

CR 83-222

CERTIFICATE

STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF REVENUE)

**RECEIVED**

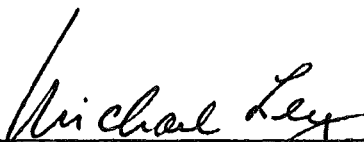
JUL 13 1984  
1-15 pm  
Revisor of Statutes  
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Michael Ley, Secretary of the Department of Revenue and custodian of the official records of said department do hereby certify that the annexed Order relating to Clearinghouse Rule No. 83-222 was duly approved and adopted by this department on July 10, 1984.

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 10<sup>th</sup> day of July, 1984.

  
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Michael Ley  
Secretary of Revenue

ML:em  
405101a

10-1-84

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

To repeal Tax 11.67(3)(k) and 11.94(2)(b); to renumber Tax 11.94(2)(c), (d) and (e); to amend Tax 11.05 title, (2)(b) and (m), (3)(a), (L), (m) and (p), 11.27(1), (2)(a) and (b), 11.67 title and (3)(n), 11.83(4)(c), 11.86 title and (4)(a), 11.87(3) (d), and 11.94(1)(e); and to create Tax 11.05 (2)(s) and (3)(q), and 11.86(5); relating to miscellaneous changes in various sales and use tax rules.

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Analysis by the Department of Revenue

The changes in this Order affect sales and use tax rules.

SECTION 1. Additional statutory references are added to the title, obsolete dates and information are removed from Tax 11.05 (2)(b) and (m) and the wording of the paragraphs is slightly revised. Periodicals, including magazines, sold over-the-counter became taxable on September 1, 1983 pursuant to 1983 Wisconsin Act 27 and Tax 11.05(2)(b) is amended to reflect this change.

SECTION 2. The listing of taxable receipts of governmental units is expanded to include the gross receipts from providing landscaping and lawn maintenance services which became taxable on May 1, 1982, pursuant to Chapter 317, Laws of 1981, which created s. 77.52(2)(a)20, Stats. Weed cutting services are now taxed as lawn maintenance services under s. 77.52(2)(a)20.

SECTION 3. Rule Tax 11.05(3)(a) is amended to reflect that sales of ID cards used exclusively to obtain admission to taxable facilities or events are subject to tax under s. 77.52(2)(a)2, Stats. An obsolete date is removed from Tax 11.05(3)(L). Tax 11.05(3) (m) is amended by removing the words "weed cutting" because certain weed cutting services became taxable on May 1, 1982 under s. 77.52(2)(a)20., Stats., pursuant to Chapter 317, Laws of 1981, as described in Section 2. Tax 11.05(3)(p) is amended to show that fees charged by the Register in Probate are collected pursuant to s. 814.66, Stats., as the probate law was amended by Chapter 17, Laws of 1981.

SECTION 4. Rule Tax 11.05(3)(q) is created to reflect the exemption in s. 77.54(10), Stats., for admission fees or admission stickers under s. 27.01(2r), Stats., pursuant to Chapter 418, Laws of 1977, effective July 1, 1978.

SECTION 5. Rule Tax 11.27 is amended to recognize the fact that warranties are also sold by persons, such as warranty and insurance companies, who are not manufacturers or the sellers of the goods warranted.

SECTIONS 6 and 7. Additional statutory references are added to the title of Tax 11.67. The sales tax status of cable TV operators is set forth in rule Tax 11.66. Therefore, reference to such persons is unnecessary duplication in rule Tax 11.67(3)(k).

SECTION 8. Rule Tax 11.67(3)(n) is amended to provide that the shipment of telephone books into Wisconsin is subject to tax, effective September 1, 1983, pursuant to 1983 Wisconsin Act 27, which created s. 77.51(15)(b), Stats. This section defines enjoyment to include "having shipped into this state by an out-of-state supplier printed material which is designed to promote the sale of property or services, or which is otherwise related to the business activities, of the purchaser of the printed material or printing service".

SECTION 9. Rule Tax 11.83(4)(c) is amended to describe other types of mobile units which nonresidents may acquire out-of-state 90 days or more before moving into Wisconsin which would not be subject to the Wisconsin use tax when registered with this state.

SECTIONS 10 and 11. Additional statutory references are added to the title of s. Tax 11.86 and sub. (4)(a) is amended and sub. (5) is created to describe the effect on utilities of the tax on landscaping services imposed by Chapter 317, Laws of 1981, effective May 1, 1982. Certain utility right-of-way tree trimming and restoration charges are taxable landscaping services under newly created s. 77.52(2)(a)20, Stats.

SECTION 12. Rule Tax 11.87(3)(d) is amended to reflect that yogurt sold in smaller sized containers for home preparation of meals is exempt from tax, as currently set forth in rule Tax 11.51, the "Grocer's guidelist".

SECTION 13. Rule Tax 11.94(1)(e) is amended to describe how drop shipments into Wisconsin by persons registered or required to be registered to collect the Wisconsin tax are subject to the standards in s. 77.51(4)(d), Stats.

SECTIONS 14 and 15. An example is inserted after Tax 11.94(2)(a) to reflect the 5% tax rate which went into effect on May 1, 1982, pursuant to Chap. 317, Laws of 1981. Rule Tax 11.94(2)(b) is repealed in accordance with Administrative Rules Procedures which provide that "examples" must be separately set forth as such in administrative rules. After repealing (2)(b), Tax 11.94(2)(c), (d) and (e) are renumbered.

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Pursuant to the authority vested in the Department by section 227.014, Stats., the Department of Revenue hereby repeals, renumbers, amends and creates rules interpreting ss. 77.51(4)(d), 77.52(2)(a)12 and 20, 77.53(18), 77.54(4), (9a) and (20), Stats., as follows:

SECTION 1. Tax 11.05 (title), (2)(b) and (m) are amended to read:

Tax 11.05 (title) GOVERNMENTAL UNITS. (ss. 77.51(3), 77.52(2)(a)1, 2, 9 and 20, 77.54(4), (9a), (10), (15), (17), (20) and (30), Stats.)

Tax 11.05(2)(b) Food and gift stand sales ~~(e.g.,~~ including sales of ~~tangible-personal-property-such-as~~ sandwiches, beverages, candy, cigarettes ~~(effective-september-1, 1975)~~, ice cream, confections, tobacco products, postcards, books, magazines and other periodicals described in s. Tax 11.19, and novelties}. ~~Newspapers-and-periodicals-regularly-issued-at average-intervals-not-exceeding-3-months~~ Newspaper sales are exempt.

Tax 11.05(2)(m) Sales of books and supplies, including ~~Such~~ sales by vocational, technical and adult education schools ~~are-taxable, except for the period from July 1, 1972 through October 3, 1973 .~~ Sales of tangible personal property by elementary and secondary schools are exempt under s. 77.54(4), Stats.

SECTION 2. Tax 11.05(2)(s) is created to read:

Tax 11.05(2)(s) The gross receipts from landscaping and lawn maintenance services, including weed cutting in lawn, garden and other developed areas, but not charges for damages described in sub. (3)(c).

SECTION 3. Tax 11.05(3)(a), (L), (m) and (p) are amended to read:

Tax 11.05(3)(a) Fees for licenses and permits ~~{e.g., including~~ including tavern, cigarette, hunting and fishing, marriage, building and septic tank permits and I.D. cards, but not camping permits} or I.D. cards issued exclusively for obtaining admission to facilities or events taxed under s. 77.52(2)(a)2, Stats.

Tax 11.05(3)(L) Meals, food, food products or beverages (except soda water beverages and beer) sold by hospitals, sanitoriums and nursing homes to patients, employes or guests; dormitory meals furnished in accordance with any contract or agreement by a public or private institution of higher education; and meals sold to the elderly or handicapped by "mobile meals on wheels" ~~on and after October 4, 1973~~ .

Tax 11.05(3)(m) Service charges for snow removal, ~~weed-cutting~~, police officers at social gatherings, service of legal papers including {summons, complaints, and civil process}, and ushers and door guards.

Tax 11.05(3)(p) Charges for filing, entering, docketing, recording or furnishing certified or uncertified copies of records by a state registrar, register of deeds, health officers and clerk of court under ss. 59.42, 59.57, 69.24, Stats., or by a filing officer under s. 409.407(2), Stats., and fees charged by a register in probate pursuant to s. ~~253.34~~ 814.66, Stats.

SECTION 4. Tax 11.05(3)(q) is created to read:

Tax 11.05(3)(q) The sale of all admission fees or admission stickers to state parks and recreational areas in state forests imposed under s. 27.01(2r), Stats.

Note to Revisor: The "Note" at the end of Tax 11.05 should be revised to read as follows:

Note: The interpretations in s. Tax 11.05 are effective under the general sales and use tax law on and after September 1, 1969, except as follows: (a) Sales by vocational, technical and adult education schools were exempt from July 1, 1972 through October 3, 1973, (b) Mobile meals on wheels became exempt October 4, 1973, pursuant to Chapter 90, Laws of 1973, (c) Admission fees to state parks became exempt on July 1, 1978, pursuant to

Chapter 418, Laws of 1977, (d) Sales of coal, fuel oil, propane, steam and wood used for fuel became exempt July 1, 1979 and the electricity and natural gas six-month exemption became effective on November 1, 1979, both pursuant to Chapter 1, Laws of 1979, (e) 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 Chapter 221, Laws of 1979, (f) Landscaping and lawn maintenance services became taxable on May 1, 1982 pursuant to Chapter 317, Laws of 1981.

SECTION 5. Tax 11.27(1) and (2)(a) and (b) are amended to read:

Tax 11.27(1) RECEIPTS FROM WARRANTIES. The total gross receipts from a sale of taxable personal property by a retailer, who ~~warrants~~ sells a warranty applicable to such property and includes a charge for the warranty in the sales price, are taxable.

Tax 11.27(2)(a) ~~When-a~~ A retailer who does performs repair work, including supplying parts and services, without charge ~~for a customer~~ under a ~~manufacturer's~~ warranty of a manufacturer or other person, -the-retailer is not subject to tax on ~~either~~ the amount of the reimbursement received from the manufacturer warrantor for such parts or service or on the value of any part the manufacturer replaces in the retailer's inventory whether the reimbursement is in the form of money or the replacement of parts used to perform the repair work.

Tax 11.27(2)(b) Gross receipts from charges by a retailer to a customer for repair parts or service performed under a ~~retailer's or manufacturer's~~ warranty are taxable, including gross receipts from the sale of service contracts. ~~{Charges by a manufacturer or other person for service contracts are taxable to the manufacturer .}~~

SECTION 6. Tax 11.67 (title) is amended to read:

Tax 11.67 (title) SERVICE ENTERPRISES. (ss. 77.51(4)(intro.), (h) and (L), (5), (7), (11), (12), (13), (15)(a) and (b), (24)(a) and (b) and 77.52(1), Stats.)

SECTION 7. Tax 11.67(3)(k) is repealed.

SECTION 8. Tax 11.67(3)(n) is amended to read:

Tax 11.67(3)(n) Soliciting advertising for telephone directories. Persons who solicit advertising for telephone books and who, as an incident to such service, provide telephone books to telephone companies or their subscribers, are the consumers of and shall pay tax on all telephone books they ~~accept delivery of in Wisconsin and then~~ distribute in Wisconsin or have shipped into Wisconsin by an out-of-state supplier.

SECTION 9. Tax 11.83(4)(c) is amended to read:

Tax 11.83(4)(c) A motor vehicle, trailer, semitrailer or mobile home purchased by a nonresident of Wisconsin 90 days or more before bringing ~~such vehicle~~ the unit into this state, in connection with a change of residence to this state by the individual, is not subject to the Wisconsin use tax.

SECTION 10. Tax 11.86 (title) and (4)(a) are amended to read:

Tax 11.86 (title) UTILITY TRANSMISSION AND DISTRIBUTION LINES. (ss. 77.51(5), 77.52(2)(a)10, 11 and 20, 86.16 and 182.017, Stats.)

Tax 11.86(4)(a) Gross receipts from a separate contract for tree trimming and line clearing in connection with the construction of a new utility line ~~or~~ is not considered a cost of constructing the line for sales tax purposes. Charges for tree trimming and line clearing in the construction or maintenance of ~~an~~ a existing line in a rural undeveloped area are not taxable. However, charges for right-of-way tree trimming, line clearing or restoration work may be taxable landscaping services as described in sub. (5).

SECTION 11. Tax 11.86(5) is created to read:

Tax 11.86(5) LANDSCAPING SERVICES. Gross receipts from landscaping services are taxable when performed in lawn and garden areas. This includes lawn, shrub and tree services performed in developed areas found in residential, business, commercial and industrial locations, cemeteries, golf courses, athletic fields, stadiums, parking lots and other developed areas.

Note: Examples: 1. Trimming trees on a utility's right-of-way.

2. Restoration work performed when a utility extends its service or repairs or replaces existing lines.

Note to Revisor: The "Note" at the end of the rule should be revised to read:

Note: The interpretations in s. Tax 11.86 are effective on and after September 1, 1970, except that landscaping services described in sub. (5) became taxable pursuant to Chapter 317, Laws of 1981, effective May 1, 1982.

SECTION 12. Tax 11.87(3)(d) is amended to read:

Tax 11.87(3)(d) Groceries. Sales of the basic food items for human consumption purchased for the home preparation of meals. This includes sales of prepackaged ice cream, ice milk, or sherbet ~~or yogurt~~ (in pint, quart, gallon or larger sizes), whether prepackaged by the vendor or a supplier. Sales of smaller sized containers of these products are taxable.

Sales of ice cream, ice milk, sherbet or yogurt, or as cones, sundaes, sodas, shakes and frozen chocolate bars made from these products shall be are taxable.

SECTION 13. Tax 11.94(1)(e) is amended to read:

Tax 11.94(1)(e) Section 77.51(4)(d), Stats., applies to a situation where tangible personal property is delivered to a purchaser in this state by an owner or former owner of the property holding or required to hold a Wisconsin sales or use tax permit or where a Wisconsin office of the owner or former owner of the property aids in making the delivery. Therefore, if a Wisconsin manufacturer ships or turns over such property to a purchaser in Wisconsin based on an order received from an unregistered out-of-state seller, (who had received the original order from the Wisconsin purchaser), the manufacturer shall report the Wisconsin tax measured by the retail selling price. However, a Wisconsin manufacturer may drop ship an item to a purchaser in Wisconsin without the tax being applicable, if the purchaser is entitled to purchase the property without tax and gives the manufacturer a properly completed exemption certificate.

SECTION 14. Tax 11.94(2)(b) is repealed and an example is inserted after 11.94(2)(a):

Note: Example. When the seller charges the purchaser for delivery of the taxable tangible personal property the correct computation of tax is as follows:

|                              |              |
|------------------------------|--------------|
| Selling price of merchandise | \$100.00     |
| Delivery charge              | <u>10.00</u> |
| Subtotal                     | \$110.00     |
| Tax at 5% (\$110 x 5%)       | <u>5.50</u>  |
| Total                        | \$115.50     |

SECTION 15. Tax 11.94(2)(c), (d) and (e) are renumbered (2)(b), (c) and (d), respectively.

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The rules, renumbers, 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: *July 10, 1984*

By: *Michael Ley*  
Michael Ley  
Secretary of Revenue  
440323a



State of Wisconsin \ DEPARTMENT OF REVENUE

July 12, 1984

OFFICE LOCATED AT  
125 SOUTH WEBSTER STREET

MAILING ADDRESS  
POST OFFICE BOX 8933  
MADISON, WISCONSIN 53708

RECEIVED

JUL 13 1984

Revisor of Statutes  
Bureau

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

Dear Mr. Prestegard:

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

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

Sincerely,

Michael Ley  
Secretary of Revenue

ML:em  
405201a

Enclosures

cc: Douglas J. LaFollette, Secretary of State  
Prentice Hall, Inc.  
Commerce Clearinghouse, Inc.