



# TAX REPORT

SALES / USE TAX

WISCONSIN DEPARTMENT of REVENUE

SEPTEMBER, 1979

## NEW LEGISLATION: SALES TAX EXEMPTION FOR FUEL AND ELECTRICITY

### Electricity and Natural Gas (6 Month's Exemption)

Effective November 1, 1979, the gross receipts from sales of electricity and natural gas for residential use, and electricity for use in farming, are exempt if sold during the months of November through April each year. Sales during the remaining six months of the year (May through October) are subject to the tax.

For purposes of this exemption, electricity or natural gas is considered sold at the time of the billing. If the billing is mailed, the date of the mailing is considered the time of billing.

### Exemption For Other Fuels (12 Month's Exemption)

Effective July 1, 1979, the gross receipts from sales of fuel oil, propane, coal, steam and wood used for fuel in a person's permanent residence are exempt from the sales tax. The sales of these fuels are exempt all twelve months of the year.

For purposes of this exemption, fuel oil, propane, coal, steam and wood sold for fuel are considered sold at the time they are transferred from the seller to the purchaser. For example, if the seller delivered fuel oil into the supply tank of the purchaser on July 5, 1979, the fuel oil was considered sold on July 5, regardless of when the bill was given to the purchaser or when the bill is paid.

### What is Residential Use?

The phrase "residential use" means use in a structure or portion of a structure which is a person's permanent residence. For example, electricity, natural gas, fuel oil, propane, coal, steam or wood used in a person's home (which is used as his or her permanent residence) for hot water heaters, stoves, lights, appliances and heat (including wood for fireplaces) are exempt from the sales and use tax.

However, gross receipts from sales of electricity, natural gas, fuel oil, propane, coal, steam and wood which is sold for the following purposes are not exempt from the sales and use tax if used as follows:

- a. For commercial or business purposes.
- b. In "transient accommodations" (i.e., rooms or lodging available to the public for a fee for a continuous period of less than one month) or other places that are not a person's

permanent residence. Common examples of such taxable use in buildings such as hotels, motels, inns, tourist homes, tourist houses or courts, lodging houses, summer camps, resort lodges and cabins.

- c. In motor homes, travel trailers or other recreational vehicles.

### When Exemption Certificates Are Not Required

A seller of electricity or natural gas is not required to obtain exemption certificates from purchasers for sales of electricity or natural gas if the sales are (1) 100% for exempt use; and (2) to accounts which are properly classified as residential or farms pursuant to schedules which are filed for rate tariff purposes with the Wisconsin Public Service Commission and which are in force at the time of the sales, or to accounts which are properly classified as residential or farms for classification purposes as directed by the federal Rural Electrification Administration.

A seller of fuel oil, propane, coal, steam and wood is not required to obtain an exemption certificate from a purchaser if 100% of the fuel sold to such purchaser is for residential use and if the seller maintains adequate records to identify which such sales are exempt. This policy is effective July 1, 1979, and thereafter.

### When Certificates Are Required

If the sale of fuel or electricity is partially exempt, the seller must obtain an exemption certificate. The purchaser should indicate on the certificate the percentage of the fuel or electricity sold which is for an exempt use. The seller will then not be liable for the sales tax on the exempt portion. The purchaser should either calculate or reasonably estimate the percentage which is attributable to exempt use. Any reasonable method of estimating exempt use is acceptable.

For example, fuel is sold to the owner of a building, the lower level of which is used to conduct a business and the upper level of which is used as a person's permanent residence. An allocation between exempt and taxable use must be made. In this situation, the purchaser must estimate the percentage of fuel for exempt (residential) use. If the heat produced is evenly used throughout the building, the fuel for residential use may be calculated by comparing total number of square feet comprising the residential portion of the building to the total number of square feet in the building, or by using any reasonable method of estimate.

To obtain copies of the exemption certificates or if you have questions about this exemption, you may write: Wisconsin

Department of Revenue, Compliance Bureau, P.O. Box 8902, Madison, WI 53708 or call (608) 266-2776.

### WISCONSIN'S USE TAX

Each of the 45 states with a sales tax has a use tax to complement the sales tax. Without a use tax consumers could make purchases out-of-state to avoid paying tax.

The Wisconsin use tax is imposed by s. 77.53 Wis. Stats. and is a tax upon the storage, use or other consumption of property that is purchased from any retailer for storage or use in Wisconsin. Its common application is to property purchased out-of-state for use in Wisconsin. It does not apply when the purchaser has paid the 4% Wisconsin sales tax. The amount of sales tax paid to the other state in which the purchase was made may be claimed as a credit against the 4% Wisconsin use tax due.

Many large out-of-state companies making sales and shipments into Wisconsin are registered with the Wisconsin Department of Revenue to collect the Wisconsin 4% tax. If they are collecting the Wisconsin tax, it should appear as a separate item on the invoice in accordance with the law.

If the Wisconsin tax is not billed separately on the invoice, the buyer should report the tax directly to the department on line 7 of a Sales and Use Tax Return, or on a Consumer Use Tax Return. In such cases, the buyer should not add the tax to the invoice amount and pay the tax to the seller.

If taxable property is purchased for resale and a Resale Certificate is issued by the purchaser, the use tax applies if there is any use of the property other than demonstration or display while holding it for resale in the regular course of business. The use tax also applies when a purchaser certifies in writing to a seller that the property purchased entitles the seller to regard the sale as exempt from tax, and then the property is used in some other manner or for some other purpose.

### REPAIRING PROPERTY AFFIXED TO REALTY

Persons who make repairs must pay sales 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 the 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, dishwashers, 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 and 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.

Although these services are subject to the tax, charges for labor or services used in installing property which constitutes a capital improvement of real property are not taxable. For example, the charge for totally replacing a furnace or boiler is not taxable, even though the service of repairing a furnace or boiler is subject to the tax.