



TAX REPORT

SALES/USE TAX

WISCONSIN DEPARTMENT of REVENUE

JUNE 1970

LEASES OF MOBILE EQUIPMENT

The gross receipts from leases of mobile equipment, such as motor vehicles and trailers, used within and without Wisconsin are taxable, if such equipment is garaged in Wisconsin, even though the lease may have been executed in another state and even though the equipment may be returned to the lessor in another state at the expiration of the lease. In the case of "drive it yourself" vehicles, leased for less than one month, the vehicle is considered to be garaged at the location it comes into the possession of the lessee.

SALES TO ARMED FORCES PERSONNEL

Sales of tangible personal property (including motor vehicles) to resident or non-resident members of the armed services are taxable, except when motor vehicles are sold to non-residents who will not use such vehicles other than in the removal of such vehicles from Wisconsin. If a non-resident serviceman is stationed in Wisconsin, the vehicle is considered to be used in Wisconsin, and the exemption would not apply.

Armed Forces personnel stationed outside this state, who purchase motor vehicles outside this state, are required to pay the 4% tax at the time the vehicle is registered with the Bureau of Motor Vehicles. If a serviceman paid a sales or use tax to another state, in which the purchase was made, the amount of such tax will be applied as a credit against and deducted from the Wisconsin use tax.

THE SCOPE OF MANUFACTURING

The March 1970 Tax Report provided information regarding the types of businesses that are ordinarily considered to be manufacturers. The following information may help a manufacturer determine what machinery may be purchased without tax. The exemption provided in Section 77.54(6) (a) of the law reads as follows: "Machines and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property".

"Manufacturing is the production by machinery of a new article with a different form, use and name from existing materials by a process popularly regarded as manufacturing", pursuant to Section 77.51(27) of the law. It is necessary to read the two provisions together in determining whether a particular machine or piece of processing equipment comes within the exemption.

The following are excerpts from Technical Information Memorandum S-17.2 entitled, "Exemption of Manufacturing Machines and Processing Equipment". We will be pleased to furnish you a copy of this memorandum upon request.

Items not used directly in manufacturing, and which do not qualify for the exemption are:

- a. Machines or equipment used for sweeping a plant, disposing of scrap or waste, plant heating, air conditioning, communications, lighting, safety, fire prevention, general maintenance, or to repair machines.
- b. Sweeping compounds.
- c. Wearing apparel.
- d. A printing press used by a manufacturer (other than a commercial printer) to produce advertising materials, office forms, etc.

Items which may qualify for the exemption if used exclusively and directly in manufacturing a product for sale:

- a. Small tools, including hand tools.
- b. Parts and repair service for exempt machines and processing equipment. Examples of such items would be conveyor belts, grinding wheels, grinding balls, machine drills, auger bits, milling cutters, emery wheels, jigs, saw blades, machine tool holders, reamers, dies, molds and patterns.
- c. A printing press used by a manufacturer exclusively to print labels for its manufactured products.

The department has studied the meat packing industry and the cheese producing and processing industry to determine the tax status of their machinery and equipment purchases. A copy of the department's statement outlining the scope of manufacturing for both of these industries can be obtained by addressing your request to the Compliance Section, P. O. Box 39, Madison, Wisconsin 53701.

LESSOR'S CHARGES FOR ERECTION, DISASSEMBLY AND DELIVERY

A lessor's charges to customers for the rental of tangible personal property, the erection (reassembly) and disassembly of the leased property, and delivery charges, must be included in the lessor's computation of gross receipts subject to the tax.

CONTRACTOR – RETAILERS

A construction contractor engaged in an activity in which he uses material and labor to produce an addition or capital improvement to real property (such as a building, bridge, road, etc.) is the consumer of the materials used and must pay the 4% tax on these materials. The tax is due even though the ultimate user of the realty improvement is a governmental unit, school, church or other exempt entity.

Some contractor-retailers do not know at the time they purchase inventory items whether they will be consumed in construction contracts or resold to others. Two courses of action are available to this person at the time he makes his purchases. (a) He can give a Resale Certificate to his supplier(s). Thereafter, if he resells the items he pays a sales tax on his gross receipts from such sales. If he uses the items in fulfillment of a construction contract, he pays a use tax on the purchase price. (b) He can pay tax to his supplier on all items purchased. Then, if he consumes items in construction contracts, his tax obligations have been satisfied. If he sells items at retail, he owes a tax on such retail sales, but he may take a credit against such sales tax for the tax he previously paid his supplier.

DRY CLEANERS' PURCHASES

Dry cleaners are the consumers of solvents, soaps, detergents, spotting compounds and marking tags they use for identification purposes, and the tax applies to the sale of these items to the dry cleaner. Dry cleaners may purchase the following items without tax by using a Resale Certificate: hangers, handkerchiefs, cleaner's tissue, bags, boxes, shirt boards, shoulder guards, twisters and pins which are actually transferred to their customers with the goods which have been cleaned.

PURCHASES MADE BY FARMERS

Sales of certain items to persons engaged in farming, agriculture, horticulture or floriculture as a business

enterprise are exempt, provided the customer furnishes a signed Farmer's Exemption Certificate. Items which qualify if used in this restricted way are: tractors and machines, including fuel, parts and repair service therefor, but not motor vehicles for highway use; seeds for planting, plants, feed, fertilizer, soil conditioners, sprays, pesticides, fungicides, livestock, poultry, farm work stock, and containers for fruits, vegetables or grain. Examples of qualifying machines are tractor attachments, conveyors, milk coolers, silo unloaders and milking machines. Examples of items which do **not** qualify are hand tools, fencing, construction materials, semen, drugs for animals, lawn mowers, lawn and garden tractors, disposable milk filters, wheelbarrows, baler twine or wire used to bale crops used on the farm, harnesses or bridles, motor oil and lubricants for tractors, or items purchased for use in the farmer's home.

TRANSPORTATION CHARGES

The December 1969 "Tax Report" contained an article on transportation charges which may be subject to the 4% tax in some circumstances. Many retailers continue to ask questions relating to this matter.

If a Wisconsin seller charges for transportation of goods to a purchaser who accepts delivery in Wisconsin, the entire charge, including the transportation charge, is subject to the tax. For example, if the sales price of the merchandise is \$90, and the delivery charge is \$10, the tax is imposed on the total charge of \$100. If the seller (from within Wisconsin or from an out-of-state location) uses a common carrier, the U. S. Postal Service, or his own delivery vehicles, the total charge to the customer would be taxable, as long as the seller charges the customer for the transportation.

If a common carrier rather than the seller, charges for the transportation, and freight costs are paid directly by the purchaser, this amount does not become part of the retailer's gross receipts and the charge is not subject to the tax.