

## DEPARTMENT OF REVENUE

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## Chapter Tax 11

## SALES AND USE TAX

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**Tax 11.001 Definitions and use of terms.** In this chapter, unless otherwise specified:

(3) "Consumers" are persons who purchase and use tangible personal property, and sales to consumers are retail sales to which either the sales or use tax applies. Resale certificates should not be accepted from consumers.

(5) "Department" means the Wisconsin department of revenue.

(8) "Retailer" means a person who sells taxable tangible personal property or a taxable service and who shall comply with all requirements imposed upon retailers, including:

- (a) Obtaining a seller's permit for each place of business in this state;
- (b) Filing tax returns and paying tax;
- (c) Collecting use tax when applicable and remitting the tax with returns; and

(d) Keeping proper records. (See Tax 11.92)

(12) "Tax" means the Wisconsin sales or use tax in effect under ss. 77.52 (1) and (2) and 77.53 (1), Stats.

(13) "Taxable", "subject to the tax", "tax applies", "the sale is taxable", "\_\_\_\_\_ (specific tangible personal property or a specific service) is/are taxable", or "the purchase of \_\_\_\_\_ (specific tangible personal property or a specific service) is taxable", means that:

(a) The sales tax applies to a sale of the property or service, measured by the gross receipts from the sale; or

(b) The use tax applies to the storage, use or other consumption of the property or service sold, measured by the sales price.

**History:** Cr. Register, January, 1978, No. 265, eff. 2-1-78; am. (12), Register, January, 1983, No. 325, eff. 2-1-83.

**Tax 11.01 Sales and use tax return forms.** (s. 77.58, Stats.) (1) For filing sales and use tax returns, the following forms shall be used:

(a) Form MV-1. For occasional and dealer sales of motor vehicles, motor homes, trailers and semitrailers.

(b) Form S-011. For occasional and non-Wisconsin sales of snowmobiles.

(c) Form S-012 (also called "ST-12"). The monthly, quarterly or annual return for each registered retailer and consumer holding a Wisconsin seller's permit.

(e) Form S-013. For concessionaires. (Annual return).

(f) Form S-014. For concessionaires (single events) and temporary sellers (limited) periods).

(g) Form S-015. For occasional bingo sales.

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(4) Entrepreneurs, promoters, sponsors or managers of an amusement, entertainment or recreational event shall be regarded as retailers for the purposes of s. 77.51 (7) (c), Stats., if said entrepreneurs, promoters, sponsors or managers have control and direction of the event including activities such as controlling the sale of admissions or admission tickets; controlling or regulating the admittance of all persons to the event or place; determining the nature of the amusement, entertainment or recreation to be offered; deciding the scale of prices to be charged for admission; receiving the proceeds from ticket sales, including amounts from ticket agents or brokers; and deciding, or having the right to decide, the disposition of the net profits, if any, realized from the event.

(5) As retailers, such entrepreneurs, promoters, sponsors or managers are persons liable for the sales tax and are required to hold a seller's permit for each place of operations pursuant to s. 77.52 (7), Stats., and may be required to post security as provided in s. 77.61 (2), Stats. Such retailers are required to have a seller's permit on the first date on which tickets or admission to an event to be conducted in this state are offered for sale.

(6) This rule does not apply to traveling attractions which perform in stadiums, theaters or other places where the permanent management of such stadium, theater or other location holds a valid seller's permit, controls the sale of tickets or admissions and assumes the liability for the payment of the sales tax. Further, it does not apply to churches or other nonprofit groups which operate within the occasional sale limitations of s. 77.51 (10) (c), Stats.

**Note:** The interpretations in this rule are effective under the general sales and use tax law on and after September 1, 1969.

**History:** Cr. Register, March, 1976, No. 243, eff. 4-1-76; renum. from Tax 11.02; Register, January, 1978, No. 265, eff. 2-1-78.

**Tax 11.55 Agents, consignees, lienors and brokers.** (s. 77.51 (4g) (f), (7) and (8), Stats.) (1) **UNDISCLOSED PRINCIPAL.** A person who has possession of personal property owned by an unknown or undisclosed principal and has the power to transfer title to that property to a third person, and who exercises that power, is a retailer whose gross receipts are subject to the tax.

(2) **DISCLOSED PRINCIPAL.** (a) Gross receipts from the sale of tangible personal property made by a person with possession of the property, who is acting for a known or disclosed principal, are taxable to the principal if the principal is engaged in the full or part-time business of selling tangible personal property. If the principal fails to pay the tax, the agent may be liable for it.

(b) A principal shall be deemed disclosed to a purchaser only when the evidence shows that the identity of the principal is made known to the purchaser at the time of the sale, and when the name and address of the principal appear on the books and records of the agent.

(3) **ENFORCEMENT OF LIENS.** Pawnbrokers, storage persons and others selling tangible personal property to enforce a lien are retailers with respect to such sales, and tax applies to the gross receipts from such sales.

(4) **REPOSSESSIONS.** Repossessions of tangible personal property by a seller from a purchaser when the only consideration is cancellation of the purchaser's obligation to pay for the property is not a taxable trans-

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action. However, sales at retail of repossessed property (e.g., by finance companies, insurance companies, banks and other financial institutions) are taxable sales.

**Note:** The interpretations in this rule are effective under the general sales and use tax law effective September 1, 1969.

**History:** Cr. Register, May, 1978, No. 269, eff. 6-1-78.

**Tax 11.57 Public utilities.** (ss. 77.54 (3), (6) (a) and (c), (17) and (30), Stats.) (1) TAXABLE SALES. The gross receipts from the sale of the following tangible personal property and services provided by utilities are taxable:

(a) Utility services billed to household, industrial or commercial customers, with any adjustments for discounts taken by customers (e.g., early payment discount) in the utility's next reporting period.

(b) Excess use charges and minimum or idle service charges.

(c) The gross amounts received for contacts on poles and excess pole height contributions.

(d) Parking space rentals.

(e) Rentals of transformers located on a customer's property.

(f) Labor and materials to install or repair conversion burners.

(g) The rental of water heaters.

(h) Sales of scrap, gravel or timber sold for removal.

(i) Sales of tools, used equipment and other tangible personal property to employees.

(j) Pilot relights for furnaces ("no heat" calls), or replacing appliance fuses.

(k) Sale of a utility overhead transmission or distribution line in place, if installed under easement or license on land owned by others. (See rule Tax 11.86.)

(l) Charges to builders to put in "temporary services".

(2) NONTAXABLE SALES. Gross receipts from the following charges to customers are not subject to the tax:

(a) Connection or reconnection charges.

(b) Utility services delivered to Indians living on a Indian reservation, or services delivered on the reservation to an Indian tribal governing board.

(c) Billings for repairs to persons who damaged utility property.

(d) Services coincidental with house moving.

(e) Pilot relight of yard gas lamp.

(f) Contributions in aid of construction (i.e., payments by a customer to have a line extended to the customer's property).