

CR 90-99

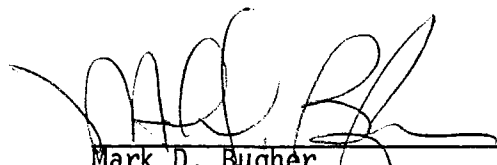
CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

I, Mark D. Bugher, Secretary of the Department of Revenue and custodian of the official records certify that the annexed rule, relating to sales and use taxes was duly approved and adopted by this department on December 4, 1990.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 4th day of December, 1990.



Mark D. Bugher
Secretary of Revenue

MDB:VLG:1c
CKLEG/384

RECEIVED

DEC 6 1990
4:00 pm
Revisor of Statutes
Bureau

RECEIVED

DEC 6 1990

Revisor of Statutes
Bureau

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

The Wisconsin Department of Revenue adopts an order to renumber Tax 11.08(5) and (6) and 11.45(3)(c), (d) and (f); to renumber and amend Tax 11.45(3)(e); to amend Tax 11.08(title) and (1)(intro.), 11.17(1)(b), (2), (3), (4)(b)4 and (5) and 11.45(3)(a) and (b) and (4); and to create Tax 11.08(5), (7) and (8) and 11.45(3)(c) relating to medical supplies sold and purchased.

Analysis by the Department of Revenue

Statutory authority: s. 227.11(2)(a), Stats.

Statutes interpreted: s. 77.54(9a), (14), (14g), (14m), (14s), (22) and (28), Stats.

SECTIONS 1, 2, 3, 7, 8 and 9. Sections Tax 11.08 and 11.45 are revised to add that antiembolism elastic hose prescribed by a physician are exempt from sales and use tax as a result of the creation of s. 77.54(22)(f), Stats., by 1989 Wisconsin Act 31. Tax 11.45(3)(a) is amended to substitute the word disabled for crippled.

SECTIONS 4, 5, 10, 11 and 12. Sections Tax 11.08 and 11.45 are revised to add that apparatus and equipment used to treat diabetes and supplies used to determine blood sugar levels are exempt from sales and use tax as a result of amendment to s. 77.54(28), Stats., by 1987 Wisconsin Act 399. Also, Tax 11.08(8) is created as a result of the creation of s. 77.54(22)(f), Stats., by 1989 Wisconsin Act 238, renumbered s. 77.54(22)(g), Stats., by 1989 Wisconsin Act 359.

SECTION 6. Tax 11.17(1)(b), (2), (3), (4)(b)4 and (5) are amended for the following reasons:

a. Section 77.54(9a)(f), Stats., was amended by 1985 Wisconsin Act 29 to exclude hospital service insurance corporations under s. 613.80(2), Stats., from the sales and use tax exemption on their purchases.

b. Section 77.54(22)(e), Stats., was amended by 1985 Wisconsin Act 29 to clarify that motorized wheelchairs qualify for exemption and to add that motorized scooters used by a disabled or ill person qualify for exemption.

c. Section 77.54(22)(f), Stats., was created by 1989 Wisconsin Act 31 to exempt antiembolism elastic hose and stockings prescribed by a physician and sold to the ultimate consumer.

d. Section 77.54(28), Stats., was amended by 1987 Wisconsin Act 399 to provide that equipment and apparatus used in the treatment of diabetes and supplies in determining blood sugar levels are exempt from sales and use tax.

e. Style and language are changed to conform to Legislative Council Rules Clearinghouse standards.

SECTION 13. Style and language are changed to conform to Legislative Council Rules Clearinghouse standards.

SECTION 1. Tax 11.08(title) and (1)(intro.) is amended to read:

Tax 11.08(title) MEDICAL APPLIANCES, PROSTHETIC DEVICES AND AIDS.

(s. 77.54(14s), (22) and (28), Stats.) (1) Section 77.54(22)(a), 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, and 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:

Note to Revisor: Insert the following note after sub. (1)(g):

Note: The gross receipts from the sale and installation of a stairway chair elevator considered to be a real property improvement are exempt from sales tax.

SECTION 2. Tax 11.08(5) is renumbered Tax 11.08(6).

SECTION 3. Tax 11.08(5) is created to read:

Tax 11.08(5) ELASTIC HOSE AND STOCKINGS. Section 77.54(22)(f), Stats., exempts gross receipts from the sale of "antiembolism elastic hose and stockings that are prescribed by a physician and sold to the ultimate consumer."

SECTION 4. Tax 11.08(6) is renumbered Tax 11.08(9).

SECTION 5. Tax 11.08(7) and (8) are created to read:

Tax 11.08(7) DIABETES EQUIPMENT. Section 77.54(28), Stats., exempts gross receipts from the sale to the "ultimate consumer of apparatus or equipment for the injection of insulin or the treatment of diabetes and supplies used to determine blood sugar level."

Example: Gross receipts from the sale of blood glucose test strips and blood glucose monitors are exempt from sales and use tax.

(8) ADAPTIVE EQUIPMENT FOR MOTOR VEHICLES. Section 77.54(22)(g), Stats., exempts gross receipts from the sale of adaptive equipment that makes it possible for handicapped persons to enter, operate or leave a vehicle, as defined in s. 27.01(7)(a)2, Stats., if that equipment is purchased by the handicapped person who will use it, a person acting directly on behalf of that handicapped person or a nonprofit organization.

Note to Revisor: Replace the note at the end of Tax 11.08 with the following:

Note: The interpretations in s. Tax 11.08 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) Charges for oxygen equipment became exempt September 1, 1983, pursuant to 1983 Wisconsin Act 27; (b) Charges for motorized wheelchairs and scooters became exempt September 1, 1985, pursuant to 1985 Wisconsin Act 29; (c) Charges for apparatus or equipment for the injection of insulin or the treatment of diabetes and supplies used to determine blood sugar levels became exempt March 1, 1989, pursuant to 1987 Wisconsin Act 399; (d) Charges for antiembolism elastic hose and stockings prescribed by a physician became exempt October 1, 1989, pursuant to 1989 Wisconsin Act 31; and (e) The exemption for adaptive equipment for a handicapped person's vehicle became exempt effective June 1, 1990, pursuant to 1989 Wisconsin Act 238, renumbered by 1989 Wisconsin Act 359.

SECTION 6. Tax 11.17(1)(b), (2), (3), (4)(b)4 and (5) are amended to read:

Tax 11.17(1)(b) Section 77.54(14)(b), Stats., specifically provides an exemption for medicines furnished by a licensed physician, surgeon or podiatrist to that person's patient for medical treatment. Section 77.54(22), Stats., provides an exemption for medical appliances and prosthetic devices. The scope of these exemptions is set forth in ~~rules~~ ss. Tax 11.08, 11.09 and 11.45.

(2) Purchases by hospitals, except hospital service insurance corporations under s. 613.80(2), Stats., are exempt from the sales and use tax if the hospitals are nonprofit and, as such, qualify as charitable organizations under s. 77.54(9a), Stats. Each is issued a Certificate of Exempt Status {, "C.E.S."}, by the department. When purchasing goods and services, a hospital ~~can~~ shall furnish its C.E.S. number to its supplier, and the supplier may then make sales of every type of tangible personal property or services to the hospital without tax. Hospitals organized for profit do not qualify for this exemption.

(3) Purchases made by medical clinics and physicians are subject to the sales or use tax unless specifically exempt by law. To be exempt, the items on the exempt list ~~must~~ shall be furnished to patients at the direction of a physician, surgeon or podiatrist in conjunction with providing medical service, except for items noted with an asterisk. These items are exempt even though not purchased under the direction of the health professional. The following is a partial list of taxable and exempt purchases of clinics and members of the medical professions.

<u>Taxable</u>	<u>Exempt</u>
Adhesive tape	<u>Antiembolism elastic hose and stockings</u>
Alcoholic beverages	<u>*Apparatus and equipment for treatment of diabetes</u>
Bandages, gauze and cotton	<u>*Artificial eyes and limbs</u>
Bed pans	<u>*Blood sugar level testing supplies</u>
Beds and linens	Bone pins and plates
Compresses and dressings	<u>*Crutches and wheel chairs, including motorized wheelchairs and scooters</u>
Cosmetics	
Deodorants and disinfectants	

Distilled water	Diaphragms
Enema kits	*Dietary foods
Instruments	*Disposable syringes containing insulin
Laboratory equipment and supplies	Dye
Medical equipment	*Hearing aids and parts
Office equipment and supplies	Medical oxygen and equipment to administer oxygen
Paper products	Medicines
Printed material	*Needles and syringes used by diabetics
Rib belts and supports	Oral contraceptives
Soda water beverages	Pacemakers
Soap	Prescription drugs
Splints and cast materials	Prophylactics
Uniforms and gowns	Rubbing alcohol
X-ray film and machines	Suppositories
	Sutures
	Vaccines
	Vaginal creams and jellies
	Vitamins

(4)(b)4. Sales of meals and other tangible personal property by an organization affiliated with a hospital (~~e.g., if a ladies' auxiliary of a hospital operates a coffee shop on the hospital premises, gross receipts from this business are taxable~~).

Example: If a ladies' auxiliary of a hospital operates a coffee shop on the hospital premises and does not hold a CES number, gross receipts from this business are taxable.

(5) Section 50.33~~(1)~~ (2), Stats., provides the definition of hospital which is to be used for sales tax purposes.

Note to Revisor: Replace the following note for the second note after sub. (5).

Note: The interpretations in s. Tax 11.17 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The exemption for needles and syringes used by diabetics became effective November 19, 1975, pursuant to Ch. 102, Laws of 1975; (b) The exemption for oxygen equipment became effective September 1, 1983, pursuant to 1983 Wisconsin Act 27; (c) The exemption for motorized scooters became effective September 1, 1985, pursuant to 1985 Wisconsin Act 29; (d) The exemption for diabetic apparatus and equipment and supplies for determining blood sugar levels became effective March 1, 1989, pursuant to 1987 Wisconsin Act 399; (e) The exemption for antiembolism elastic hose and stockings prescribed by a physician became effective October 1, 1989, pursuant to 1989 Wisconsin Act 31; and (f) The purchases by a hospital service insurance corporation under s. 613.80(2), Stats., became taxable effective September 1, 1985, pursuant to 1985 Wisconsin Act 29.

SECTION 7. Tax 11.45(3)(a) and (b) is amended to read:

Tax 11.45(3)(a) Artificial devices individually designed, constructed or altered solely for the use of a particular ~~crippled~~ physically disabled person which become a brace, support, supplement, correction or substitute for a bodily structure, including the extremities, of the individual.

(b) Trusses, supports, shoes, and braces ~~and elastic hose~~ only when specially fitted or altered to fit a particular person. "Altered" includes the bending of metal stays but does not include adjusting straps or seams.

SECTION 8. Tax 11.45(3)(c) is renumbered Tax 11.45(3)(d).

SECTION 9. Tax 11.45(3)(c) is created to read:

Tax 11.45(3)(c) Antiembolism elastic hose and stockings prescribed by a physician and sold to the ultimate consumer.

SECTION 10. Tax 11.45(3)(d) is renumbered Tax 11.45(3)(e).

SECTION 11. Tax 11.45(3)(e) is renumbered (f) and amended to read:

Tax 11.45(3)(f) Apparatus or equipment for the injection of insulin and or treatment of diabetes and supplies used to determine blood sugar level.

(g) equipment ~~Equipment~~ used to administer oxygen for medical purposes if the patient has a prescription for oxygen written by a person authorized to prescribe oxygen. The exemption for oxygen equipment applies to oxygen carts acquired for use by patients with a prescription for oxygen.

SECTION 12. Tax 11.45(3)(f) is renumbered Tax 11.45(3)(h).

SECTION 13. Tax 11.45(4) is amended to read:

Tax 11.45(4) The administrator of Medicare claims {, such as Surgical Care-Blue Shield}, is under contract to withdraw funds from the United States treasury to pay the providers of medical services or for medical supplies and equipment. If the provider of a taxable item bills ~~such~~ the administrator directly in full or in part, the sale shall be a tax exempt sale to the United States. If the provider of a taxable item bills an individual in full or in part who then seeks reimbursement from Medicare, the sale shall not be an exempt sale to the United States.

Note to Revisor: Replace the note at the end of Tax 11.45 with the following note.

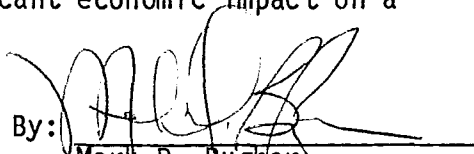
Note: The interpretations in s. Tax 11.45 are effective under the general sales and use tax law, effective September 1, 1969, except: (a) Charges for oxygen equipment became exempt September 1, 1983, pursuant to 1983 Wisconsin Act 27; (b) Charges for motorized wheelchairs and scooters became exempt September 1, 1985, pursuant to 1985 Wisconsin Act 29; (c) Charges for apparatus or equipment for the injection of insulin or the treatment of diabetes and supplies used to determine blood sugar level became exempt March 1, 1989, pursuant to 1987 Wisconsin Act 399; and (d) Charges for antiembolism elastic hose and stockings prescribed by a physician became exempt October 1, 1989, pursuant to 1989 Wisconsin Act 31.

The renumbering, amendments and creations contained in this order shall take effect on the first day of the month following publication as provided in s. 227.22(2), Stats.

Final Regulatory Flexibility Analysis

This rule order does not have a significant economic impact on a substantial number of small businesses.

Dated: December 4, 1990

By: 
Mark D. Bugher
Secretary of Revenue

RECEIVED

CKLEG/M021779D

DEC 6 1990

Revisor of Statutes
Bureau

1989 Session

LRB or Bill No./Adm. Rule No.

Tax 11

Amendment No. if Applicable

FISCAL ESTIMATE

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

DOA-2048 (R 10/88)

Subject

Changes in Sales and Use Tax Rules Relating to Medical Equipment and Supplies

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities

2. Decrease Costs
 Permissive Mandatory

4. Decrease Revenues
 Permissive Mandatory

Counties Others _____

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The proposed rule reflects statutory changes previously enacted by the Legislature and revises style and language to conform to Legislative Council Clearinghouse standards. It has no fiscal effect.

RECEIVED

DEC 6 1990

Revisor of Statutes
Bureau

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
Wisconsin Department of Revenue
Dennis G. Johnson 266-2706

Authorized Signature/Telephone No. 266-2700

[Handwritten Signature]

Date

[Handwritten Date]

FISCAL ESTIMATE WORKSHEET

1989 Session

Detailed Estimate of Annual Fiscal Effect ORIGINAL UPDATED
 DOA-2047(R 10/88) CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Tax 11	Amendment No.
---	---------------

Subject

Changes in Sales and Use Tax Rules Relating to Medical Equipment and Supplies

I. One-time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Note: Treat fiscal costs like a "checkbook": increased costs reduce available funds (-); decreased costs increase available funds (+).	Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
Salaries and Fringes		\$ -	\$ +
Staff Support Costs		-	+
Other State Costs		-	+
Local Assistance		-	+
Aids to Individuals or Organizations		-	+
TOTAL State Costs by Category		\$ -	\$ +
B. State Costs by Source of Funds			
GPR		\$ -	\$ +
FED		-	+
PRO/PRS		-	+
SEG/SEG-S		-	+
C. FTE Position Changes			
		Increased Pos. + ()	Decreased Pos. - ()
III. State Revenues-			
GPR Taxes	Complete this only when proposal will increase or decrease state revenues, such as taxes, license fees, etc.	Decreased Rev. \$ -	Increased Rev. \$ +
GPR Earned		-	+
FED		-	+
PRO/PRS		-	+
SEG/SEG-S		-	+
TOTAL State Revenues		\$ -	\$ +

Net Annualized Fiscal Impact on State & Local Funds

State	Annual Increases	Annual Decreases	Local	Annual Increases	Annual Decreases
Total Costs	\$ -	\$ +	Total Costs	\$ -	\$ +
Total Revenues	+	-	Total Revenues	+	-
NET Impact on State Funds	\$ (+) or (-)	None	NET Impact on Local Funds	\$ (+) or (-)	None



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

December 4, 1990

RECEIVED

DEC 6 1990

Revisor of Statutes
Bureau

Gary L. Poulson
Assistant Revisor
2nd Floor
119 Martin Luther King, Jr. Blvd.
Madison, Wisconsin 53703

Re: Clearinghouse Rule 90-99

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to sales and use taxes.

These materials are filed with you pursuant to s. 227.20(1), Stats.

Sincerely,

Mark D. Bugher
Secretary of Revenue

MDB:VLG:lc
CKLEG/383

Enclosure

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



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

December 4, 1990

Douglas LaFollette
Secretary of State
30 West Mifflin Street, 10th Floor
Madison, Wisconsin 53703

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 90-99.

These materials are filed with you pursuant to s. 227.20, Stats.

Sincerely,

Mark D. Bugher
Secretary of Revenue

MDB:VLG:1c
CKLEG/382

Enclosure

cc: Revisor of Statutes

RECEIVED

DEC 6 1990

Revisor of Statutes
Bureau