

brace, support, supplement, correction or substitute for the bodily structure including the extremities of the individual." This exemption includes trusses, supports, shoes, and braces 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:

- (a) Kidney dialysis equipment.
- (b) Special communication equipment for the deaf.
- (c) Hydraulic lifts for wheelchairs.
- (d) Special controls installed in motor vehicles to steer and operate the vehicle.
- (e) Humidifiers.
- (f) Stationary walking machines.
- (g) Stairway chair elevators.

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.

- (h) Electric nerve stimulators.
- (i) Insertion or application equipment and supplies used to insert or apply exempt devices.

(2) PROSTHETIC DEVICES, APPLIANCES AND AIDS. Section 77.54 (22) (b), Stats., exempts gross receipts from the sale of "Artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body." "Other equipment" includes colostomy, ileostomy and urinary appliances, artificial breast forms and heart pacemakers. This exemption does not apply to:

- (a) Garments designed to restrict or enhance the body's shape for cosmetic purposes, or to wigs or hair pieces.
- (b) Incontinent briefs, pads, shields or adult diapers.
- (d) Bed wetting alarm systems.
- (e) Blood pressure kits.
- (f) Insertion or application equipment and supplies used to insert or apply exempt devices.

(3) EYE GLASSES. Section 77.54 (22) (d), Stats., exempts gross receipts from the sale of "*Eye glasses when especially designed or prescribed by an ophthalmologist, physician, oculist or optometrist for the personal use of the owner or purchaser.*" This exemption does not include tools and supplies, eyeglass cases, eye shields, thermal and chemical care units for contact lenses, chains, clips or other accessories associated with eye glasses. Frames for prescription glasses are exempt.

(4) CRUTCHES AND WHEELCHAIRS. Section 77.54 (22) (e), Stats., exempts gross receipts from the sale of "*Crutches and wheelchairs including motorized wheelchairs and scooters for the use of persons who are ill or disabled.*" This exemption includes open and closed end walkers with or

without casters and canes which provide walking support by making contact with the ground at more than one point.

(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.*"

(6) **OXYGEN EQUIPMENT.** Section 77.54 (14s), Stats., exempts the gross receipts from the sale of "*Equipment used to administer oxygen for medical purposes by a person who has a prescription for oxygen written by a person authorized to prescribe oxygen.*" The exemption applies to oxygen carts acquired for use by patients with a prescription for oxygen.

(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.

(9) **REPAIR PARTS AND SERVICE.** Gross receipts from the sale of repair parts and service for exempt property are exempt.

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 Wis. Act 27; (b) Charges for motorized wheelchairs and scooters became exempt September 1, 1985, pursuant to 1985 Wis. 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 Wis. Act 399; (d) Charges for antiembolism elastic hose and stockings prescribed by a physician became exempt October 1, 1989, pursuant to 1989 Wis. Act 31; and (e) The exemption for adaptive equipment for a handicapped person's vehicle became exempt effective June 1, 1990, pursuant to 1989 Wis. Act 238, renumbered by 1989 Wis. Act 359.

History: Cr. Register, September, 1977, No. 261, eff. 10-1-77; am. (1) and (4), Register, July, 1978, No. 271, eff. 8-1-78; am. (1), (2) and (3), Register, January, 1983, No. 325, eff. 2-1-83; r. (2) (c), renum. (5) to be (6), cr. (5), Register, September, 1984, No. 345, eff. 10-1-84; am. (4), Register, July, 1987, No. 379, eff. 8-1-87; am. (1), cr. (5), (7) and (8), renum. (5) and (6) to be (6) and (9), Register, March, 1991, No. 423, eff. 4-1-91.

Tax 11.09 Medicines. (s. 77.54 (14), (14g), (14m), (14r), (14s) and (33), Stats.) (1) **DEFINITION.** For the exemption in s. 77.54 (14), Stats., "medicines" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use.

(2) **EXAMPLES OF MEDICINES.** Medicines include the following items described in sub. (1):

(a) Bone pins.

(b) Dyes.

(c) Insulin furnished by a registered pharmacist.

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).

(2) **RAILWAY ROLLING STOCK.** (a) Section 77.54(12), Stats., provides a sales and use tax exemption for: *"The gross receipts from the sales of and the storage, use or other consumption in this state of rail freight or passenger cars, locomotives or other rolling stock used in railroad operations, or accessories, attachments, parts, lubricants or fuel therefor."*

(b) The exemption for rolling stock includes:

1. The sale or furnishing of repair, alteration, cleaning, painting and maintenance service to exempt rolling stock.

2. Purchases of any equipment which is operated on railroad rails, including an industrial firm's switching locomotives used to switch freight cars on its own property, except vehicles which may also be used on a highway.

3. Fuel used to heat a caboose, or run a compressor which cools a railway car.

4. A utility's coal cars used to haul coal from mines to the utility.

(c) The exemption does not apply to:

1. Rails, crossties and other road building and maintenance materials. However, sales of crossties 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 crossties in Wisconsin.

2. Bracing materials, rough lumber and dunnage materials.

3. Ice to refrigerate a railway car.

(3) **COMMERCIAL VESSELS.** (a) Section 77.54 (13), Stats., provides a sales and use tax exemption for: *"The gross receipts from the sales of and the storage, use or other consumption in this state of commercial vessels and barges of 50-ton burden or over primarily engaged in interstate or foreign commerce or commercial fishing, and the accessories, attachments, parts and fuel therefor."*

(b) The exemption for commercial vessels applies to:

1. Vessels and barges primarily engaged in interstate or foreign commerce or commercial fishing that are documented under the laws of the United States showing a net volumetric tonnage of 50 tons or more.

2. Items that become a component part of the exempt commercial vessel.

3. The sale or furnishing of repair, alteration, cleaning, painting and maintenance of exempt commercial vessels.

(c) The exemption does not apply to consumable supplies or furnishings that are not attached to the vessel, such as bedding, linen, table and kitchenware, tables, chairs, lubricants, work clothes, acetylene gas, nets, fishing tackle, lumber for dry docking, bracing, blocking and dunnage materials and other materials not incorporated into the vessel.

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

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; am. (1) (a) and (d), (3) (b) 1., Register, November, 1981, No. 311, eff. 12-1-81; am. (3) (b) 1., Register, January, 1983, No. 325, eff. 2-1-83; am. (1) (b), (d) and (2) (b) 2., r. and recr. (1) (e), cr. (1) (h) and (i), Register, December, 1983, No. 336, eff. 1-1-84; am. (1) (f) and (3) (b) 1., Register, July, 1987, No. 379, eff. 8-1-87; am. (1) (e) and (3) (b) 1., Register, April, 1990, No. 412, eff. 5-1-90; correction in (1) (a) made under s. 13.93 (2m) (b) 7, Stats., Register, April, 1990, No. 412; am. (1) (a) and (d) and (2) (c) 1., r. (1) (g), renun. (1) (h) to be (g) and (1) (i) to be (h), Register, June, 1991, No. 426, eff. 7-1-91.

Tax 11.17 Hospitals, clinics and medical professions. (ss. 77.52 (2) (a) 1 and 9 and 77.54 (9a), (14), (14g), (14m), (14r), (14s), (20) (c) 4, (22) and (28), Stats.) (1) GENERAL. (a) Although professional personnel in hospitals and clinics and other members of medical professions including physicians, surgeons, oculists, optometrists and podiatrists regularly transfer antibiotics, bandages, splints and other tangible personal property to their patients in the performance of professional services, the transfer of such property is an incident of a service rather than a retail sale of such property. The persons are, therefore, deemed the consumers of the items in the same way they are the consumers of other materials and supplies used by them in the performance of their services. Accordingly, the suppliers of hospitals, clinics and members of medical professions are retailers obligated to register and report tax on sales of tangible personal property or taxable services, unless the transaction is specifically exempt from the tax.

(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 ss. Tax 11.08, 11.09 and 11.45.

(2) PURCHASES BY HOSPITALS. 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, "CES", by the department. When purchasing goods and services, a hospital shall furnish its CES number to its supplier, and the supplier may then make sales of every type of tangi-

Register, June, 1991, No. 426

ble personal property or services to the hospital without tax. Hospitals organized for profit do not qualify for this exemption.

(3) PURCHASES BY CLINICS AND MEMBERS OF THE MEDICAL PROFESSIONS. 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 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.

Taxable	Exempt
Adhesive tape	Antiembolism elastic hose and stockings
Alcoholic beverages	*Apparatus and equipment for treatment of diabetes
Bandages, gauze and cotton	*Artificial eyes and limbs
Bed pans	*Blood sugar level testing supplies
Beds and linens	Bone pins and plates
Compresses and dressings	*Crutches and wheel chairs, including motorized wheelchairs and scooters
Cosmetics	Diaphragms
Deodorants and disinfectants	*Dietary foods
Distilled water	*Disposable syringes containing insulin
Enema kits	Dye
Instruments	*Hearing aids and parts
Laboratory equipment and supplies	Medical oxygen and equipment to administer oxygen
Medical equipment	Medicines
Office equipment and supplies	*Needles and syringes used by diabetics
Paper products	Oral contraceptives
Printed material	Pacemakers
Rib belts and supports	Prescription drugs
Soda water beverages	Prophylactics
Soap	Rubbing alcohol
Splints and cast materials	Suppositories
Uniforms and gowns	Sutures
X-ray film and machines	Vaccines
	Vaginal creams and jellies
	Vitamins

(4) SALES BY HOSPITALS, HOSPITAL AUXILIARIES, CLINICS AND MEMBERS OF THE MEDICAL PROFESSIONS. (a) The gross receipts from sales of the following are exempt from the tax:

1. Charges made by hospitals to patients for rooms, medical services and other items including charges for anesthesia and anesthesia supplies, bandages applied in the hospital, blood and blood plasma, dressings applied in the hospital, intravenous solutions, laboratory tests, oxygen, radiation and x-ray treatment.

2. Hospitals' sales of meals, food, food products and beverages to patients, staff or visitors.

(b) The gross receipts from the sales of the following are taxable:

1. A hospital's specific charge to a patient for the rental of a television set.

2. Parking fees.

3. Sales of tangible personal property or taxable service by a clinic, which sales are not directly related to the rendition of medical services.

4. Sales of meals and other tangible personal property by an organization affiliated with a hospital.

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. An optometrist's sales of nonprescription sun glasses, contact lens solution, thermal and chemical care units for contact lenses and other types of tangible personal property ordinarily taxable when sold at retail, unless the gross receipts from such sales are less than \$1,000 within a calendar year. Optometrists whose receipts from taxable items equal or exceed \$1,000 annually shall register with the department and obtain a seller's permit. Those whose receipts from taxable items are less than \$1,000 shall be exempt as occasional sellers and shall pay tax to their suppliers or a use tax, as appropriate, on purchases of taxable items.

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

Note: 1) Refer to s. Tax 11.002 for a description of permit requirements, how to apply for a permit, and the 15-day time period within which the department is required to act on permit applications.

2) 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 Wis. Act 27; (c) The exemption for motorized scooters became effective September 1, 1985, pursuant to 1985 Wis. 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 Wis. Act 399; (e) The exemption for antiembolism elastic hose and stockings prescribed by a physician became effective October 1, 1989, pursuant to 1989 Wis. 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 Wis. Act 29.

History: Cr. Register, May, 1978, No. 269, eff. 6-1-78; am. (4) (a) 1. and cr. (4) (b) 5., Register, January, 1983, No. 325, eff. 2-1-83; am. (3), Register, September, 1984, No. 345, eff. 10-1-84; am. (1) (a), Register, August, 1985, No. 356, eff. 9-1-85; am. (1) (b), (2), (3), (4) (b) 4. and (5), Register, March, 1991, No. 423, eff. 4-1-91.

Tax 11.18 Dentists and their suppliers. (ss. 77.51 (13) (e) and (f) and (14) (L), 77.52 (2m) and 77.54 (14) and (22), Stats.). (1) **DENTISTS CHARGES.** Charges by dentists for dental services are not subject to the sales tax. In addition, charges for items specifically designed for a patient which are installed in the patient's mouth, including artificial teeth, fillings, bridges, crowns, or inlays are not subject to the tax.

(2) **EXEMPT SALES TO DENTISTS.** (a) The gross receipts from the following sales to dentists are exempt under s. 77.54 (14) or (22), Stats.:

1. Medicines, including nitrous oxide, oxygen, novocaine and bone regeneration materials.

Register, June, 1991, No. 426

2. Gold, silver, other alloys used to fill teeth and cement and bonding agents used in conjunction with fillings.

3. Crowns, bridges, bridgework, dentures, inlays, fillings and other items fabricated by a dental laboratory which the dentist installs in the patient's mouth.

(b) The items described in par. (a) include braces and other corrective and supporting devices individually designed or constructed for a particular patient, such as braces made by dental laboratories at the prescription of the orthodontist or dentist, and teeth, mouth and jaw braces and supports which are not fitted until the dentist puts them in a patient's mouth, but which are recognizable as fabricated supports at the time the dentist buys them.

(3) **TAXABLE SALES TO DENTISTS.** (a) The gross receipts from the following sales to dentists are taxable:

1. Metal, wire, plastic or other materials purchased by a dentist which the dentist uses to construct braces and other teeth, mouth and jaw supports.

2. Dental equipment, surgical instruments, office equipment, office supplies and consumable supplies used by dentists to conduct their business.

(b) Items included in par. (a) include tongue depressors, bandages, cleaning paste, tooth brushes, dental floss and cotton.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; am. (1), r. and recr. (2) and (3), Register, April, 1990, No. 412, eff. 5-1-90.

Tax 11.19 Printed material exemptions. (ss. 77.51 (8) and (13h), 77.52 (2) (a) 11, 77.54 (2m), (9a), (15) and (25) and 77.55 (1), Stats.) (1) **GENERAL.** All retail sales of tangible personal property, including printed material, are subject to the tax, except when a specific exemption applies to the transaction. This section describes exemptions which commonly apply to sales of printed material.

(2) **STATUTES.** (a) Section 77.52 (2) (a) 11, Stats., imposes the sales and use tax on certain services. However, an exemption is provided for the printing or imprinting of tangible personal property furnished by customers, which property will be subsequently transported outside Wisconsin by the consumer for advertising purposes.

(b) Section 77.54 (15), Stats., provides an exemption for the sale of newspapers, of periodicals sold by subscription and regularly issued at average intervals not exceeding 3 months, of controlled circulation publications sold to commercial publishers for distribution without charge or mainly without charge or regularly distributed by or on behalf of publishers without charge or mainly without charge to the recipient and of shoppers guides which distribute no less than 48 issues in a 12-month period.

(c) Section 77.54 (25), Stats., provides an exemption for printed material which is designed to advertise and promote the sale of merchandise, or to advertise the services of individual business firms, which printed material is purchased and stored for the purpose of subsequently transporting it outside Wisconsin by the purchaser for use thereafter solely outside Wisconsin.

(d) Section 77.54 (2m), Stats., provides an exemption for the “*gross receipts from the sales of and storage, use or other consumption of tangible personal property or services that become an ingredient or component of shoppers guides, newspapers or periodicals or that are consumed or lose their identity in the manufacture of shoppers guides, newspapers or periodicals, whether or not the shoppers guides, newspapers or periodicals are transferred without charge to the recipient.*” This exemption applies to newspapers, shoppers guides and periodicals which are issued at average intervals not exceeding 3 months. It does not apply to advertising supplements that are not newspapers as defined in s. 77.51 (8), Stats.

(e) Section 77.51(13h), Stats., provides an exemption for sales of printed material in Wisconsin by a foreign corporation that is a publisher of printed materials whose only activities in Wisconsin are:

1. The storage of its raw materials in Wisconsin in or on property not owned by the foreign corporation and delivery of its raw materials to another person in Wisconsin if the storage and delivery are for printing by that other person. “Raw material” means tangible personal property which becomes an ingredient or component part of the printed materials or which is consumed or destroyed or loses its identity in the printing of the printed materials.

2. The purchase from a printer of printing services or tangible personal property printed in Wisconsin for the publisher.

3. The storage of the printed material or raw material for any length of time in Wisconsin in or on property owned by a person other than the publisher.

4. Maintaining, occupying and using, directly or by means of another person, a place that is in Wisconsin, that is not owned by the publisher and that is used for the distribution of printed material.

(3) NEWSPAPERS, SHOPPERS GUIDES, CONTROLLED CIRCULATION PUBLICATIONS AND PERIODICALS DEFINED. (a) Section 77.51 (8), Stats., defines a “newspaper” under ch. 77, Stats., as: “. . . those publications which are commonly understood to be newspapers and which are printed and distributed periodically at daily, weekly or other short intervals for the dissemination of current news and information of a general character and of a general interest to the public. In addition, any publication which qualifies as a newspaper under s. 985.03 (1) is a newspaper. ‘Newspaper’ also includes advertising supplements if they are printed by a newspaper and distributed as a component part of one of that newspaper’s publications or if they are printed by a newspaper or a commercial printer and sold to a newspaper for inclusion in publications of that newspaper. A ‘newspaper’ does not include handbills, circulars, flyers, or the like, advertising supplements not described in this subsection which are distributed with a newspaper, nor any publication which is issued to supply information on certain subjects of interest to particular groups, unless such publication otherwise qualifies as a newspaper within this subsection. In this subsection, advertising is not considered news of a general character and of a general interest.”

(b) Section 77.54 (15), Stats., defines a shoppers guide as: “a community publication delivered, or attempted to be delivered, to most of the households in its coverage area without a required subscription fee, which advertises a broad range of products and services offered by several types of businesses and individuals” and it defines a controlled circulation publi-

motor vehicle has been previously registered in Wisconsin in the name of the transferor, if required to be registered, and the transferor is not engaged in the business of selling this type of property. Transferor for purposes of this paragraph means a natural person.

(e) Sales by nonprofit organizations meeting the requirements in s. 77.54 (7m), Stats.

Note: Refer to s. Tax 11.35 regarding the occasional sales exemption for nonprofit organizations.

(f) The sale of a business or business assets, not including inventory held for sale, previously used by a seller to conduct its trade or business at a location after that person has ceased actively operating in the regular course of business as a seller of tangible personal property or taxable services as provided in s. 77.51 (9) (a) and (am), Stats.

Note: Refer to s. Tax 11.34 regarding the occasional sales exemption for the sale of a business or business assets.

(g) The sale of tangible personal property or taxable services by a person not otherwise required to hold a seller's permit, if the total taxable gross receipts from sales of tangible personal property and taxable services are less than \$1,000 during the calendar year. However, purchases of tangible personal property or taxable services which when resold are exempt under this paragraph, are taxable purchases by that person, except when the person is able to claim exemption under s. 77.54 (9a), Stats.

Examples: 1) If the gross receipts from a person's garage and rummage sales, lawn maintenance services, bait sales to fishermen, sales of books, charges for parking and other normally taxable receipts are less than \$1,000 during the calendar year, that person's receipts are deemed exempt occasional sales under par. (g). However, purchases by the seller of tangible personal property which are sold are taxable.

2) Sales of soft drinks by employe groups are not taxable if the gross receipts from soft drink sales do not exceed \$1,000 per year. These groups are deemed consumers and a supplier's sales to them are taxable retail sales.

(5) SALES WHICH ARE NOT OCCASIONAL SALES. Sales which are not exempt occasional sales, except as provided in sub. (4), include:

(a) Sales by a person who holds or is required to hold a seller's permit.

Example: Sales of used equipment by a retail store or vending machine operator are not occasional sales and would be subject to sales or use tax.

(b) The sale of a business or the assets of a business when the seller holds or is required to hold a seller's permit. The tax applies to the portion of the gross receipts reasonably attributable to the taxable personal property such as equipment, furniture and fixtures.

Note: Refer to s. Tax 11.34 regarding the occasional sales exemption for the sale of a business or business assets.

(c) The sale of motor vehicles, aircraft, boats, mobile homes not exceeding 45 feet in length, snowmobiles, trailers, semitrailers and all-terrain vehicles. Unless exempt, a use tax or sales tax pursuant to s. Tax 11.14 (2) (c) shall be paid by the purchaser at the time the motor vehicle, aircraft, boat, mobile home not exceeding 45 feet in length, snowmobile, trailer, semitrailer or all-terrain vehicle is registered or titled within Wisconsin.

(d) A sale made by persons who hold themselves out to the public as engaged in business, even though their sales may be few and infrequent. This includes the sales of works of art, handmade articles, antiques or used property by artists or others who are pursuing a vocation or part-time business as a seller of this property.

(e) Sales of bingo supplies to players or the sale, rental or use of regular bingo cards, extra regular cards and special bingo cards.

(f) A sale by persons engaged primarily in the business of making non-taxable sales of personal property, such as manufacturers and wholesalers. Since these persons are in the business of selling tangible personal property, the mere fact that only a small fraction of their total sales are taxable retail sales does not make these sales exempt occasional sales.

Note: The interpretations in s. Tax 11.33 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The exemption in sub. (3) (b) became effective March 1, 1979; (b) Non-retailer sales of all-terrain vehicles as described in sub. (4) (c) became taxable and the sale of an all-terrain vehicle as described in sub. (3) (c) and (d) became exempt effective September 1, 1987, pursuant to 1987 Wis. Act 27; (c) The exemption for the sale of a business or business assets in sub. (3) (e) became effective May 17, 1988, pursuant to 1987 Wis. Act 399; and (d) The exemption for transfers of motor vehicles, boats, etc., to in-laws became effective August 15, 1991, pursuant to 1991 Wis. Act 39.

History: Cr. Register, June, 1991, No. 426, eff. 7-1-91; am. (2), (4) (c) and (g), Register, April, 1993, No. 448, eff. 5-1-93.

Tax 11.34 Occasional sales exemption for sale of a business or business assets. (ss. 77.51 (9) (a) and (am) and (14g) (h), 77.52 (12) and 77.54 (7), Stats.) (1) **SCOPE.** This section describes the occasional sales exemption for the sale of a business or business assets as provided in s. 77.51 (9) (a) and (am), Stats.

(2) **GENERAL.** (a) The sale of business assets, consisting of tangible personal property, by a person who holds or is required to hold a seller's permit at the time of the sale is subject to sales tax, except as provided in sub. (3) (c).

(b) Except as provided in sub. (3) (c), the tax applies if the business assets are sold as:

1. A disposition of surplus assets of a continuing business.
2. A single transaction or series of transactions at the time of termination of a business.
3. Piecemeal sales, whether part of a continuing business or upon termination.

(c) The tax does not apply to merchandise inventory sold to another retailer who purchases it for resale and sells it in the regular course of that retailer's business.

(4) **PERSONAL PROPERTY NOT WITHIN S. 77.54 (2) EXEMPTION.** The following property is not within the exemption provided by s. 77.54 (2), Stats., although the property may be exempt under s. 77.54 (6) (a), Stats., if the property is a part of a machine or processing equipment used exclusively and directly in manufacturing, as described in s. Tax 11.40:

- (a) Machine drills and auger bits.
- (b) Milling cutters
- (c) Grinding wheels.
- (d) Chucks, jigs and dies.
- (e) Saw blades.
- (f) Machine tool holders.
- (g) Hand tools, including files, wrenches, hammers, saws, screwdrivers, planes, punches, chisels and spray guns.
- (h) Wearing apparel for the comfort or welfare of the employe or for the protection of the employe's clothing, such as helmets, hard hats, work gloves, aprons, coveralls, pants, coats, and fur-lined boots and jackets.

(5) **FUEL AND ELECTRICITY.** Fuel and electricity are specifically excluded from the exemption provided by s. 77.54 (2), Stats., even though such property may be consumed, destroyed or lose its identity in the manufacture of products destined for sale. However, s. 77.54 (30) (a) 4, Stats., exempts "*Any residue that is used as a fuel in a business activity and that results from the harvesting of timber or the production of wood products, including slash, sawdust, shavings, edging, slabs, leaves, wood chips, bark and wood pellets manufactured primarily from wood or primarily from wood residue.*" Since "fuel" is not defined in s. 77.54 (2), Stats., it shall be given its ordinary meaning. Dictionaries generally define fuel as a material used to produce heat or power by burning, or something that feeds a fire. Fuel includes:

- (a) Oxygen used to enrich the fuel mixture in an industrial furnace, or oxygen and acetylene used in a welding process.
- (b) Coal or coke used by a foundry, except the portion of the coke which actually becomes an ingredient or component part of any grey-iron produced.
- (c) Gasoline, fuel oil, kerosene, natural gas, liquid propane gas, also called LPG, or other natural or synthetic liquids used as fuel.

Note: The interpretations in s. Tax 11.41 are effective under the general sales and use tax law on and after September 1, 1969, except that the exemption for wood residue in sub. (5) was effective on September 1, 1987, pursuant to 1987 Wis. Act 27.

History: Cr. Register, November, 1977, No. 263, eff. 12-1-77; cr. (3) (a) 15. and am. (4) (h), Register, October, 1979, No. 286, eff. 11-1-79; am. (3) (a) 4., Register, July, 1987, No. 379, eff. 8-1-87; am. (5) (intro.), Register, April, 1990, No. 412, eff. 5-1-90; am. (2) (intro.), (3) (b) and (4) (intro.), cr. (5) (c), Register, March, 1991, No. 423, eff. 4-1-91.

Tax 11.45 Sales by pharmacies and drug stores. (s. 77.54 (14), (14g), (14m), (14s), (22) and (28), Stats.) (1) **TAXABLE SALES.** All sales of tangible personal property by a pharmacy or drug store shall be taxable under

the general sales tax law unless exempted by a specific statute. The most common exemptions are described and enumerated in this section.

(2) **EXEMPT SALES: MEDICINES AND PRESCRIPTION DRUGS.** (a) Medicines shall be exempt from the tax if prescribed by a licensed physician, surgeon, podiatrist or dentist to a patient for treatment.

(b) "Medicines" prescribed by an appropriate health care provider enumerated in par. (a) which shall be exempt from the tax include:

1. Pills and capsules.
2. Powders.
3. Liquids.
4. Salves and ointments.
5. Insulin (furnished by a registered pharmacist).
6. Other preparations consumed orally, injected or applied.
7. Sutures.
8. Pacemakers.
9. Suppositories.
10. Bone pins.
11. Dyes.
12. Other articles permanently implanted in the human body which remain or dissolve in the body.
13. Medical oxygen.
14. Vitamins.
15. Vaccines.
16. Oral contraceptives.

(c) This exemption shall *not* include:

1. Auditory, prosthetic, ophthalmic or ocular devices or appliances.
2. Splints, bandages, pads, compresses, supports, dressings, instruments or equipment.
3. Alcoholic beverages, soda water beverages or distilled water.
4. Cast materials.

(3) **EXEMPT SALES: MEDICAL APPLIANCES AND PROSTHETIC DEVICES.** The exemption for medical appliances and prosthetic devices under s. 77.54 (14s), (22) and (28), Stats., shall apply to sales of the following:

(a) Artificial devices individually designed, constructed or altered solely for the use of a particular 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 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.

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

(d) Artificial limbs, artificial eyes, hearing aids and batteries, colostomy, ileostomy and urinary appliances, artificial breast forms, pacemakers, and other equipment worn as a correction or substitute for any functioning part of the body. This exemption shall not apply to wigs or hair pieces, to garments designed to restrict or enhance the body shape for cosmetic purposes, nor to breathing therapy units which are not "worn" by a person.

(e) Crutches and wheelchairs including motorized wheelchairs and scooters for use by persons who are ill or disabled, open and closed end walkers with or without casters and canes which provide walking support by making contact with the ground at more than one point.

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

(g) 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.

(h) Parts for and services to the exempt items listed in this subsection.

(4) **MEDICARE CLAIMS.** 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 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: The interpretations in s. Tax 11.45 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 Wis. Act 27; (b) Charges for motorized wheelchairs and scooters became exempt September 1, 1985, pursuant to 1985 Wis. 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 Wis. Act 399; and (d) Charges for antiembolism elastic hose and stockings prescribed by a physician became exempt October 1, 1989, pursuant to 1989 Wis. Act 31.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76; r. (2) (c) 5., am. (3) (intro.) and (e), Register, September, 1984, No. 345, eff. 10-1-84; am. (3) (d), Register, July, 1987, No. 379, eff. 8-1-87; am. (3) (a) and (b) and (4), cr. (3) (c), renum. (3) (c) to (3) (d), renum. (3) (d) to (3) (e), renum. (3) (e) to (3) (f) and (g) and am., renum. (3) (f) to (3) (h), Register, March, 1991, No. 423, eff. 4-1-91.

Tax 11.46 Summer camps. (ss. 77.52 (1) and (2) (a) 1 and 77.54 (7m), Stats.) (1) **DEFINITIONS.** In this section:

(a) "Agency camps" means camps operated by corporations or associations organized and operated exclusively for religious, charitable or educational purposes when no part of the net earnings inure to the benefit of any private shareholder or individual.

Example: The YMCA and Boy Scouts of America are agency camps.

(b) "Private camps" means all other camps including those camps organized and operated with the expectation of profit, whether or not profit is actually realized.

Tax 11

(2) **TAXABLE RECEIPTS.** Receipts from the following are taxable unless sub. (4) applies:

(a) Meals or other tangible personal property sold by agency camps or private camps.

(b) Lodging provided by private camps for a continuous period of less than one month.

(3) **EXEMPT RECEIPTS.** Receipts from the following are exempt:

(a) All lodging provided by agency camps.

(b) Lodging provided by private camps for a continuous period of one month or more.

(c) Groceries sold to campers, such as for cookouts.

(4) **OCCASIONAL SALES.** (a) Gross receipts from the sale of tangible personal property or taxable services by agency camps not engaged in a trade or business and not otherwise required to hold a seller's permit are exempt from Wisconsin sales tax if entertainment as defined in s. 77.54 (7m) Stats., is not provided.

(b) An agency camp is not engaged in a trade or business if its sales of otherwise taxable tangible personal property or services or its events occur on 20 days or less during the calendar year or if its taxable receipts for the calendar year are \$15,000 or less.

Note: See Wisconsin publication 206, sales tax exemption for nonprofit organizations, for more detailed information about when one is engaged in a trade or business or required to hold a seller's permit.

(5) **COMBINED CHARGE.** An allocation between taxable and exempt receipts shall be made when a single, combined, charge is made for all the privileges extended by a camp. Adequate records shall be kept and maintained to enable the proper allocation; otherwise, the total charge shall be taxable.

(a) If there is no separate charge for meals, gross receipts from the sale of meals may be determined by adding 10% to the cost of the food and labor for food preparation to cover the overhead costs.

(b) If there is no separate charge for lodging, gross receipts from lodging furnished by private camps to any person residing for a continuous period of less than one month shall be presumed to be \$5 per person per night.

Note: The interpretations in s. Tax 11.46 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The provisions of sub. (4) became effective January 1, 1989, pursuant to 1987 Wis. Act 399; and (b) The amount shown in sub. (5) (b) became effective January 1, 1991. From September 15, 1970 to December 31, 1990, the rate was \$3 per person per night and prior to September 15, 1970, the rate was \$2 per person per night.

History: Cr. Register, September, 1977, No. 261, eff. 10-1-77; am. (1) (intro.) and (a) and (2) (intro), cr. (4), renum. (4) to be (5) and am., Register, June, 1991, No. 426, eff. 7-1-91.

Tax 11.47 Commercial photographers and photographic services. (ss. 77.51 (13) (e) and (f) and (14) (L), 77.52 (2) (a) 7, (2m) (b) and (13), 77.53 (10) and 77.54 (2), Stats.) (1) **TAXABLE GROSS RECEIPTS.** Taxable services and sales of tangible personal property of commercial photographers and others providing photographic services, including video taping, include gross receipts from:

(a) Taking, reproducing and selling photographs and video tapes.