



TAX REPORT

SALES / USE TAX

WISCONSIN DEPARTMENT of REVENUE

JUNE, 1977

FINANCIAL INSTITUTIONS

The department has received a number of inquiries relating to the status of financial institutions under the sales and use tax law. For that reason, the following information may be informative.

I. Nontaxable Services

Financial institutions are engaged primarily in providing services. Charges for financial services provided to customers are not subject to the sales or use tax, such as charges for cashier's checks, money orders, traveler's checks, checking accounts and the use of safe deposit boxes.

Financial institutions are, however, the consumers of equipment, materials and supplies used in performing these nontaxable services. Accordingly, they must pay tax to their suppliers on such purchases.

II. Taxable Sales and Services

A financial institution's gross receipts from the retail sale, lease or rental of tangible personal property and from sales of taxable services are subject to the 4% sales tax. If a financial institution has taxable retail sales, it must obtain a Seller's Permit and regularly file sales and use tax returns. Examples of taxable sales include sales of the following:

- A. Coin savings banks.
- B. Commemorative medals.
- C. Collectors' coins or currency sold above face value.
- D. Gold and silver bullion.
- E. Repossessed merchandise.
- F. Meals and beverages in the institution's cafeteria.
- G. Charges for providing parking space for motor vehicles.
- H. Personalized imprinted checks except where the financial institution purchases such checks on a tax paid basis from a retailer who has collected the Wisconsin 4% tax, and the financial institution resells such checks to customers at the same price or a price lower than the purchase price.

III. Purchases by Financial Institutions

Examples of a financial institution's purchases subject to sales tax are office furniture and equipment, including desks, chairs, couches, writing tables, office machines, safe deposit boxes, drive-up and walk-up windows, night depository equipment, vault doors, remote TV auto teller systems and camera security equipment. However, if these items are purchased without tax from out-of-state suppliers, the financial institution must report the tax on such purchases.

Any tangible personal property purchased by a financial institution to be given away or sold at a discount to a customer, whether or not based upon the amount of a deposit, is taxable at the time it is purchased by the financial institution. This includes calendars, playing cards, plat books, maps, and any other items transferred to customers to promote business. Checking and savings account records provided customers free of charge are also taxable at the time of purchase.

However, when items are marked up and sold by a financial institution at a price in excess of cost, the financial institution is a retailer required to report the sales tax on such sales. The financial institution may purchase such items without tax by giving its

supplier a properly completed resale certificate.

If a financial institution is not required to have a Seller's Permit, but has use tax obligations because purchases are made without tax, it should apply for consumers use tax registration. The use tax is generally due and payable on the last day of the month following the quarter in which the purchase is made.

MOTOR VEHICLES

Most of the information in this article is found in Technical Information Memorandum S-50.2 entitled "Motor Vehicles" (dated March 15, 1974). Portions of that memorandum which may be of interest to you are reproduced below. If you desire a copy of that memorandum, please address your request to the department at 201 E. Washington Avenue, Madison, Wisconsin 53702 (Attention: Technical Services Staff).

I. Motor Vehicle Defined

A "motor vehicle" is a self-propelled vehicle (e.g., automobile, truck, truck-tractor, motorcycle, etc.) designed for and capable of usefully transporting persons or property on a highway. Self-propelled vehicles which are not designed primarily for transportation of persons or property, and only incidentally operated or moved upon a public highway, such as farm tractors, snowmobiles, fork lift trucks and road machinery as defined in S. 340.01 (52), are not considered to be motor vehicles for the purposes of this article.

II. Computation of Tax

- A. All items of equipment and accessories attached to the basic motor vehicle at the time of delivery by the seller to the purchaser are included in the measure of the tax.
- B. The tax is computed upon the gross receipts from the sale, less the trade-in allowance, provided the sale and trade-in are one transaction. A separate or independent sale of a vehicle is not considered a trade-in, even if the proceeds from the sale are immediately applied by the seller to a purchase of another motor vehicle. If a customer "trades down", the dealer does not realize taxable receipts from the transaction.
- C. Taxable gross receipts of the retailer of a motor vehicle include the dealer's delivery, handling, and preparation charge, and any warranty charge.
- D. Taxable gross receipts include all repair, service and maintenance charges for work performed on a motor vehicle, including parts and labor. The tax also applies to installation charges for accessories or attachments (e.g., radio or air conditioner) installed on a motor vehicle.

III. Occasional Sales or Purchases of Motor Vehicles from Non-dealers

A. Occasional sales of motor vehicles are taxable, unless the transfer is to the spouse, parent or child of the transferor and then only if such motor vehicle has been previously registered in this state in the name of the transferor and the transferor is not a motor vehicle dealer. A son-in-law or daughter-in-law is not entitled to claim this exemption. (See Merl B. Case v. Dept. of Revenue, 9 Wisconsin Tax Appeals Commission 161, March 28, 1972.) The purchaser of a motor vehicle must pay any tax due before the vehicle will be registered for use in this state.

B. A Wisconsin resident purchasing a motor vehicle in a foreign country, or for delivery in a foreign country, is required to pay the Wisconsin tax when the vehicle is registered for use in Wisconsin, subsequent to use in the foreign country. The tax is measured by the full "sales price" of the vehicle.

C. Where one co-owner transfers his or her interest in a motor vehicle to the other co-owner, tax will apply on the transfer of such interest. The measure of the tax will be the cash or its equivalent paid for the equity transferred plus the selling co-owner's share of the liabilities assumed by the surviving co-owner.

D. The transfer of a motor vehicle by an individual to an existing corporation in which the individual owns 100% of the common stock is subject to the 4% tax. Since the corporation is a separate and distinct entity from the individual, transfers of tangible personal property between the two parties are taxable.

IV. Purchases by Nonresidents

A. The gross receipts from the sales of motor vehicles or truck bodies to persons who are not residents of this state, and who will immediately remove such vehicles or trucks (for which the truck bodies were made) from this state are not subject to the tax. The current Budget Bill contains a proposal to tax the gross receipts from the sales of motor vehicles, except trucks, to nonresidents. However, gross receipts from the repair of a nonresident's motor vehicle which is brought into Wisconsin only to be repaired, then is removed from the state are subject to tax. (See Gordon A. Riley d/b/a Riley Tank Service v. Wis. Dept. of Revenue, 8 Wisconsin Tax Appeals Commission, 186, September 30, 1970.)

The exemption for sales to nonresidents only applies to self-propelled vehicles designed for and capable of usefully transporting persons or property on a highway, and includes motor homes. The exemption does NOT apply to sales of slide-in campers, snowmobiles, mobile homes, travel trailers, semi-trailers, recreational trailers, other trailers or nonmotorized vehicles, road machinery, construction machinery or fork lift trucks. Therefore, if a nonresident accepts delivery of any of these items in Wisconsin, the Wisconsin 4% sales tax applies to the transaction.

B. A motor vehicle purchased by a nonresident of Wisconsin 90 days or more before bringing such vehicle into this state, in connection with a change of residence to this state, is not subject to the 4% use tax (S. 77.53 (18)).

This exemption does not apply to corporations that open new facilities in Wisconsin and bring motor vehicles which were purchased out-of-state into Wisconsin. (See Dana Corp. v. Dept. of Revenue, Wisconsin Tax Appeals Commission, Docket No. S-4686, December 30, 1974.)

V. Tax Credit

A motor vehicle purchased outside the state and registered in this state generally is subject to the 4% use tax except as noted in IV. B, above. However, if the purchase was subject to a sales or use tax by another state, or the District of Columbia, in which said purchase was made, the amount of such sales tax so paid such other state is applied as a credit against and deducted from the Wisconsin use tax (S. 77.53 (16)). This credit does not apply to taxes paid to another country or to municipalities in other states.

The South Dakota 3% registration fee which goes into the highway fund is not a sales and use tax which qualifies for the credit. (See James Holter v. Dept. of Revenue, Wisconsin Tax Appeals Commission, Docket No. S-5199, December 23, 1976.)

VI. Transfer by Inheritance, Gift or Prize

A. The distribution of a motor vehicle to the heir(s) of an estate is not a taxable transfer subject to the Wisconsin sales or use tax. However, the sale of a motor vehicle by a personal representative

of an estate is subject to the tax, and the purchaser is required to pay the tax at the time of registration.

B. A motor vehicle transferred as a gift, or as a prize in a contest or drawing, is not subject to the tax when registered by the recipient or prize winner. However, the sale of the vehicle to the donor of the gift or prize is subject to the tax.

VII. Vehicles Used by Licensed Wisconsin Retail Motor Vehicle Dealers

When a licensed Wisconsin retail motor vehicle dealer (who has purchased the vehicle ex-tax) uses the vehicle for purposes in addition to "retention, demonstration or display" the dealer may, in lieu of reporting tax on the cost of the vehicle, report on the following basis:

A. In the case of motor vehicles licensed in the name of the retail dealer, the tax shall be \$1.35 per month.

B. In the case of motor vehicles being operated with retail dealer plates, the tax shall be \$.35 per month for each plate issued to the dealer.

Retail dealers may not use this procedure for service vehicles, such as wreckers, pick-up trucks or autos used by customers when their car is being repaired. It also is not to be used by wholesalers, distributors, brokers or manufacturers.

VIII. Sales by Dealers to their Salesmen

When a licensed Wisconsin motor vehicle dealer sells a motor vehicle to its salesman, and the automobile, motorcycle, or truck is titled in the salesman's name, the transaction is subject to the 4% tax. Vehicles acquired in this type of taxable transaction are not subject to the \$1.35 per month use tax payment.

RECORDING STUDIOS

When a recording studio agrees to furnish or supply records, acetates or other tangible personal property which becomes the personal property of others, the tax applies to the total gross receipts resulting from the sale of such tangible personal property. The law does not permit any deduction from gross receipts for labor or service costs, including charges for the use or rental of studio facilities, even though such costs may be itemized in billing the customer.

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.