

TAX REPORT

WISCONSIN DEPARTMENT OF REVENUE

JUNE 1980

RECENT LEGISLATION

Wisconsin's recently enacted Budget Review Bill (Chapter 221, Laws of 1979) made several changes in the Sales and Use Tax Law. The following changes may be of interest to you:

1. Parking Receipts - Effective June 1, 1980, a Wisconsin governmental unit's or public school's gross receipts from "parking or providing parking space for motor vehicles and aircraft for a consideration and docking or providing storage space for boats for a consideration" are subject to the 4% tax under s. 77.52(2)(a)9, Wis. Statutes. Public schools include colleges and universities; vocational, technical and adult education schools; and elementary and secondary schools. Private schools' receipts from providing such services have been taxable in the past.

Therefore, a governmental unit's or school's receipts from on-street parking (including receipts of coin-operated parking meters), as well as off-street charges for parking for any period of time, are taxable effective June 1, 1980. Charges by governmental units or schools for parking aircraft, and docking or storing boats are also taxable on and after June 1.

2. Annual Sales Tax Return - The annual sales tax return (Form ST-12A) will still be required to be filed for the 1980 tax year; however, retailers will not have to file the Form ST-12A for 1981 and thereafter.

FLEA MARKETS, RUMMAGE SALES AND SWAP MEETS

Persons who regularly sell new or used items at flea markets, rummage sales and swap meets have receipts from a business or part-time business which are subject to the 4% sales tax. Such persons are required to have a Seller's Permit and pay the 4% sales tax on their gross receipts.

CLAIMS FOR REFUND OF SALES TAX

If you discover that you have overpaid your sales or use tax, you should promptly file a claim for refund with the Department. No special form is necessary, but the Department has designed a form which you may use to file a refund claim entitled "Amended Sales and Use Tax Return - Form ST-12X." Copies of this form may be obtained from any Department office.

A refund claim must be in writing, must indicate the reporting period in which the overpayment was made and must contain a statement giving the specific grounds upon which it is based. The statement describing the basis of the claim is important because if the claim is disallowed by the Department, an appeal of the Department's action to the Wisconsin Tax Appeals Commission is limited to the grounds set forth in the original refund claim. The period in which the overpayment was made must be indicated in the refund claim in order to compute interest on the overpayment.

The law specifically provides that the only person who may apply for a refund from the Department of Revenue is the person who paid the tax to the Department. Therefore, persons who have paid the tax to a retailer must obtain any refund they are entitled to through the retailer. The retailer is the person who actually paid the tax, and the one who must apply for the refund.

JANITORIAL SERVICES

The gross receipts from providing routine and repetitive janitorial services are not subject to the sales tax since janitorial service is not one of the services subject to tax. Janitorial services are not taxable even though the person providing such services engages in one or all of the following: vacuuming carpets or

floors; dusting and cleaning desks, file cabinets or store fixtures; cleaning lavatories, cleaning walls and ceilings, or washing windows. Anyone providing specialized services, such as carpet or rug cleaning, is providing services which are taxable.

COMPUTER PROGRAMS

The gross receipts from the sales, leases or rentals of programs in the form of tangible personal property are subject to the 4% sales and use tax. Such receipts are taxable if the canned or custom program is transferred on cards, magnetic tape, or any other form capable of activating data processing equipment. When the client agrees to acquire a program, any subsequent charges made which are in any way related to the designing, purchasing, implementing, testing or installing the program for the client are subject to the tax. Charges for feasibility studies are not taxable.

Charges for furnishing technical help, analysts and programmers are taxable after the client has agreed to acquire a program as described in the prior paragraph. Charges for producing, fabricating, processing, printing, imprinting or otherwise altering tangible personal property, even though furnished by a client, are taxable.

Processing a client's data and time sharing services are not taxable. Tax also does not apply to programs transferred in the form of written procedures, such as

program instructions listed on coding sheets as these are nontaxable transfers of information.

SUBSCRIPTIONS TO ADMINISTRATIVE RULES AND TIMs

Administrative Rules of the Department of Revenue are part of the Wisconsin Administrative Code. They have been adopted by a formal procedure established by statute to clarify the statutes and have the effect of law. Rules are available on a subscription basis. The charge for a booklet containing current Department rules is \$3.12 and the annual calendar year subscription service to keep the booklet up-to-date is \$3.12.

Technical Information Memorandums (TIMs) reflect the Department's interpretation of the laws and clarify complex areas of the tax laws. They are available on subscription basis at a cost of \$2.08 per year. Persons who subscribe to the TIMs also receive this newsletter, which is sent to all sales tax registrants at the end of March, June and September, and a publication entitled "Wisconsin Tax Bulletin."

Subscriptions to the TIMs or rules may be obtained by sending a request and the appropriate sum to the Department of Administration, Document Sales Section, 202 South Thornton Avenue, Madison, Wisconsin 53702.