



# TAX REPORT

SALES / USE TAX

WISCONSIN DEPARTMENT of REVENUE

SEPTEMBER, 1978

## RECENT SALES TAX LEGISLATION

Wisconsin's recently enacted Annual Budget Review Bill (AB 1220, Chapter 418, Laws of 1977) and other laws enacted in 1978 made several changes in the sales and use tax statutes. The following changes may be of interest:

**1. Computer and Data Processing Services.** Computer and data processing services were taxable from August 1, 1977 through June 30, 1978 (s. 77.52 (2) (a) 13, Wis. Stats.). Effective July 1, 1978, these services (including time-sharing, designing or converting systems, programming, consulting, training, reformatting of data and computer printing) are no longer subject to the sales and use tax.

Tax continues to apply to all sales of tangible personal property (including canned and custom programs) as described in Technical Information Memorandum S-38.4, entitled "Automatic Data Processing". This memorandum also describes how keypunching, verifying and producing a computer printout from information on keypunch cards are nontaxable services (except for the period August 1, 1977 to July 1, 1978), based on the Wisconsin Supreme Court decision in Janesville Data Center, Inc. v. Dept. of Revenue (Case No. 75-825, dated June 30, 1978). For a copy of TIM S-38.4 write to the Wisconsin Department of Revenue, Technical Services Staff, 201 East Washington Avenue, Madison, Wisconsin 53702.

Persons who have reported the 4% tax on the gross receipts from providing keypunching and keystroke verification services before August 1, 1977 or after June 30, 1978 may be entitled to refunds of such tax for periods open to adjustment under the law. Refund claims can be filed with the department's Compliance Bureau, Post Office Box 8902, Madison, Wisconsin 53708.

**2. Shoppers Guides.** The gross receipts from the sales of shoppers guides became exempt on July 1, 1978. Under the law, this exemption applies to shoppers guides which distribute no less than 48 issues of the publication in a 12-month period. Shoppers guides are defined as a community publication delivered, or attempted to be delivered, to most of the households in its coverage area without a required subscription fee, which advertises a broad range of products and services offered by several types of businesses and individuals.

**3. Mobile Homes.** The occasional (nonretailer) sales of mobile homes 45 feet or more in length became exempt from the sales and use tax effective July 1, 1978. Retailers'

sales of such mobile homes continue to be subject to the tax.

**4. Admissions to State Parks and Forests.** An exemption was enacted for the gross receipts from admission fees to state parks and forests. The exemption is scheduled to expire on December 31, 1979.

**5. Railroad Lubricants.** Sales of lubricants for railway rolling stock used in railroad operations became exempt on July 1, 1978.

**6. Maple Syrup Equipment.** The gross receipts from the sales of equipment used in the production of maple syrup also became exempt on July 1, 1978.

**7. Meat Wrapping Supplies.** Chapter 368, Laws of 1977, effective May 20, 1978, enacted a sales and use tax exemption for meat and meat product packing, packaging and shipping materials, regardless of whether or not such items are used to transfer meat or meat products to customers.

**8. Retirement Home Meals.** Chapter 250, Laws of 1977, effective April 25, 1978, added a sales tax exemption for meals, food, food products and beverages sold by retirement homes. A retirement home, for purposes of the exemption, means a nonprofit residential facility where three or more unrelated adults or their spouses have their principal residence and where support services, including meals from the common kitchen, are available to residents.

## PARKING AND STORAGE

Providing parking space for motor vehicles and aircraft or providing docking or storage space for boats for a consideration are services subject to the sales tax. The gross receipts from providing storage, other than boat storage, such as fur coat storage, food storage, locker space charges, cloakroom charges, and safe deposit box charges are not subject to the sales tax. However, the charge for cleaning and glazing a fur coat is taxable, even though the storage charge is not taxed.

"Parking" of a motor vehicle or aircraft implies the unit is readily available and capable of being used on short notice. "Storage" implies the unit is put away for a considerable period of time and is not ready or available for immediate use.

Section 77.52 (2) (a) 9, Wis. Stats., imposes the sales tax on the gross receipts from providing parking space for motor vehicles. Therefore, if a separate charge for parking is made,

the charge is taxable. However, if a separate charge is not made and the price of a rental unit includes a charge for parking, and if similar rental units are rented at a reduced price if the parking is not utilized, the difference between the rental price of the two similar units is taxable as a charge for parking.

### FARMER'S PURCHASES

The sales and use tax law provides a number of exemptions for sales of specified types of items to persons who are engaged in farming, agriculture, horticulture and floriculture as a business enterprise. The farmer making an exempt purchase must furnish a signed "Farmer's Exemption Certificate" (Form S-206) to the supplier to claim an exemption.

Section 77.54 (3), Wis. Stats., contains an exemption for a farmer's purchases of tractors and machines, including accessories, attachments and parts therefor which are used directly in farming.

(a) A machine "part" includes a durable unit of definite fixed dimensions, such as batteries, tires, spark plugs, tractor cabs, cab radios, canvas covers, oil filters and slow moving vehicle signs.

(b) The "parts" exemption does not apply to fluids (e.g., antifreeze, motor oil and other lubricants), or to milk filters which must be replaced every time a machine is used.

(c) The exemption also does not apply to highway motor vehicles and highway trailers, or the parts, supplies and repairs of such highway vehicles.

The sales and use tax law (s. 77.54 (3m), Wis. Stats.) also provides an exemption for a farmer's purchases of seeds for planting, plants, feed, fertilizer, soil conditioners, sprays, pesticides, fungicides, breeding and other livestock, poultry, farm work stock, baling twine and baling wire, and containers for fruits, vegetables, grain and animal wastes.

(a) "Feed" includes medicated feed or drug carriers purchased for use as an ingredient of medicated feed, the primary purpose of which is the prevention of disease in livestock or poultry. "Feed" does not include a mixture labeled and sold for specific treatment or cure of a disease. Medicines (including antibiotics) which are administered to animals or poultry, either directly or as an additive to drinking water, are taxable.

(b) "Fertilizer" and "soil conditioners" do not include fill dirt, top soil, wood chips, wood shavings, litter and hormone growth stimulants.

(c) "Sprays", "pesticides" and "fungicides" include disinfectant sprays, fly sprays and preparations used to destroy insects, mites, nematodes, slugs or other invertebrate animals injurious to plants and animals; and chemicals used for crop disease, pest and weed control, including insecticides, rodenticides and pesticides used to sanitize and clean dairy equipment. Products used to sanitize dairy equipment are exempt, if they are registered as a pesticide or fungicide with the Wisconsin Department

of Agriculture, Trade and Consumer Protection under s. 94.68, Wis. Stats.

(d) "Containers for fruits, vegetables, grain and animal wastes" includes any kind of personal property which is purchased exclusively for holding or storing fruit, vegetables, grains or animal wastes. Feed carts designed to hold various green and dry feeds, and silos (and the materials used to build silos) are not exempt.

The gross receipts from sales of the following items to farmers are common examples of sales subject to the sales and use tax:

(a) Tools used in construction or in making repairs to real estate or farm machinery, such as block and tackle sets, chain hoists, cutters, electric drills, hammers, hand tools, planers, sharpeners, sanders, saws and wheelbarrows.

(b) Building materials used to repair or improve real estate, such as cement, drain tile, fencing, light fixtures, lumber, nails, stanchions and underground and fixed-in-place water supply systems.

(c) Applicators for insecticides (nonpowered), cattle chutes, farrowing crates, feed carts, fire extinguishers, flood gates, gravity flow feeders (nonpowered), saddles and bridles, incinerators, lawn and garden tractors, portable calf stalls, rope and cable, scales, self-treating stations (oilers), snowmobiles, stationary salt and mineral feeders.

The information in this article is found in rule Tax 11.12, entitled "Farming, agriculture, horticulture and floriculture". Because of space limitations, only a small portion of the information in the rule is reproduced here. For a copy of the rule, write or call your nearest Department of Revenue office or write to the Wisconsin Department of Revenue, Technical Services Staff, 201 East Washington Avenue, Room 428, Madison, Wisconsin 53702.