



# TAX REPORT

SALES / USE TAX

WISCONSIN DEPARTMENT of REVENUE

SEPTEMBER, 1977

## RECENT LEGISLATION

Wisconsin's recently enacted biennial Budget Bill (Chapter 29, Laws of 1977) makes several changes to the Sales and Use Tax Law. The following changes may be of special interest to you:

1. **Occasional Sales** - Effective August 1, 1977, the occasional sales of snowmobiles, mobile homes, trailers and semitrailers became subject to the tax. The tax shall be paid when a snowmobile, mobile home, trailer or semitrailer is registered or titled.

2. **Computer and Data Processing Services** - Effective August 1, 1977, gross receipts from selling, performing or furnishing computer and data processing services (including time-sharing, designing or converting systems, programming, consulting, training, reformatting of data and computer printing) became subject to the sales and use tax. Additional information regarding this law change is contained in Technical Information Memorandum (TIM) S-38.2, entitled "Automatic Data Processing". Portions of this TIM are reproduced below.

Questions on facts which are not covered by this TIM may be referred to the Wisconsin Department of Revenue, Technical Services Staff, 201 East Washington Avenue, Room 428, Madison, Wis. 53702. If you want a copy of TIM S-38.2, request one at this address.

Because of space limitations, Part I of TIM S-38.2, which quotes other laws which may apply to persons engaged in data processing, and Part II, entitled "Definitions" are not included in this Tax Report. The remaining parts of the TIM (Parts III through VII) are as follows:

### III. Taxable Sales, Rentals and Services

**A. Sales, Service and Maintenance.** Sales of new or used data processing equipment, including installation charges thereof, and charges for the service and maintenance of this equipment are subject to the tax.

**B. Rental or Leasing of Equipment.** (A lease includes a contract by which a lessee secures for a consideration the use of equipment which may or may not be on its premises, if the lessee or its employees operate the equipment, or if the equipment is operated under the direction and control of the lessee or its employees.) Subleasing receipts are taxable without any deduction or credit for tax paid by the original lessee to the lessor, if the original lessee uses the property in addition to subleasing it. The use of equipment on a time-sharing basis, where access to the equipment is only by means of remote facilities, is not the leasing of such equipment. See C. below.

**C. Time-Sharing.** Time-sharing permits persons at different locations to use the same computer. The persons have remote access to the computer by telephone lines, microwave or other means. Time-sharing services are taxable on and after August 1, 1977.

**D. Prewritten (Canned) and Custom Programs.** The tax has been applied to the gross receipts from the sale, lease or rental of pre-written programs since September 1, 1969.

Tax applied to the sale, lease or rental of custom programs on and after July 1, 1976 when transferred in the form of punched cards or in tape, disc, drum or similar form, or in the form of typed or printed sheets to be used as input media in an optical character recognition system. Tax did not apply to the transfer of these custom programs in the form of written procedures, such as program instructions listed on coding sheets prior to August 1, 1977.

**E. Keypunching and Keystroke Verifying.** This item covers situations where a service bureau's agreement provides only for keypunching, keystroke verifying and proof listing of data or any combination of these operations.

Agreements providing (a) solely for keypunching; (b) keypunching and keystroke verification; or (c) keypunching, providing a proof list and/or verifying of data, are regarded as contracts for the fabrication of punched cards and sales of proof lists. Charges therefor are taxable, whether the cards are furnished by the customer or by the service bureau. Data from source documents may also be recorded directly on magnetic tape (off-line). This operation may include keystroke verifying and/or proof listing of data and is comparable to the punch card operation. Charges for this operation are taxable whether the magnetic tapes are furnished by the customer or by the service bureau. Tax also applies to charges for the imprinting of characters on a document to be used as the input medium in an optical character recognition system. The tax application would be the same even though paper tape or other media were used in the operation.

**F. Consultation and Training Services.** Charges for consultation and training in conjunction with the design, installation, and revision, conversion, sale, lease, rental or operation of computer and data processing equipment or systems are taxable effective August 1, 1977. Sales of training materials, such as books, furnished trainees for a specific charge were taxable prior to that date.

### G. Other Examples of Taxable Sales:

1. Tax applies to the conversion of customer-furnished data from one physical form of recordation to another. For example, if all or some data in punched cards is duplicated into another set of cards, charges for this service are taxable.

2. When additional copies of records, reports, or tabulations are provided, tax applies to the charges made for the additional copies. Charges for copies produced by means of photocopying, multi-lithing, or by other means are also subject to the tax.

3. Sales of mailing lists (including listings in the form of mailing labels produced as a result of a computer run) are taxable. However, where the service bureau, through the use of its automatic data processing equipment, addressed material to be mailed, with names and addresses furnished by the customer or maintained by the service bureau for the customer, tax did not apply to the charge for such addressing prior to August 1, 1977. Similarly, where the service bureau prepared labels to be affixed to material to be mailed, with names and addresses furnished by the customer or maintained by the service bureau for the customer, tax did not apply to the charge for producing the labels prior to August 1, 1977 when the service bureau itself affixed the labels to the material to be mailed.

**IV. Taxable Computer and Data Processing Services.** (Effective August 1, 1977) Computer and data processing services, including processing a client's data, were not taxable prior to August 1, 1977, but are subject to the tax on and after that date. The tax applies to the gross receipts from performing or furnishing such services on and after August 1, 1977 even though contracts or agreements may have been entered into prior to that date to provide such services, and even though the services may have been paid for prior to August 1, 1977. Such taxable services include but are not limited to:

**A. Processing a client's data.** "Processing a client's data" means the developing or original information from raw data furnished by the customer. Examples of automatic data processing operations which result in original information are summarizing, computing, extracting, sorting and sequencing. Such operations also include the updating of a continuous file of information maintained by the customer with the service bureau.

If a person enters into a contract to process a client's data by the use of a computer program, or through an electrical accounting machine programmed by a wired plugboard, the contracts are taxable. Such contracts usually provide that the person will receive the client's source documents, record data in machine readable form, make necessary corrections, rearrange or create new information as the result of the processing and then provide tabulated listings or record output on other media. This service is taxable even if the total charge is broken down into specific charges for each step.

**B. Designing of systems, converting of systems, consulting, training, and miscellaneous computer and data processing services.** These services consist of the developing of ideas, concepts and designs. Common examples of such services are:

1. Designing and implementing computer systems (e.g., determining equipment and personnel required and how they will be utilized).

2. Designing storage and data retrieval systems (e.g., determining what data communications and high-speed in-put - out-put terminals are required).

3. Converting manual systems to automatic data processing systems and converting present automatic data processing systems to new systems (e.g., changing a second generation system to a third generation system).

4. Consulting services (e.g., a study of all part of a data processing system).

## **V. Equipment and Supplies**

The tax applies to the gross receipts from the sale, lease or rental of computer and data processing equipment and supplies to a person providing taxable computer and data processing services. However, the tax does not apply to purchases of items that become physically an ingredient or component part of tangible personal property which is physically transferred to the customer.

## **VI. Sales "For Resale"**

The tax does not apply to the receipts from providing or furnishing computer or data processing services which are purchased "for resale" as such.

However, persons that incorporate the results of computer and data processing services into management, statistical, accounting, legal, tax or other reports which include their professional skills, ideas, concepts or opinions are the consumers of computer and data processing services.

For example, an accountant may have an inhouse service bureau which takes a customer's raw data and by computer prepares the customer's tax returns. In addition to preparing the returns the accountant provides professional opinions about the tax status of past and proposed business transactions. The accountant's total charge is not taxable, as long as the customer is not separately charged for computer and data processing services.

If the accountant purchases the same computer service from an outside service bureau, the service bureau's charges to the accountant for services entirely performed by the computer are subject to the tax.

## **VII. Location of Sale**

**A. Time-Sharing Provided Across State Lines.** A Wisconsin customer by means of a Wisconsin located terminal has access to a computer located in another state, for example, Minnesota. The Wisconsin customer may own or lease the terminal located in Wisconsin, or the Minnesota service bureau may be the owner or lessee of the terminal.

If the Minnesota service bureau is engaged in business in Wisconsin, it must report the 4% tax on the gross receipts realized from computer and data processing services furnished the customer through the Wisconsin terminal. If Wisconsin does not have jurisdiction to tax the Minnesota service bureau the 4% tax would be due from the Wisconsin customer.

If the customer's terminal is in Minnesota and the service bureau's computer is in Wisconsin, the Wisconsin 4% tax would not apply to the transaction.

**B. Computer Printouts Sent in or Out-of-State.** A service bureau in Minnesota receives raw data from a Wisconsin customer. It feeds the information into the computer which produces a printout of accounting information (e.g., profit and loss statement, general ledger, etc.). The printout of the accounting information is delivered to the Wisconsin customer. If the Minnesota service bureau is engaged in business in Wisconsin it must report the tax on charges for such services. If Wisconsin does not have jurisdiction to tax the Minnesota service bureau, the 4% tax would be due from the Wisconsin customer.

If a service bureau located in Wisconsin performed the same service for a Minnesota customer, the charges for the services used to produce the printout are not taxable.