

CR 92-212

CERTIFICATE

STATE OF WISCONSIN )

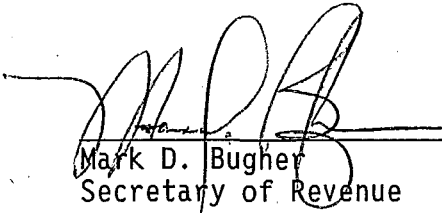
) SS

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 April 26, 1993.

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 26<sup>th</sup> day of April, 1993.

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

MDB:MPW:c11  
CKLEG/1279

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7-1-93

ORDER OF THE DEPARTMENT OF REVENUE  
REPEALING AND RECREATING RULES

The Wisconsin Department of Revenue adopts an order to repeal and recreate Tax 11.38, relating to fabricating and processing services.

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Analysis by the Department of Revenue

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

Statutes interpreted: ss. 77.51(14)(f) and (h), 77.52(2)(a)10 and 11, 77.54 and 77.55, Stats.

SECTION 1. Tax 11.38 is repealed and recreated to improve readability, improve format and style as required by the Legislative Council Rules Clearinghouse, and address the position that fabricators and processors can qualify as manufacturers for purpose of purchasing machinery and equipment without Wisconsin sales or use tax.

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SECTION 1. Tax 11.38 is repealed and recreated to read:

Tax 11.38 FABRICATING AND PROCESSING. (ss. 77.51(14)(f) and (h), 77.52(2)(a)10 and 11, 77.54 and 77.55, Stats.) (1) SALES OF FABRICATING, PROCESSING AND PRINTING SERVICES. The producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish directly or indirectly the materials used in the producing, fabricating, processing, printing or imprinting is subject to Wisconsin sales or use tax unless:

(a) The printing or imprinting is done on tangible personal property which will subsequently be shipped outside Wisconsin by the consumer for advertising purposes.

Example: Printer ABC prints an advertising flyer for Company DEF. Company DEF furnishes the paper and the ink. Company DEF will send the flyer to its customers outside Wisconsin. The charge by Printer ABC for printing the advertising flyer is not subject to Wisconsin sales tax provided Company DEF provides Printer ABC with a properly completed exemption certificate.

(b) An exemption under s. 77.54 or 77.55, Stats., applies.

Examples: 1) Company GHI is in the business of cleaning used oil. A Wisconsin municipality contracts with Company GHI to have all used oil it collects from residents cleaned by Company GHI. The charge by Company GHI to the municipality for cleaning the oil is not subject to Wisconsin sales or use tax because sales to Wisconsin municipalities are exempt from Wisconsin sales tax under s. 77.54(9a), Stats.

2) The charge by a feed mill to grind corn a farmer will use as feed is not subject to Wisconsin sales or use tax because the sale of feed to a farmer is not subject to Wisconsin sales or use tax under s. 77.54(3m), Stats. The farmer must provide the feed mill with a properly completed farmer's exemption certificate.

3) The charge by a cooperative to age tobacco for a cigar manufacturer is not subject to Wisconsin sales or use tax because the sale of the tobacco to the manufacturer is not subject to Wisconsin sales or use tax under s. 77.54(2), Stats. The cigar manufacturer must provide the cooperative with a properly completed manufacturer's exemption certificate.

(c) The producing, fabricating or processing is for resale.

Example: Company JKL is in the business of custom making cabinets. A customer orders a cabinet from Company JKL. Due to time constraints, Company JKL is unable to make the cabinet. Therefore, Company JKL contracts with Company MNO to make the cabinet from materials provided by Company JKL. Company MNO is not subject to Wisconsin sales or use tax on the charge to Company JKL for making the cabinet if Company JKL provides Company MNO with a properly completed resale certificate.

(2) EXAMPLES OF FABRICATING AND PROCESSING SERVICES. Fabricating and processing services, where materials are furnished directly or indirectly by the customer, that are subject to Wisconsin sales or use tax include, except as provided in sub. (1)(a) through (c):

- (a) Application of coating to pipe.
- (b) Assembling kits to produce a completed product.
- (c) Bending glass tubing into neon signs.
- (d) Bookbinding.
- (e) Caterer's preparation of food for consumption on or off the caterer's premises.
- (f) Cleaning used oil.
- (g) Cutting lumber to specifications and producing cabinets, counter tops or other items from lumber for customers, often called "millending."

(h) Cutting or crushing stones, gravel or other construction materials.

(i) Drying, planing or ripping lumber.

(j) Dyeing or fireproofing fabric.

(k) Fabricating steel which may involve cutting the steel to length and size, bending and drilling holes in the steel to specifications of a particular construction job.

(l) Firing of ceramics or china.

(m) Heat treating or plating.

(n) Laminating identification cards.

(o) Making a fur coat from pelts, gloves or a jacket from a hide.

(p) Making curtains, drapes, slip covers or other household furnishings.

(q) Production of a sound recording or motion picture.

(r) Retreading tires.

(s) Tailoring a suit.

(t) Threading pipe or welding pipe.

(3) PURCHASES BY FABRICATORS OR PROCESSORS. Persons providing fabricating, processing and printing services, including those services listed in sub. (2), may qualify as manufacturers. If the service provider qualifies as a manufacturer as provided in s. 77.54(6m), Stats., the following items may be purchased by the service provider without Wisconsin sales or use tax:

(a) Machinery and equipment used exclusively and directly in manufacturing.

Example: Company PQR is in the business of heat treating metal for steel manufacturers. Company PQR uses its machinery and equipment only in providing this heat treating to steel manufacturers. Company PQR is performing a manufacturing process in acting as a submanufacturer. Since the machinery and equipment is used exclusively and directly in manufacturing, it may be purchased without Wisconsin sales or use tax provided Company PQR gives its supplier a properly completed manufacturer's exemption certificate.

(b) Tangible personal property consumed or destroyed or losing its identity in the manufacture of tangible personal property in any form destined for sale.

Example: Company VWX is an electroplater. Company STU is a manufacturer of car bumpers. Company STU hires Company VWX to electroplate the bumpers. Company VWX may purchase the caustic soda, boric acid, etc., that is consumed or destroyed in the electroplating without Wisconsin sales or use tax when acting as a submanufacturer. These items are consumed or destroyed in the manufacture of tangible personal property, bumpers, destined for sale.

Note: 1) For information regarding what is manufacturing and exemptions for machinery and equipment and other items used in manufacturing, refer to ss. Tax 11.39, 11.40 and 11.41.

2) The interpretations in s. Tax 11.38 are effective under the general sales and use tax law on and after September 1, 1969.

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

Final Regulatory Flexibility Analysis

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

Dated: April 26, 1993

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

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ORIGINAL

UPDATED

CORRECTED

SUPPLEMENTAL

**FISCAL ESTIMATE**

DOA-2048 (R11/90)

**Subject**

Sales Tax Treatment of Fabricating, Processing and Printing Services

**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
- 2.  Decrease Costs
  - Permissive
  - Mandatory

- 3.  Increase Revenues
  - Permissive
  - Mandatory
- 4.  Decrease Revenues
  - Permissive
  - Mandatory

5. Types of Local Governmental Units Affected:
- Towns
  - Villages
  - Cities
  - Counties
  - Others \_\_\_\_\_
  - School Districts
  - VTAE Districts

**Fund Sources Affected**

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

**Affected Ch. 20 Appropriations**

**Assumptions Used in Arriving at Fiscal Estimate**

This rule clarifies the Department's position that fabricators and processors may qualify as manufacturers for purposes of the sales tax exemptions for manufacturing machinery and equipment and raw materials. Since the rule represents no change in existing policy, there is no fiscal effect.

**Long-Range Fiscal Implications**

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

Authorized Signature/Telephone No. 266-2700  
Yeang-Eng Braun  
*Yeang Eng Braun*

Date  
6/30/92



State of Wisconsin • DEPARTMENT OF REVENUE

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

*Tommy G. Thompson*  
Governor

*Mark D. Bugher*  
Secretary of Revenue

April 28, 1993

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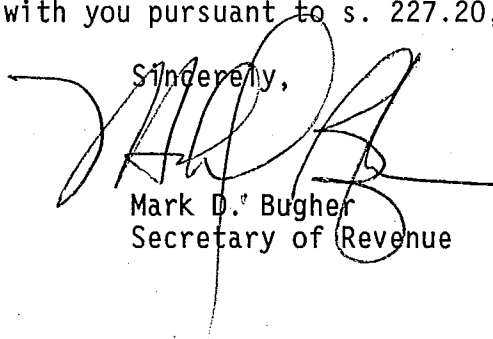
Douglas LaFollette  
Secretary of State  
30 West Mifflin Street, 10th Floor  
Madison, WI 53703

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 92-212.

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

Sincerely,



Mark D. Bugher  
Secretary of Revenue

MDB:MPW:c11  
CKLEG/1277

Enclosure

cc: Revisor of Statutes



**State of Wisconsin • DEPARTMENT OF REVENUE**

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

**Tommy G. Thompson**  
Governor

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Secretary of Revenue

April 28, 1993

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Gary L. Poulson  
Assistant Revisor  
131 West Wilson Street, Suite 800  
Madison, WI 53703-3233

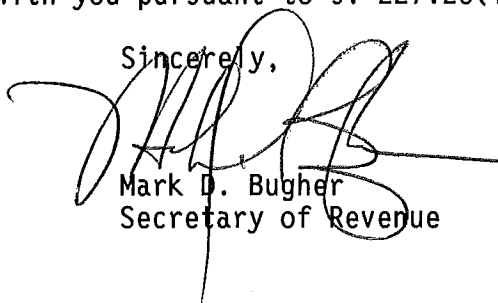
Re: Clearinghouse Rule 92-212

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:MPW:c11  
CKLEG/1278

Enclosure

cc: Douglas J. LaFollette, Secretary of State  
Commerce Clearing House, Inc.  
Research Institute of America, Inc.