

CR 93-48

CERTIFICATE

STATE OF WISCONSIN)

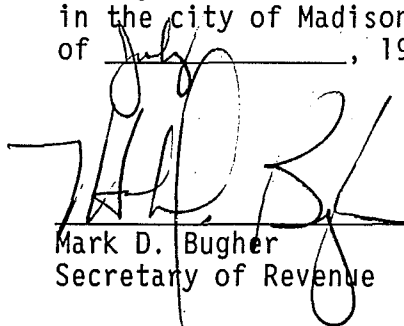
) SS

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 s. Tax 11.66 was duly approved and adopted by this department on July 27, 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 27th day of July, 1993.



Mark D. Bugher
Secretary of Revenue

MDB:MPW:c11
CKLEG/1337



ORDER OF THE DEPARTMENT OF REVENUE
REPEALING AND RECREATING A RULE

The Wisconsin Department of Revenue adopts an order to repeal and recreate Tax 11.66, relating to telecommunications and CATV services.

Analysis By the Department of Revenue

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

Statutes interpreted: ss. 77.51(17m) and (21m), 77.52(2)(a)5 and 12 and (am) and 77.54(24), Stats.

SECTION 1. Tax 11.66, relating to the sales and use tax treatment of telecommunications and CATV services, is repealed and recreated to reflect the creation of s. 77.51(17m) and (21m), Stats., defining service address and telecommunications services, the amendment to s. 77.52(2)(a)5, Stats., which is the imposition language for sales tax on telecommunications services, and the repeal of s. 77.51(13p) and (14m), Stats., relating to access services, pursuant to 1991 Wisconsin Act 39. The rule as recreated also defines private line service.

SECTION 1. Tax 11.66 is repealed and recreated to read:

Tax 11.66 TELECOMMUNICATIONS AND CATV SERVICES. (ss. 77.51(17m) and (21m), 77.52(2)(a)5 and 12 and (am) and 77.54(24), Stats.) (1) DEFINITIONS.

In this section:

(a) "Private line" means a dedicated local or interexchange channel provided for communication between two points without use of the local or toll switching network, for the exclusive use of one or several customers.

(b) "Service address" has the same meaning as in s. 77.51(17m), Stats.

Note: Service address as defined in s. 77.51(17m), Stats., is "the location of the telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a buyer. If this is not a defined location ... 'service address' means the location where a buyer makes primary use of the telecommunications equipment as defined by telephone number, authorization code or location where bills are sent."

2. Telephone calls made from a location in Wisconsin other than the caller's own telephone for which the caller instructs the operator to charge the call to the caller's own telephone located in Wisconsin.

Example: A customer is away from her home telephone but wishes to place a long distance call from another location in Wisconsin. The customer requests that the charge for that call be included with other calls made from the caller's home or business phone in Wisconsin rather than appear on the bill of the person from whose telephone the call was placed.

3. Telephone calls made from any location in Wisconsin by use of a credit card where the service provider issuing the credit card is also the dial 1 equal access service provider for the customer's telephone in Wisconsin and the charge for the call is made to the customer's account.

Example: Tom Edwards has a credit card from DEF Corporation, which is his dial 1 equal access telecommunications service provider. All long distance calls he makes from Wisconsin and which are charged to his credit card account are considered to be charged to a service address in Wisconsin, regardless of whether the telephone number or credit card account number appear on the bill and regardless of where the bill is mailed.

4. Telephone calls made from any location in Wisconsin by use of a credit card where the service provider issuing the credit card is not the cardholder's dial 1 equal access service provider, but where the cardholder's telephone is in Wisconsin.

Example: Ed Brown has a credit card issued by DEF Corporation but uses ABC Corporation as his dial 1 equal access service provider. All long distance calls he makes from Wisconsin and which are charged to his credit card account are considered to be charged to a service address in Wisconsin, regardless of whether the telephone number or account number appear on the bill and regardless of where the bill is mailed.

5. Service which originates in a local exchange in Wisconsin that does not provide dial 1 equal access.

Example: Jill Green has chosen GHI Corporation as her inter-LATA long distance telecommunications service provider for her law office. Jill's office is in an area where the local exchange does not yet provide dial 1 equal access service to long distance carriers other than AT&T. When Jill wants to send data to an out-of-state client she 1) dials the access number called Point of Presence or POP number, of GHI Corporation's system, 2) enters her account number, to identify herself as the party paying for the call, and 3) enters the area code and telephone number of her out-of-state client. All long distance service which originates in Wisconsin and which Jill charges to

her account is considered to be charged to a service address in Wisconsin, regardless of whether the account number or her telephone number appear on the bill and regardless of where the bill is mailed.

(3) TAXABLE TELECOMMUNICATIONS SERVICES. Telecommunications services which are subject to Wisconsin sales or use tax include:

(a) Local and toll service and Wide-Area Telecommunications Service, or WATS, including intrastate private line service.

Example: Company JKL, headquartered in Milwaukee, has branch offices in Madison, Green Bay, Chicago and Minneapolis. Company JKL contracts with a telecommunications company for private line telecommunications service between its Milwaukee office and each branch office. The charges by the telecommunications company for private line service between the Milwaukee and Madison offices and between the Milwaukee and Green Bay offices are subject to Wisconsin sales or use tax because the charges are for intrastate private line service. Also see sub.(4)(d).

(b) Channel services.

(c) Telegraph services.

(d) Cable television system services, including installation charges.

(e) Teletypewriter services.

(f) Computer exchange services.

(g) Cellular mobile telecommunications services.

(h) Specialized mobile radio services and any other form of mobile one-way or two-way communications service.

(i) Stationary two-way radio services.

(j) Paging services.

(k) Facsimile, or FAX, transmission services.

(L) Teleconferencing services.

(m) Any other transmission of messages or information by electronic or similar means between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.

(4) NONTAXABLE SERVICES. Gross receipts from the sale or charge for the following services are not taxable:

Note to Revisor: The quoted material in Tax 11.66(5) should be in italics.

Note: 1) 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 personal property leased or rented to customers in conjunction with an activity open to competition with others who are not public utilities.

2) The interpretations in s. Tax 11.66 are effective under the general sales and use tax law on or after September 1, 1969, except: (a) Chapter 39, Laws of 1975, effective July 31, 1975, expanded the telephone services subject to the tax to include "telephone services of whatever nature"; (b) Chapter 39, Laws of 1975, also imposed the tax on cable television service, effective October 1, 1975; (c) Chapter 317, Laws of 1981, imposed the tax on interstate telegraph and telephone service, effective May 1, 1982; (d) "911" service became exempt on August 1, 1987, pursuant to 1987 Wis. Act 27; (e) Telecommunications services originating in Wisconsin and charged to a subscriber in Wisconsin became taxable October 1, 1989, pursuant to 1989 Wis. Act 31; and (f) Telecommunications services originating in Wisconsin and charged to a service address in Wisconsin became taxable October 1, 1991, pursuant to 1991 Wis. Act 31.

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

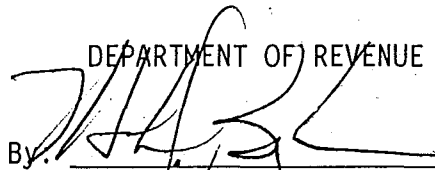
Final Regulatory Flexibility Analysis

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

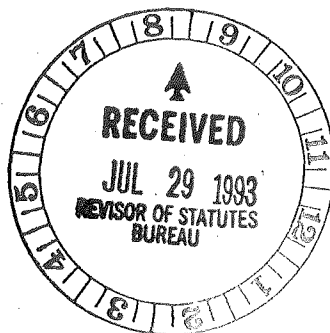
Dated: _____

7/27/93

By: _____

DEPARTMENT OF REVENUE

Mark D. Bugher
Secretary of Revenue

CKLEG/836



FISCAL ESTIMATE

DOA-2048 (R11/90)

ORIGINAL

UPDATED

CORRECTED

SUPPLEMENTAL

Subject

Rule Relating to Sales and Use Tax on Telecommunications and CATV 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

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
 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 interprets the statutory language enacted in 1991 Wisconsin Act 39 relating to the imposition of the sales tax on telecommunications service. It has 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
Margaret M. Derus
Margaret M Derus

Date
3/17/92



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

July 27, 1993

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

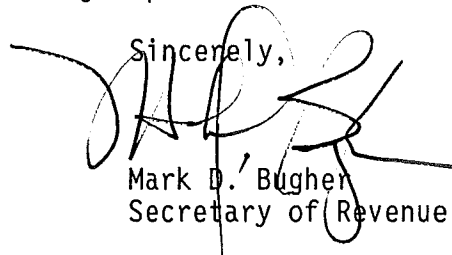
Re: Clearinghouse Rule 93-48

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to s. Tax 11.66.

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

Sincerely,

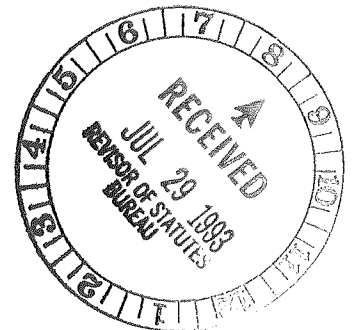


Mark D. Bugher
Secretary of Revenue

MDB:MPW:c11
CKLEG/1336

Enclosure

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





State of Wisconsin • DEPARTMENT OF REVENUE

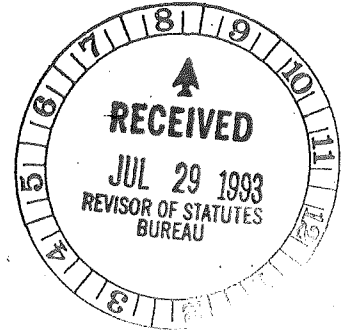
125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

July 27, 1993

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

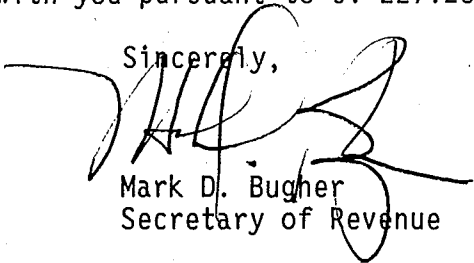


Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 93-48.

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

Sincerely,


Mark D. Bugher
Secretary of Revenue

MDB:MPW:c11
CKLEG/1335

Enclosure

cc: Revisor of Statutes