



# TAX REPORT

SALES/USE TAX

WISCONSIN DEPARTMENT of REVENUE

SEPTEMBER 1971

## COMMON SALES AND USE TAX REPORTING ERRORS

The Department takes this opportunity to express its appreciation for the care used by taxpayers in the preparation of their sales and use tax returns. The reliability of information entered on returns is a major factor in keeping cost of administration at a low level.

Some returns do, however, contain errors. The following are some of the more common errors found in the preparation of sales and use tax returns:

**1. Failure to Report Purchases Subject to Use Tax.** Any tangible personal property purchased without tax which is "used" by the purchaser rather than being resold or rented is subject to use tax measured by the purchase price. The use tax liability should be reported on Line 7 of the return. For example, use tax liability may arise when property is purchased in Wisconsin under a resale certificate but is used or consumed by the purchaser rather than being resold prior to any taxable use. Use tax liability also may be incurred on purchases from out-of-state suppliers. (The use tax should be paid to the out-of-state supplier, if he is authorized to collect the tax; otherwise, the user of the property should include the tax on his tax return.)

**2. Erroneous Deductions.** Some retailers claim deductions for items which they are not entitled to claim under the law, such as delivery charges or freight collected from customers on taxable sales. Others claim deductions for "Sale for Resale" without having obtained properly completed Resale Certificates, or they claim deductions based on invalid exemption certificates. For example, Manufacturer's Exemption Certificates cannot be used to exempt items which are not exempt under the law, such as fuels of all types, including oxygen and acetylene used in welding, and wearing apparel such as work gloves. Finally, some persons do not report receipts from sales of 10¢ items, because they are not able to collect the 4% tax from their customers on sales transactions of less than 13¢. The tax is imposed upon retailers at the rate of 4% of their gross receipts, regardless of any tax reimbursement they may collect from their customers.

**3. Overlooking Taxable Sales other than Merchandise Held for Sale.** The tax applies to sales of personal property such as capital assets used in a business that has or is required to have a sellers' permit. Thus the tax applies to sales of furniture, equipment and machinery. All such sales should be included on Line 1 of the tax return form. If the sale is to an exempt customer, a deduction may be taken on the back of the return.

**4. Late Filing of Returns.** The due date of the monthly and quarterly sales and use tax returns is the last day of the month following the period for which the return is due. Returns filed late are subject to penalties and interest at 1% per month. Delinquent returns also are not entitled to the retailers' discount.

**5. Failure to Report Receipts From Labor Properly.** Charges for repair labor on tangible personal property and fabrication labor are taxable unless an exemption applies. Fabrication labor is that labor involved in the creation of or making a substantial change in the nature of tangible personal property.

## REPAIRING PROPERTY AFFIXED TO REALTY

Repairmen must pay tax on their sales of repair parts; and on their charges for service in the repair, alteration, fitting, cleaning, painting, coating, towing, inspection and maintenance of all tangible personal property. Tangible personal property for this purpose includes the items listed below, even though such items may in fact be firmly affixed to or incorporated in real property.

Furnaces, boilers, stoves, ovens, including associated hoods and exhaust systems, heaters, air conditioners, humidifiers, dehumidifiers, refrigerators, coolers, freezers, water pumps, water heaters, water conditioners and softeners, clothes washers, clothes dryers, dish washers, garbage disposal units, radios and radio antennas, incinerators, television receivers and antennas, record players, tape players, jukeboxes, vacuum cleaners, furniture and furnishings, carpeting and rugs, bathroom fixtures, sinks, awnings, blinds, gas and electric logs, heat lamps, electronic dust collectors, grills and rotisseries, bar equipment, intercoms, recreational, sporting, gymnasium and athletic goods and equipment, including by way of illustration but not of limitation, bowling alleys, golf practice equipment, pool tables, punching bags, ski tows and swimming pools; office, restaurant and tavern type equipment including by way of illustration but not of limitation, lamps, chandeliers, fans, venetian blinds, canvas awnings, office and business machines, ice and milk dispensers, beverage-making equipment, vending machines, soda fountains, steam warmers and tables, compressors, condensing units and evaporative condensers, pneumatic conveying systems; laundry, dry cleaning, and pressing machines; power tools, burglar alarm and fire alarm fixtures, electric clocks and electric signs.

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## **SALES TO AUTO BODY SHOPS AND SERVICE STATION OPERATORS (Repairmen)**

An automotive supply wholesaler is protected against sales tax liability on sales of tangible personal property to repairmen only if he has accepted a signed Resale Certificate (Form S-205) showing the purchaser's Seller's Permit number and a description of his purchases destined for resale. Whenever a wholesaler sells an item to a customer, who has a continuous Resale Certificate on file, he should be sure that it is the type of property the purchaser has claimed he is in the business of reselling. If it is not, or if the wholesaler knows the customer does not intend to resell the item, the wholesaler may be held liable for the 4% tax.

Service station operators and other repairmen may furnish a Resale Certificate for materials used in repair or service work which are physically transferred to their customers as part of a taxable service. Common examples are: welding rods, sparkplugs, points, condensers, mufflers, tailpipes, shock absorbers and other auto parts. Chassis lubricants, wheel greases and wax may also be purchased for resale as these items are actually applied and transferred to the customer's motor vehicle in the rendition of a service.

A repairman must pay the 4% tax to his supplier (he may not furnish a Resale Certificate) when purchasing equipment, tools, cleaning supplies, or other property used or consumed in his business and not resold to his customers. Common examples are: hand tools, acetylene or other industrial gases, fluxing materials, car washing powders, jacks, testing equipment, hand soap, floor compounds, abrasives, masking paper and tapes, emery paper, sandpapers, etc.

## **UTILITY TRANSMISSION AND DISTRIBUTION LINES**

Under the general sales tax law the sale, lease or rental, and the repair, service, maintenance and installation of "tangible personal property" is subject to the 4% tax. The definition of tangible personal property includes underground or overhead utility transmission and distribution lines erected or installed under easement or license on land owned by others.

Accordingly, a contractor's gross receipts from the construction or installation of these utility transmission and distribution lines in fulfillment of contracts entered into on or after September 1, 1970 are taxable. The contractor may purchase the materials used to perform these taxable contracts without tax for resale. If you require more detailed information on this subject, write to this department, P.O. Box 39, Madison 53701.

## **BURGLAR AND FIRE ALARM PROTECTION SERVICES**

The sale and installation of a local (private) alarm system on the premises of the customer is a real property improvement activity, which is not subject to the 4% tax. The installer owes the 4% tax on his cost of materials, fixtures, etc. The repair, service and maintenance of this system is taxable. See the article in this issue entitled "Repairing Property Affixed to Realty".

The gross receipts from the lease after installation of a local alarm system (not involving a monitoring service) are taxable, if the lessor has the right of removal at the expiration or breach of the contract. The lease receipts from a "direct connect" alarm system (wired to a nearby police or fire station) are also taxable, where the lessor has the right of removal.

The receipts from maintaining a central station monitoring service are deemed receipts from providing a non-taxable protection service. The person supplying such service is the consumer of all the materials and equipment used to provide this service, and the 4% tax applies to his purchases.

## **RADIO, TELEVISION AND C.A.T.V. STATIONS**

The following articles, by way of illustration and not of limitation, purchased by persons in the communication business are subject to the 4% tax: station equipment, transcriptions; films; phonograph records; recording tape; sheet music; batteries; tubes and transistors; coils; condensers and transformers; costume rentals; makeup materials; stage properties; lumber, paperboard, plywood and other materials used in construction of stage properties and scenery.

## **FARMING DEFINED**

Sales of certain items to persons engaged in farming, agriculture, horticulture or floriculture as a business enterprise are exempt from the sales tax, provided the farmer furnishes his supplier a signed Farmer's Exemption Certificate.

The commercial raising of shade trees, Christmas trees, and other decorative trees and shrubs qualifies for the exemption provided farmers under the law. Timber, logging and sawmill operations do not qualify for this exemption.

The operation of a green house or a sod farm is also deemed to be farming for sales tax purposes.