

CR 90-196

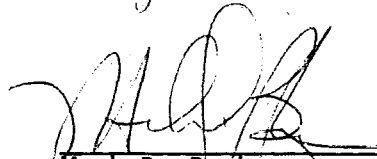
CERTIFICATE

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 tax was duly approved and adopted by this department on April 1, 1991.

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 1st day of April, 1991.



\_\_\_\_\_  
Mark D. Bugher  
Secretary of Revenue

MDB:MPW:dab  
CKLEGELC/666

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7-1-91

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APR 3 1991

Revisor of Statutes  
Bureau

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

The Wisconsin Department of Revenue adopts an order to repeal Tax 11.16(1)(g), 11.50(4)(d)3 and 11.96; to renumber Tax 11.16(1)(h) and (i) and 11.50(4)(c); to amend Tax 11.05(title), (2)(a), (d), (i), (k) and (o), (3)(i), (L), (p) and (q) and (4)(intro.), (d) and (e), 11.16(title), (1)(a) and (d) and (2)(c)1, 11.50(2), (3)(a), (b), (c), (d) and (h) and (4)(a)(intro.), 1.a, and 2 and (d)(intro.), 1 and 2 and 11.92(title), (1)(intro.), (a), (b) and (c), (2)(intro.), (3)(intro.) and (c) and (4); to repeal and recreate Tax 11.05(4)(b); and to create Tax 11.05(3)(r), (s) and (t), 11.16(1)(b)(title), (c)(title), (e)(title), (f)(title), (g)(title) and (h)(title) and 11.92(7), relating to sales and use taxes.

Analysis by the Department of Revenue

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

Statutes interpreted: ss. 77.51(4)(c)6 and (d), (9)(e), (10), (13)(b) and (14)(intro.) and (a), 77.52(2)(a)1, 2, 9 and 20 and (13), 77.54(5)(b), (9a), (10), (12), (13), (15), (17), (20), (30), (32) and (37), 77.55(2m), 77.57, 77.58(7), 77.60(1), (2) and (8), 77.61(4)(a) and (8) and 77.75, Stats.

SECTION 1. Tax 11.05(title) is amended to add reference to s. 77.54(37), Stats., as created by 1987 Wisconsin Act 27 and s. 77.51(4)(c), Stats., as created by 1989 Wisconsin Act 31. Subsection (2)(d) is amended to clarify that charges include entry fees. Tax 11.05(2)(a), (i), (k) and (o) and (3)(L) are amended to update language and style per Legislative Council Rules Clearinghouse standards. Subsection (3)(i) is amended to address the department's position regarding a combined charge for waste removal and receptacles. Tax 11.05(3)(p) and (q) are amended to correct statutory references.

SECTION 2. Tax 11.05(3)(r) is created due to the amendment of sec. 77.54(10), Stats., by 1989 Wisconsin Act 31. Paragraph (s) is created due to the amendment of s. 77.54(10), Stats., by 1985 Wisconsin Act 29. Paragraph (t) is created due to the creation of s. 77.54(37), Stats., by 1987 Wisconsin Act 27.

SECTION 3. Tax 11.05(4)(intro.) is amended to update language per Clearinghouse standards and due to the amendment of s. 77.54(9a)(f), Stats., by 1985 Wisconsin Act 29.

SECTION 4. Tax 11.05(4)(b) is repealed and recreated to update department policy with respect to payments for welfare recipient's purchases. An example is added.

SECTION 5. Tax 11.05(4)(d) and (e) are amended to update language and style per Clearinghouse standards. Also par. (d) is amended to reflect department policy regarding sales to government employes and par. (e) is amended to reflect the new program granting diplomatic exemption implemented by the U.S. Department of State.

SECTION 6. Tax 11.16(title) is amended to add reference to s. 77.55(2m), Stats., created by 1985 Wisconsin Act 29. Tax 11.16(1)(a) is amended to add a title, correct a statutory reference due to the renumbering of ch. 71, Stats., by 1987 Wisconsin Act 312, break into two paragraphs to improve readability, and delete obsolete language.

SECTIONS 7, 9, 11 AND 13. Titles are added to the paragraphs in sub. (1) to improve readability.

SECTION 8. Tax 11.16(1)(d) is amended to add a title and clarify that an automobile registered as a truck is not precluded from exemption.

SECTIONS 10, 12 AND 14. Tax 11.16(1)(g) is repealed per Clearinghouse standards. The information is put in a note. Accordingly paragraphs (h) and (i) are renumbered.

SECTION 15. Tax 11.16(2)(c)1 is amended to reflect the creation of s. 77.55(2m), Stats., by 1985 Wisconsin Act 29.

SECTIONS 16, 18 AND 19. Tax 11.50(2), (3)(a), (b), (c), (d) and (h) and (4)(a)(intro.) and 1.(intro.) are amended to update language and style per Clearinghouse standards. Tax 11.50(4)(a)1.a is amended to reflect a change in department policy with respect to what qualifies as household goods and clarify that all-terrain vehicles are not household goods. Tax 11.50(4)(a)2 is amended to clarify department policy with respect to equipment for recreational animals. Tax 11.50(4)(d)(intro.), 1 and 2 are amended and Tax 11.50(4)(d)3 repealed due to the creation of sec. 77.54(7m), Stats., by 1987 Wisconsin Act 399.

SECTION 17. Tax 11.50(4)(c) is renumbered Tax 11.50(3)(i) to reflect the department's position that bankruptcy sales are taxable.

SECTION 20. Tax 11.92(title) and (1)(a) are amended to reference s. 77.51(4)(d), Stats., not previously addressed in this section. Tax 11.92(1)(intro.) and (c), (2)(intro.), (3)(intro.) and (c) and (4) are amended to update language and style per Clearinghouse standards. Subsection (1)(b) is amended to clarify department policy with respect to exempt sales to exempt entities and to update language per Clearinghouse standards.

SECTION 21. Tax 11.92(7) is created due to the amendment of s. 77.61(4)(a), Stats., by 1985 Wisconsin Act 29.

SECTION 22. Tax 11.96 is repealed because the information does not go beyond what is already provided by statutes.

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SECTION 1. Tax 11.05(title), (2)(a), (d), (i), (k) and (o) and (3)(i), (L), (p) and (q) are amended to read:

Tax 11.05(title) GOVERNMENTAL UNITS. (ss. 77.51(4)(c)6 and (10), 77.52(2)(a)1, 2, 9 and 20 and 77.54(9a), (10), (15), (17), (20), (30), (32) and (37), Stats.)

(2)(a) Admissions to recreational facilities ~~(e.g., green-fees, campground-fees, swimming-fees, ice-skating-fees-and-park-shelter-house-fees).~~

Example: Green fees, campground fees, swimming fees, ice skating fees and park shelter house fees are taxable.

(d) Charges for access to or use of athletic facilities, such as baseball and softball diamonds, stadiums and gymnasiums, including entry fees.

(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~~ sanatoriums, nursing homes, colleges or universities operated by governmental units.

(k) Sales of soda water beverages and beer, including sales of ~~such~~ these items by hospitals, sanatoriums and nursing homes to patients, employes or guests.

(o) Auction sales of tangible personal property, but excluding motor vehicles ~~(see as provided in par. (g)).~~

(3)(i) Special assessments and fees for garbage or trash removal. However, sales of bags or receptacles for garbage or trash are taxable unless a combined charge is made for removal and bags or receptacles and the amount allocated to the bag or receptacle is incidental to the charge for removal.

Example: A city government provides that in order to have trash removed by the city, the trash must be put in special bags which are sold for \$1 each. The \$1 charge is allocated as follows: 18¢ for the bag, 42¢ for removal and 40¢ for cost of the disposal site. The \$1 charge for the bag is not subject to tax because the transfer of the bag is incidental to the sale of the waste removal service.

(L) Meals, food, food products or beverages ~~(, except soda water beverages and beer),~~ sold by hospitals, ~~sanitoriums~~ sanatoriums 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, including dormitory meals; and meals sold to the elderly or handicapped by "mobile meals on wheels".

(p) Charges for filing, entering, docketing, recording or furnishing certified or uncertified copies of records by a state registrar, register of deeds, ~~health officers~~ officer and clerk of court under ss. 59.42, 59.57, ~~69.24~~ 69.22, Stats., or by a filing officer under s. 409.407(2), Stats., and fees charged by a register in probate pursuant to s. 814.66, Stats. Also, charges by an "authority", as defined in s. 19.32(1), Stats., for copying a public record or confidential record, including charges for search of records.

(q) The sale of all admission fees or admission stickers to state parks and recreational areas in state forests imposed under s. ~~27.01(2)~~ 27.01(7), (8) and (9), Stats.

SECTION 2. Tax 11.05(3)(r), (s) and (t) are created to read:

Tax 11.05(3)(r) Camping fees in Wisconsin state parks imposed under s. 27.01(10)(d), Stats.

(s) Admissions to any museum operated by a nonprofit corporation under a lease agreement with the state historical society.

(t) Gross receipts from telecommunications revenues collected in establishing a "911" emergency telephone system under s. 146.70(3), Stats.

SECTION 3. Tax 11.05(4)(intro.) is amended to read:

Tax 11.05(4)(intro.) Section 77.54(9a), Stats., exempts sales to and the storage, use or other consumption of tangible personal property and services by ~~this-state~~ Wisconsin or by any agency thereof, or any Wisconsin county, city, village, town, school district, county-city hospital established under s. 66.47, Stats., sewerage commission organized under s. 144.07(4), Stats., metropolitan sewerage district organized under ss. 66.20 to 66.26, Stats., or any other unit of government, or any agency or instrumentality of one or more units of government within ~~this-state~~ Wisconsin. However, the exemption does not apply to governmental units of other states or hospital service insurance corporations under s. 613.80, Stats.

Note: Refer to s. Tax 11.04 regarding the purchase of building materials used in the construction of buildings for governmental units.

SECTION 4. Tax 11.05(4)(b) is repealed and recreated to read:

Tax 11.05(4)(b) A Wisconsin governmental unit's payments to retailers for welfare recipients' purchases are generally subject to the tax, except when the purchase is made directly by the governmental unit and:

1. The governmental unit gives the retailer a purchase order;
2. The retailer issues the billing or invoice for the purchases in the name of the governmental unit; and
3. The retailer keeps a copy of the governmental unit's purchase order and the retailer's billing or invoice to substantiate that the sale was exempt from sales and use tax.

Example: A governmental unit intends to purchase clothing for a welfare recipient. The governmental unit gives a purchase order to the retailer and the retailer makes the invoice out to the governmental unit. The sale is not subject to sales tax if the welfare recipient pays the retailer with funds given to the recipient by the governmental unit or if the governmental unit pays the retailer directly.

SECTION 5. Tax 11.05(4)(d) and (e) are amended to read:

Tax 11.05(4)(d) Purchases ~~{such-as-for}~~, including lodging, meals or uniforms}, by employes of a governmental unit are not exempt, whether or not the employe is subsequently reimbursed for ~~such~~ the purchases by the governmental unit, unless the retailer issues the billing or invoice in the name of the governmental unit, receives a purchase order or similar written document from the governmental unit and keeps a copy of both documents.

(e) Purchases by consular and diplomatic personnel of other countries which have entered into multilateral treaties with the United States government providing for sales and use tax exemptions are exempt provided the personnel present their tax exemption card issued by the United States department of state showing their tax exemption number.

Note to Revisor: Replace the note at the end of Tax 11.05 with the following note:

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: (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; (g) A governmental unit's charges for copying public records became exempt effective April 27, 1984, pursuant to 1983 Wisconsin Act 287, later amended effective April 2, 1986, pursuant to 1985 Wisconsin Act 149, to clarify that the exemption also applies to confidential records; (h) The exemption for peat and fuel cubes produced from solid waste became effective April 2, 1986, pursuant to 1985 Wisconsin Act 149; (i) The exemption for an agency or instrumentality of a Wisconsin governmental unit became effective June 1, 1986, pursuant to 1985 Wisconsin Act 149; (j) Wood residue used for fuel by businesses became exempt on September 1, 1987, pursuant to 1987 Wisconsin Act 27; (k) The exemption for admissions to a museum operated by a nonprofit corporation under lease with the state historical society became exempt July 20, 1985, pursuant to 1985 Wisconsin Act 29; (L) The exclusion of hospital service insurance corporation from the definition of exempt entity became effective September 1, 1985, pursuant to 1985 Wisconsin Act 29; (m) Revenues from establishing a "911" emergency telephone system became exempt August 1, 1987, pursuant to 1987 Wisconsin Act 27; and (n) State park camping fees became exempt effective September 1, 1989, pursuant to 1989 Wisconsin Act 31.

SECTION 6. Tax 11.16(title) and (1)(a) are amended to read:

Tax 11.16(title) COMMON OR CONTRACT CARRIERS. (ss. 77.54(5)(b), (12) and (13), 77.55(2m) and 77.57, Stats.)

(a)(title) Exemption. Section 77.54(5)(b), Stats., provides a sales and use tax exemption for: "Motor trucks, truck tractors, road tractors, busses, trailers and semitrailers, and accessories, attachments, parts, supplies and materials therefor, sold to common or contract carriers who use such the motor trucks, truck tractors, road tractors, busses, trailers and semitrailers exclusively as common or contract carriers, including the urban mass transportation of passengers as defined in s. 71.38(2)(a), Stats." ~~Effective on December 1, 1981 and thereafter, --exclusively--~~

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

Note to Revisor: Insert the following note after par. (am):

Note: Under Department of Transportation rules, a licensed carrier (LC) number is required if a common or contract carrier hauls goods of others for hire. The sales and use tax exemption in par. (a) applies only if the common or contract carrier used the vehicle exclusively for hauling goods of others for hire.

SECTION 7. Tax 11.16(1)(b)(title) and (c)(title) are created to read:

Tax 11.16(1)(b)(title) Accessories and attachments.

(c)(title) Repairs.

SECTION 8. Tax 11.16(1)(d) is amended to read:

Tax 11.16(1)(d)(title) Exceptions. The exemption shall not apply to the following property used by common or contract carriers: automobiles as defined in s. 340.01(4), Stats., except an automobile registered as a truck, station wagons as defined in s. 340.01(61), Stats., and self-propelled vehicles for off-highway use, such as road machinery, fork lifts and other industrial trucks.

SECTION 9. Tax 11.16(1)(e)(title) and (f)(title) are created to read:

Tax 11.16(e)(title) Equipment and supplies.

(f)(title) Conversion to private use.

SECTION 10. Tax 11.16(1)(g) is repealed.

SECTION 11. Tax 11.16(1)(g)(title) is created to read:

Tax 11.16(1)(g)(title) Packaging materials.

SECTION 12. Tax 11.16(1)(h) is renumbered Tax 11.16(1)(g).



SECTION 13. Tax 11.16(1)(h)(title) is created to read:

Tax 11.16(1)(h)(title) Occasional sales.

SECTION 14. Tax 11.16(1)(i) is renumbered Tax 11.16(1)(h).

Note to Revisor: Insert the following Examples after the note following new par. (h):

Examples: (1) A truck purchased to transport pads and packing materials to and from moving jobs qualifies for the exemption in par. (a).

(2) Cutting down trees, cutting them into logs and hauling them to a mill as a private business operation voids the exemption in par. (a), even though the trucker also hauls logs as a common or contract carrier for other persons at the same time.

(3) Trucks purchased for hauling refuse, garbage or snow do not qualify for exemption under par. (a).

(4) Vehicles of a milk or cheese factory that engage in hauling milk from farms to its plant for processing do not qualify for the exemption under par. (a).

(5) Towing of vehicles to the repair facility of a garage-wrecker operator is part of a private repair business which is not exempt under par. (a).

SECTION 15. Tax 11.16(2)(c)1. is amended to read:

Tax 11.16(2)(c)1. Rails, ~~ties~~ cross ties and other road building and maintenance materials. However, sales of cross ties to a common or contract carrier are exempt if they are shipped wholly or in part by way of the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside Wisconsin if the property is transported outside Wisconsin for use by the carrier in the conduct of its business as a carrier. The exemption will not be invalidated because of interruption of the shipment for storage, drying, processing or creosoting of the cross ties in Wisconsin.

Note to Revisor: Replace the note at the end of Tax 11.16 with the following note:

Note: The interpretations in 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 Wisconsin Act 27; and (b) The exemption for certain railroad cross ties became effective July 20, 1985, pursuant to 1985 Wisconsin Act 29.

SECTION 16. Tax 11.50(2), (3)(a), (b), (c), (d) and (h) and (4)(a)(intro.), 1.(intro.) and a. and 2. are amended to read:

Tax 11.50(2) If an auction company provides complete auction service, it is the retailer. If an auctioneer contracts with the owner of the auctioned property and arranges for clerking the auction, the auctioneer is the retailer. Auctioneers and auction companies who are retailers are responsible for reporting the sales tax on auction receipts even if the owner of the property has a ~~Seller's-Permit~~ seller's permit.

(3)(a) Auction sales held regularly at an established place of business, such as an auction house or auction barn. The household goods exemption does not apply to ~~such~~ these sales.

(b) Auctions held regularly on radio, television, or CATV. The household goods exemption does not apply to ~~such~~ these auctions.

(c) Auctions sponsored on an annual or other regular basis by nonprofit organizations or others, except as provided in sub. (4)(d). The household goods exemption does not apply to ~~such~~ these auctions.

(d) Auction sales of heavy equipment and going-out-of-business auction sales of retail stores, motels, wholesalers, manufacturers, contractors and service enterprises. The household goods exemption does not apply to ~~such~~ these sales.

(h) All other auction sales which are not specifically exempt under the law.

(4)(a)(intro.) Auction sales of ~~personal-farm-property-or~~ household goods or personal farm property which are not held at regular intervals. ~~Such~~ The following auctions are generally held on the property owner's premises:

1.(intro.) "Household goods" includes tangible personal property which is associated with maintaining a household and is for family use. ~~For example, household goods includes furniture necessary or ornamental to a house~~

~~in furnishing or fitting it for use by members of the household. Thus auction sales of goods removed from a family home (such as tables, chairs, lamps, appliances, beds, clocks, musical instruments, dressers, lawn and garden equipment, jugs and fruit jars) are not taxable.~~ Items which are not considered "household goods" include:

a. Highway motor vehicles or trailers, snowmobiles, all-terrain vehicles, mini bikes, bicycles, aircraft, and boats ~~and other sporting goods.~~

Note to Revisor: Insert the following example after sub. (4)(a)1.b:

Example: Household goods include furniture necessary or ornamental to a house in furnishing or fitting it for use by members of the household. Thus auction sales of goods removed from a family home, such as tables, chairs, lamps, appliances, beds, clocks, musical instruments, dressers, lawn and garden equipment, jugs and fruit jars, sporting goods or hobby equipment including bats, balls, tennis racquets, golf clubs, guns and ammunition and related hunting equipment, fishing equipment, camping equipment, photographic equipment, tools and bicycles are not taxable.

2. "Personal farm property" includes tractors, implements of husbandry, machines, equipment or other tangible personal property used by a farmer to till the soil and raise crops. "Personal farm property" does not include riding horses or other recreational animals ~~or equipment for them~~, highway vehicles, boats, snow mobiles, and mini bikes ~~and bicycles.~~

SECTION 17. Tax 11.50(4)(c) is renumbered Tax 11.50(3)(i).

SECTION 18. Tax 11.50(4)(d)(intro.), 1. and 2. are amended to read:

Tax 11.50(4)(d)(intro.) ~~One-day-auction~~ Auction sales by religious, charitable, educational or civic organizations and other nonprofit organizations which conduct a fund raising event, if:

1. The auctioneer is not the retailer, {because the auctioneer's services are donated}; and

2. The organization is not engaged in a trade or business and not otherwise required to have a seller's permit, ~~and~~ An organization is not engaged in a trade or business if:

a. Its sales of otherwise taxable tangible personal property or services or its events occur on 20 days or less during the calendar year, or

Example: A boy scout troop takes orders for Christmas wreaths from October 1 through November 1. The wreaths are delivered by the troop on December 15 and 16. For purposes of determining whether its events meet the 20-day test, the troop should use the days of delivery rather than days orders are taken.

b. Its taxable gross receipts for the calendar year are \$15,000 or less.

Examples: 1) A church sells cookies and cakes at a bake sale. Since the sale of cookies and cakes for off-premise consumption is exempt from sales tax, the sale of these items is not counted as gross receipts for purposes of the \$15,000 receipts test.

2) A nonprofit organization, which sells hundreds of Christmas trees, sells 5 Christmas trees for \$100 to a public school. Although Christmas trees are taxable tangible personal property, a public school can purchase tangible personal property exempt from sales tax. This \$100 exempt sale to the school is not counted as gross receipts for purposes of the \$15,000 receipts tests.

SECTION 19. Tax 11.50(4)(d)3 is repealed.

Note to Revisor: Replace the note at the end of Tax 11.50 with the following note:

Note: The interpretations in s. 11.50 are effective under the general sales and use tax law on and after September 1, 1969, except that the standard in sub. (4)(d)2 became effective January 1, 1989, pursuant to 1987 Wisconsin Act 399.

SECTION 20. Tax 11.92(title)(1)(intro.), (a), (b) and (c), (2)(intro.), (3)(intro.) and (c) and (4) are amended to read:

Tax 11.92(title) RECORDS AND RECORD KEEPING. (ss. 77.51(4)(d), 77.52(13), 77.60(8), 77.61(4)(a) and (9) and 77.75, Stats.)

(1)(intro.) All persons selling, leasing or renting tangible personal property or taxable services and every person storing, using or otherwise consuming in ~~this state~~ Wisconsin tangible personal property or taxable services shall keep adequate and complete records so that they may prepare complete and accurate tax returns. These records shall include the normal books of account ordinarily maintained by a prudent business person, together with all supporting information such as beginning and ending inventories,

records of purchases and sales, cancelled checks, bills, receipts, invoices {which shall contain a posting reference}, cash register tapes, credit memoranda {which shall carry a reference to the document evidencing the original transaction} or other documents of original entry which are the basis for the entries in the books of account, and schedules used in connection with the preparation of tax returns. ~~Such~~ These records shall show:

(a) The gross receipts from sales of tangible personal property or taxable services, or rentals or leases of tangible personal property {, including any services that are a part of the sale or lease}, made within Wisconsin ~~irrespective of whether~~ even if the seller or lessor regards the receipts as taxable or nontaxable. Taxable gross receipts shall be reported on the accrual basis, except when the department is satisfied that an undue hardship would exist and authorizes reporting on some other basis.

(b) The basis for all deductions claimed in filing returns, including resale and exemption certificates obtained from customers. Exempt sales to governmental units and public schools need not be supported by exemption certificates, if the supplier retains a copy of the exempt entity's purchase order and the supplier's invoice or billing document. Sales to organizations holding a certificate of exempt status-~~(e.g.,~~ CES, including religious or charitable organizations}, can be shown to be exempt by recording the ~~exemption certificate~~ CES number on the seller's copy of the bill of sale. All other exempt sales ~~must~~ shall be supported by an exemption certificate signed by the purchaser and retained by the seller, unless the merchandise sold is specifically exempted by statute regardless of the use {, such as groceries}. Documents necessary to support claimed exemptions from tax liability, such as bills of lading and purchase orders, ~~must~~ shall be maintained in a manner in which they readily can be related to the transaction for which the exemption is sought.

(c) Total purchase price of all tangible personal property or taxable services purchased for sale or consumption or lease in ~~this state~~ Wisconsin.

(2)(intro.) Microfilm {, including microfiche}, reproductions of general books of account {, such as cash books, journals, voucher registers and ledgers}, and supporting records of detail shall be acceptable if the following conditions are met:

(3)(intro.) An automatic data processing {,ADP}, tax accounting system shall have the capability of producing visible and legible records which will provide the following necessary information for verification of the taxpayer's tax liability:

(c) The audit trail shall be designed so that the details underlying the summary accounting data may be identified and made available to the department upon request. The record keeping system should be so designed that supporting documents {,such as sales invoices, purchase invoices, exemption certificates, and credit memoranda}, shall be readily available.

(4) The records shall be preserved and retained for the 4-year period open to audit under s. 77.59(3), Stats. If any agreement is entered into to extend the 4-year audit period, the records shall be preserved for that extended period. If a notice of tax determination has been issued to the taxpayer by the department and if the taxpayer files a petition for redetermination, the records for the period covered by the notice of the tax determination shall be preserved and retained until ~~such~~ the tax redetermination has been finally resolved.

SECTION 21. Tax 11.92(7) is created to read:

Tax 11.92(7). PENALTIES. If the department has given notice to a person to keep certain sales and use tax records, and thereafter additional sales or use taxes are assessed on the basis of information not contained in the

records, the department shall impose a penalty equal to 25% of the amount of sales or use tax assessed. This is in addition to all other penalties provided by law.

Note to Revisor: Replace the note at the end of Tax 11.92 with the following note:

Note: The interpretations in s. Tax 11.92 are effective under the general sales and use tax law on or after September 1, 1969, except that the 25% penalty in sub. (7) became effective July 20, 1985, pursuant to 1985 Wisconsin Act 29.

SECTION 22. Tax 11.96 is repealed:

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

Final Regulatory Flexibility Analysis

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

REVENUE

Dated: April 1, 1991

WISCONSIN DEPARTMENT OF

By: [Signature]  
Mark D. Bugher  
Secretary of Revenue

CKLEG/M021160J

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FISCAL ESTIMATE

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

DOA-2048 (R 10/88)

Subject Sales and Use Tax Rules Relating to Government Units,  
Common and Contract Carriers, Auction Sales and Recordkeeping

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

Two minor changes in policy are made in these rules. One provides that recreational equipment sold at a household auction is exempt as household goods. The other provides that bankruptcy sales are taxable. Previously, these sales were exempt because the bankruptcy trustee was considered an agent of the federal court, whose sales cannot be taxed. However, the U.S. Supreme Court has ruled that the trustee is an agent of the debtor. The fiscal effect of these policy changes is minimal.

Other changes reflect legislation, update and clarify the Department of Revenue's position and conform language and style to Legislative Council Rules Clearinghouse Standards. They have no fiscal effect.

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Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)  
Wisconsin Department of Revenue  
Dennis Collier, 266-9706

Authorized Signature/Telephone No. 266-2700

*Margaret M. Deuss*

Date

7/27/90



**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 Sales and Use Tax Rules Relating to Government Units,  
 Common and Contract Carriers, Auction Sales and Recordkeeping

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

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

**Net Annualized Fiscal Impact on State & Local Funds**

State	Annual Increases	Annual Decreases	Local	Annual Increases	Annual Decreases
Total Costs	\$ -	\$ +	Total Costs	\$ -	\$ +
Total Revenues	+ minimal	-	Total Revenues	+ minimal	-
<b>NET Impact on State Funds</b>	\$ (+) minimal or (-)		<b>NET Impact on Local Funds</b>	\$ (+) minimal or (-)	

Agency/Prepared by: (Name & Phone No.)  
 Wisconsin Department of Revenue  
 Dennis Collier, 266-9706

Authorized Signature/Telephone No. 266-2700 Date  
*Margaret A. Dennis* 7/27/90



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. Bugar  
Secretary of Revenue

April 1, 1991

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

Re: Clearinghouse Rule 90-196

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 tax.

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

Sincerely,

Mark D. Bugar  
Secretary of Revenue

MDB:MPW:dab  
CKLEGELC/665  
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 ● 608-266-6468 ● FAX 608-266-5718

*Tommy G. Thompson*  
Governor

*Mark D. Bugar*  
Secretary of Revenue

April 1, 1991

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 90-196.

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

Sincerely,

Mark D. Bugar  
Secretary of Revenue

MDB:MPW:dab  
CKLEGELC/664  
Enclosure

cc: Revisor of Statutes

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