicles and aircrafts, and docking or providing storage space for boats.

SECTION 6. Tax 11.05(3)(b) of the Wis. Adm. Code is repealed and re-created to read:

Tax 11.05(3)(b) Water delivered through mains. Coal, fuel oil, propane, steam and wood used for fuel, sold for residential use. Electricity and natural gas sold for residential use and electricity sold for farm use during the months of November through April. "Sold" is defined in s. 77.54(30)(b), Stats. In this paragraph, "residential use" has the meaning in s. Tax 11.57(2)(L)7, Wis. Adm. Code.

Note to Revisor: The "Note" at the end of rule Tax 11.05 should be amended to read:

Note: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969 except as follows: sales of coal, fuel oil, propane, steam and wood used for fuel became exempt July 1, 1979 pursuant to Chap. 1, Laws of 1979, the electricity and natural gas six-month exemption in subd. (3)(b) became effective November 1, 1979 pursuant to Chap. 1, Laws of 1979, and a governmental unit's charges for parking motor vehicles and aircraft and docking and providing storage space for boats became taxable June 1, 1980 pursuant to Chap. 221, Laws of 1979.

SECTION 7. Tax 11.08(1), (2) and (3) of the Wis. Adm. Code are amended to read:

Tax 11.08(1) DEVICES FOR HANDICAPPED PERSONS. Section 77.54(22)(a), Wis. Stats., exempts gross receipts from the sale of "Artificial devices individually designed, constructed or altered solely for the use of a particular physically disabled person so as to become a brace, support, supplement, correction or substitute for the bodily structure including the extremities of the individual." This exemption includes trusses, supports, shoes, braces and elastic hose when specially fitted and altered to fit a particular person. "Altered" does not include the adjusting of straps or seams but does include the bending of metal stays. The following items normally are not designed for use by a particular person, and if that is the case, do not qualify for the exemption:

- (a) Kidney dialysis equipment.
- (b) Special communication equipment for the deaf.
- (c) Hydraulic lifts for wheelchairs.
- (d) Special controls installed in motor vehicles to steer and operate the vehicle.

- (e) Humidifiers.
- (f) Stationary walking machines.
- (g) Stairway chair elevators.
- (h) Electric nerve stimulators.
- (i) Insertion or application equipment and supplies used to insert or apply exempt devices.

Tax 11.08(2) PROSTHETIC DEVICES, APPLIANCES AND AIDS. Section 77.54 (22) (b), Wis. Stats., exempts gross receipts from the sale of "Artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body." "Other equipment" includes colostomy, ileostomy and urinary appliances, artificial breast forms and heart pacemakers. This exemption does not apply to garments

- (a) Garments designed to restrict or enhance the body's shape for cosmetic purposes, or to wigs or hair pieces.
- (b) Incontinent briefs, pads, shields or adult diapers.
- (c) Breathing devices, which are not worn by patients.
- (d) Bed wetting alarm systems.
- (e) Blood pressure kits.
- (f) Insertion or application equipment and supplies used to insert or apply exempt devices.

Tax 11.08(3) EYE GLASSES. Section 77.54(22)(d), Wis. Stats., exempts gross receipts from the sale of "Eye glasses when especially designed or prescribed by an ophthalmologist, physician, oculist or optometrist for the personal use of the owner or purchaser." This exemption does not include tools and supplies, eye glass cases, eye shields, thermal and chemical care units for contact lenses, chains, clips or other accessories associated with eye glasses. Frames for prescription glasses are exempt.

SECTION 8. Tax 11.10(4)(b) and (c) of the Wis. Adm. Code are amended to read:

Tax 11.10(4)(b) The sale of a business or the assets of a business when the seller holds or is required to hold a seller's permit. The tax applies to the portion of the gross receipts reasonably attributable to the taxable personal property such as equipment furniture and fixtures. Refer to s. Tax 11.13, Wis. Adm. Code, for additional information concerning this subject.

Tax 11.10(4)(c) Sales of motor vehicles, aircraft, boats, mobile homes not exceeding 45 feet in length, snowmobiles, trailers and semitrailers, except as specifically provided in section 77.54(7), Stats. Unless exempt, a use tax shall be paid by the purchaser at the time the motor vehicle, aircraft, boat, snowmobile, trailer or semitrailer is registered or the mobile home not exceeding 45 feet in length is registered or titled for use within this state. Except as provided in section 77.54(7), Stats., the occasional sales of snowmobiles, mobile homes, trailers and semitrailers required to be registered or titled under the laws of Wisconsin are taxable ~~effective August 1, 1977.~~ The occasional sales of mobile homes exceeding 45 feet in length are exempt.

SECTION 9. Tax 11.16(3)(b)1 of the Wis. Adm. Code is amended to read:

Tax 11.16(3)(b)1 Vessels and barges primarily engaged in interstate or foreign commerce or commercial fishing. Vessels and barges must also have a document issued by the U.S. customs service showing a gross net tonnage of 50 tons or more.

SECTION 10. Tax 11.17(4) title and (4)(a)1 of the Wis. Adm. Code are amended to read:

Tax 11.17(4) SALES BY HOSPITALS, HOSPITAL AUXILIARIES, CLINICS AND MEMBERS OF THE MEDICAL PROFESSIONS.

Tax 11.17(4)(a)1 Charges made by hospitals to patients for ~~medical services---or~~ rooms, medical services and other items including charges for anesthesia and anesthesia supplies, bandages applied in the hospital, blood and blood plasma, dressings applied in the hospital, intravenous solutions, laboratory tests, oxygen, radiation and x-ray treatment.

SECTION 11. Tax 11.17(4)(b)5 of the Wis. Adm. Code is created to read:

Tax 11.17(4)(b)5 An optometrist's sales of nonprescription sun glasses, contact lens solution, thermal and chemical care units for contact lenses and other types of tangible personal property ordinarily taxable when sold at retail, unless the gross receipts from such sales are less than \$1,000 within a calendar year. Optometrists whose receipts from taxable items equal or exceed \$1,000 annually shall register with the department and obtain a seller's permit. Those whose receipts from taxable items are less than \$1,000 shall be exempt as occasional sellers and shall pay tax to their suppliers or a use tax, as appropriate, on purchases of taxable items.

SECTION 12. Tax 11.26(2)(d) and (e) of the Wis. Adm. Code are amended to read:

Tax 11.26(2)(d) ~~The~~ A federal, county or municipal fuel tax included in the price of special fuels and general aviation fuel subject to the sales tax (e.g., sales for use in aircraft, boats and other non-highway use).

Tax 11.26(2)(e) The cigarette tax imposed by s. 139.31 or s. 139.33, Stats.

SECTION 13. Tax 11.26(2)(f) of Wis. Adm. Code is created to read:

Tax 11.26(2)(f) The Canadian or any other country's export gallonage tax on fuels.

SECTION 14. Tax 11.38 title of the Wis. Adm. Code is amended to read:

Tax 11.38 FABRICATING AND PROCESSING. (ss. 77.51(4)(f) and (h) and 77.52(2)(a)10 and 11, Stats.)

SECTION 15. Tax 11.49 title and (1)(a) of the Wis. Adm. Code are amended to read:

Tax 11.49 SERVICE STATIONS AND FUEL OIL DEALERS. (ss. 77.52(2)(a)(10) and 77.54(3), (5), (9a), (11) and (30), Stats.)

Tax 11.49(1)(a) The sale of furnace or heating fuel to ~~residential; industrial--or--commercial~~ customers , other than for residential or farm use.

SECTION 16. Tax 11.49(2)(f) of the Wis. Adm. Code is created to read:

Tax 11.49(2)(f) Sales of coal, fuel oil, propane, steam and wood used for fuel sold for residential use. In this paragraph, "residential use" means use in a structure or portion of a structure which is a person's permanent residence as defined in s. Tax 11.57(2)(L)7 and 8, Wis. Adm. Code.

Note to Revisor: The "Note" at the end of rule Tax 11.49 should be amended to read:

Note: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969, except sales of fuels listed in subd. (2)(f) became exempt July 1, 1979, pursuant to Chap. 1, Laws of 1979.

SECTION 17. Tax 11.57 title of the Wis. Adm. Code is amended to read:

Tax 11.57 PUBLIC UTILITIES (ss. 77.54(3), (6)(a) and (c), (17) and (30), Stats.)

SECTION 18. Tax 11.57(2)(L) of the Wis. Adm. Code is created to read:

Tax 11.57(2)(L) 1. Coal, fuel oil, propane, steam and wood used for fuel, sold for residential use.

2. Electricity and natural gas sold during the months of November, December, January, February, March and April for residential use.

3. Electricity sold during the months of November, December, January, February, March and April for use in farming, including but not limited to agriculture, dairy farming, floriculture and horticulture.

4. For purposes of the exemptions in subdivisions 2 and 3, s. 77.54 (30), Stats., provides that electricity or natural gas is considered sold at the time of billing. If the billing is by mail, the time of billing is the day on which the billing is mailed. In any event, each qualifying customer shall receive only six months of service exempt from taxation during the November through April period.

5. If fuel or electricity is sold to a person partly for an exempt use and partly for a use which is not exempt, no tax shall be collected by the seller on the portion of the gross receipts which is used for an exempt purpose, as specified on an exemption certificate provided by the purchaser to the seller, as described in subd. 6.

6. Where a building, which contains residential quarters and commercial operations, is heated by one central heating plant, it is necessary to determine the portion of the fuel purchased which qualifies for the "residential use" exemption. The percentage of residential use may be computed by dividing the number of square feet used for residential purposes, excluding common areas, by the total area heated, excluding common areas. If this does not produce a reasonable result, any other reasonable method of estimating may be used. The resulting percentage should be rounded to the nearest 10%.

7. In this paragraph, "residential use" means use in a structure or portion of a structure which is a person's permanent residence. Use in a residence includes heating or cooling the premises, heating water, operating fans or other motors, providing lighting and other ordinary uses by the purchaser in a residence. Residential use includes use in single-family homes, duplexes, townhouses, condominiums, mobile homes, rooming houses, apartment houses, and farm houses, if the structure is used as a person's permanent residence. Residential use includes use in apartment houses and farm houses even though they are on a commercial or rural meter, respectively.

8. "Non-residential use" is use other than "residential use" and includes any use in the conduct of a trade, business or profession, whether such trade, business or profession is carried on by the owner of the premises or

some other person. It includes use in motor homes not used as a permanent residence, travel trailers, other recreational vehicles and transient accommodations. "Transient accommodations" include: hotels, motels, inns, travel homes, tourist houses, summer cottages, apartment hotels or resort lodges or cabins, and any accommodation which is rented for a continuous period of less than one month.

9. A "continuous" certification designation is provided on the exemption certificate, form S-016 or S-017, and, if claimed, the form remains in effect until replaced or revoked. A new certification shall be filed if there is a change in the percentage of exempt use.

Note to Revisor: The "Note" at the end of rule Tax 11.57 should be amended to read:

Note: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969, except for subsection (1)(e) and (L) which became effective February 1, 1979, subsection (2)(L)1 which became effective on July 1, 1979 and subsection (2)(L) 2 and 3 which became effective on November 1, 1979.

Subsection (2)L 9 of this rule refers to the following new forms: Form S-016, Certificate of Exemption for Fuel Oil, Propane, Coal, Steam and Wood Used for Fuel for Residential or Farm Use. Form S-017, Certificate of Exemption for Electricity and Natural Gas for Residential or Farm Use. These forms may be obtained at any Department of Revenue Office or by mail by writing to the department, P.O. Box 8902, Madison, Wi 53708, or calling (608)266-2776.

SECTION 19. Tax 11.66 title and (2) of the Wis. Adm. Code are amended to read:

Tax 11.66 COMMUNICATION AND CATV SERVICES. (ss. 77.51(28), 77.52 (2)(a)3, 4 and 12 and 77.54(24), Stats.)

Tax 11.66(2) PURCHASES BY PERSONS PROVIDING SERVICE. Persons engaged in the business of providing communications services are consumers, not retailers, of the tangible personal property used in providing such services. The tax applies to the sale of such property to them. However, section 77.54 (24), Wis. Stats., exempts "apparatus, equipment and electrical instruments, other than station equipment, in central offices or of telephone companies, used in transmitting traffic and operating signals". The Dane County Circuit Court's decision of May 22, 1981 in Wisconsin Department of Revenue v. North-West Services Corporation and North-West Telephone Company held that a telephone company may purchase without tax tangible person property leased or rented to customers in conjunction with an activity open to competition with others who are not public utilities.

SECTION 20. Tax 11.69(5)(a) of the Wis. Adm. Code is amended to read:

Tax 11.69(5)(a) Sales to ~~federal and~~ state chartered credit unions, and to federal and state chartered banks and savings and loan associations are taxable.

SECTION 21. Tax 11.84(2)(b)1 and 2 of the Wis. Adm. Code are amended to read:

Tax 11.84(2)(b)1 Section 77.52(2)(a)9, Stats., imposes the tax on "Parking or providing parking space for motor vehicles and aircraft for a consideration ... ~~except when provided by a governmental unit.~~" "Parking" in-

cludes occupying space in a hangar when an aircraft is available for use without requiring a substantial expenditure of time or effort to make it operational. For example, an aircraft kept in a hangar and available for normal use is parked, but an aircraft kept in a hangar with its wings off is stored rather than parked.

Tax 11.84(2)(b)2 Indoor parking, such as single or multiple "T" hangar parking, and outdoor (tie down) parking are taxable, ~~except when provided directly by a governmental unit to the owner of the aircraft. The gross receipts of a nongovernmental operator of a hangar from the rental of hangar space for aircraft are subject to the sales tax whether or not such operator leases the hangar from a governmental unit.~~

Note to Revisor: The "Note" at the end of rule Tax 11.84 should be amended to read:

Note: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969, except that a governmental unit's charges for parking motor vehicles or aircraft became taxable on June 1, 1980, pursuant to Chap. 221, Laws of 1979.

SECTION 22. Tax 11.85(1)(d) and (2)(a) and (b) of the Wis. Adm. Code are amended to read:

Tax 11.85(1)(d) Charges for docking and storing boats, ~~except where such services are provided by a governmental unit.~~ The tax applies to boat storage in public storage warehouses.

Tax 11.85(2)(a) A boat not required to be registered in Wisconsin with the Wisconsin department of natural resources or documented under the laws of the United States may be sold at retail as an exempt occasional sale if the transferor does not hold a seller's permit.

Tax 11.85(2)(b) Sales of boats to the spouse, parent or child of the transferor shall be exempt if the boat was previously registered in Wisconsin with the Wisconsin department of natural resources or documented under the laws of the United States in the transferor's name and if the transferor does not hold and is not required to hold a seller's permit.

Note to Revisor: The "Note" at the end of rule Tax 11.85 should be amended to read:

Note: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969 except that effective February 28, 1979 boats documented with the Coast Guard did not qualify for the occasional sale exemption pursuant to Chap. 1, Laws of 1979, and effective June 1, 1980 charges for docking and storing boats by governmental units became taxable pursuant to Chap. 221, Laws of 1979.

SECTION 23. Tax 11.87(1)(b) of the Wis. Adm. Code is renumbered (g) and Tax 11.87(1)(b), (c), (d), (e) and (f) are created to read:

Tax 11.87(1)(b) "Hospital" has the meaning in s. 50.33(1), Stats.

Tax 11.87(1)(c) "Nursing home" has the meaning in s. 50.01(3), Stats.

Tax 11.87(1)(d) "Retirement home" means a nonprofit residential facility, which as its primary function provides personal care above the level of room and board to retired persons, where 3 or more unrelated adults or their spouses have their principal residence and where support services, including meals from a common kitchen, are available to residents.

Tax 11.87(1)(e) "Personal care" means assistance with the activities of daily living, including eating, dressing, bathing and ambulation.

Tax 11.87(1)(f) "Sanitorium" means an institution for the recuperation and treatment of the victims of physical or mental disorders.

SECTION 24. Tax 11.87(3)(a), (b) and (c) of the Wis. Adm. Code are amended to read:

Tax 11.87(3)(a) Health care facilities. Meals, food, food products, or beverages sold by hospitals, sanitoriums, nursing homes, retirement homes or day care centers registered under ch. 48, Stats. (~~"Hospital" is defined in s. 50.33(1); Stats. "Nursing Home" is defined in s. 146.30; Stats. "Sanitorium" means an institution for the recuperation and treatment of victims of physical or mental disorders.~~) However, if an affiliated organization sells such items, the exemption shall not apply. For example, if the ladies' auxiliary of a hospital operates a coffee shop on the hospital premises, although the ladies' auxiliary is a nonprofit organization, the food and drinks sold at such coffee shop are taxable.

Tax 11.87(3)(b) "Meals on wheels". ~~Effective on and after October 4, 1973,~~ meals Meals, food, food products or beverages sold to the elderly or handicapped by persons providing "mobile meals on wheels".

Tax 11.87(3)(c) Dormitory contracts. Meals, food, food products or beverages furnished under any contract or agreement by a public or private institution of higher education, ~~effective for the fall semester of 1973.~~

Note to Revisor: The "Note" at the end of rule Tax 11.87 should be amended to read:

Note: The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969 except that sales of meals by retirement homes became exempt on April 25, 1978, pursuant to Chap. 250, Laws of 1977.

SECTION 25. Tax 11.93(4) of the Wis. Adm. Code is created to read:

Tax 11.93(4) The annual information return filing requirements do not apply to the 1981 tax year and thereafter.

Note to Revisor: The "Note" at the end of rule Tax 11.93 should be amended to read:

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 \$300 standard applies to taxable years beginning on and after January 1, 1979. Prior to that date a \$100 standard applied. The "annual information return" was eliminated for 1981 and subsequent years pursuant to Chapter 221, Laws of 1979.

SECTION 26. Tax 11.97 title and (2)(b) and (c) of the Wis. Adm. Code are amended to read:

Tax 11.97 "ENGAGED IN BUSINESS" IN WISCONSIN (ss. 77.51(4)(j), (7)(c) and (k) and (7g) and 77.53(3), (5), (7), (9) and (9m), Stats.)

Tax 11.97(2)(b) Section ~~77.53(3)~~ 77.51(7g), Stats., provides ~~in part~~ as follows:

"~~(3)~~ ~~---~~ 'Retailer engaged in business in this state', unless otherwise limited by federal statute, for purposes of the use tax, means any of the following:

(a) Any retailer owning real property in this state or leasing or renting out any tangible personal property located in this state or maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business in this state.

(b) Any retailer having any representative, agent, ~~salesman~~ salesperson, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering or the taking of orders for any tangible personal property or taxable services."

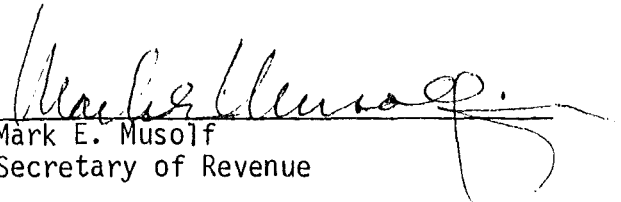
Tax 11.97(2)(c) Under s. 77.53(5), Stats., the tax required to be collected by a use tax registrant is a debt owed by the registrant to this state, and s. 77.53(7), Stats., provides the tax is to be stated separately from the list price of the goods sold.

The rules, amendments and repeals contained in this order shall take effect as provided in s. 227.026(1)(intro.), Wis. Stats.

WISCONSIN DEPARTMENT OF REVENUE

Dated: November 16, 1982

BY:


Mark E. Musolf
Secretary of Revenue



State of Wisconsin

DEPARTMENT OF REVENUE

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Revisor of Statutes
Bureau

November 16, 1982

OFFICE LOCATED AT
125 SOUTH WEBSTER STREET

MAILING ADDRESS
POST OFFICE BOX 8933
MADISON, WISCONSIN 53708

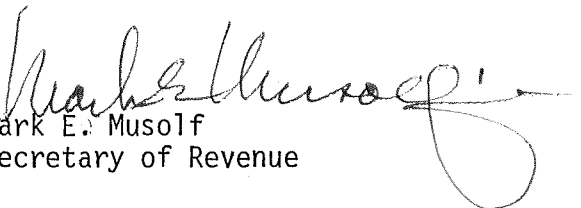
Orlan L. Prestegard
Revisor of Statutes
411 West, State Capitol
Madison, WI 53702

Dear Mr. Prestegard:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue repealing, amending and creating various sales tax rules.

These materials are filed with you pursuant to s. 227.023(1), Wis. Stats.

Sincerely,


Mark E. Musolf
Secretary of Revenue

Enclosures



State of Wisconsin \

DEPARTMENT OF REVENUE

OFFICE LOCATED AT
125 SOUTH WEBSTER STREET

MAILING ADDRESS
POST OFFICE BOX 8933
MADISON, WISCONSIN 53708

November 16, 1982

Ms. Vel Phillips
Secretary of State
13 West, State Capitol
Madison, WI 53702

RECEIVED

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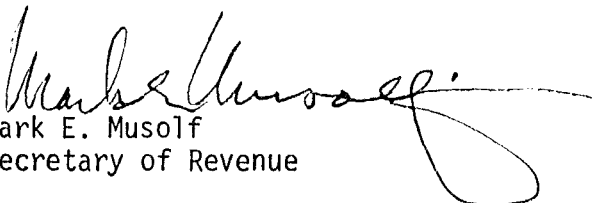
Revisor of Statutes
Bureau

Dear Ms. Phillips:

Enclosed are a Certificate and an Order of the Department of Revenue repealing, amending and creating various sales tax rules.

These materials are filed with you pursuant to s. 227.023(1), Wis. Stats.

Sincerely,


Mark E. Musolf
Secretary of Revenue

Enclosures

cc: Revisor of Statutes