



# TAX REPORT

SALES / USE TAX

WISCONSIN DEPARTMENT of REVENUE

SEPTEMBER 1980

## NEW FORM FOR REPORTING SALES TAX ON MOTOR VEHICLE TRANSFERS

Effective June 2, 1980 the required sales and use tax information relating to transfers of motor vehicles, trailers, semi-trailers and mobile homes became a part of Department of Transportation Form MV-1-80, Application For Title/Registration.

This new form should be used both for sales by dealers and sales between individuals. It replaces Department of Revenue forms S-109, "Motor Vehicle Dealer Statement of Tax Payment," and ST-10 "Sales and Use Tax Return-Occasional or Non-Wisconsin Motor Vehicle, Mobile Home, Trailer or Semi-Trailer Sale."

This new Form MV-1-80 may be obtained by writing to: Department of Transportation, General Services Warehouse, 3623 Pierstorff Street, Madison, Wisconsin 53704 or to any Department of Revenue office.

## ARE YOU LIABLE FOR WISCONSIN 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.

## BUYING A BUSINESS-SUCCESSOR'S LIABILITY

If you plan to acquire an existing business or stock of goods as a "successor," you can be held liable for the sales tax liability of the prior owner, unless a clearance certificate is obtained from the Department of Revenue stating that no taxes are due from the prior owner. The letter requesting the certificate should include the name and address of the prior owner and the new owner of the business. Address the letter to: Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708.

Caution: You should withhold from the purchase price a sufficient amount to cover any possible sales and use tax liability of the prior owner until you have received the clearance certificate from the department.

## BODY SHOP OPERATOR'S PURCHASES

Motor vehicle body repair shops and other persons repairing motor vehicles may purchase for resale without tax any tangible personal property which is physically transferred to the customer's vehicle and which leaves the repair facility with the repaired vehicle. Such property includes paints, paint hardeners, plastic fillers, welding rods and auto parts. When purchasing such property, a resale certificate should be given by the purchaser to the seller.

However, the tax applies to the sales of supplies to motor vehicle body repair shops and other persons repairing motor vehicles. "Supplies" as that term is used in this industry, refers to those items which do not become a component part of the refinished article. Examples of such taxable supplies include: sandpaper, masking paper and tape, buffing pads, lacquer and paint thinner, cleaning and glazing compound, disc pads, paint remover, paint masks, tack rags, steel wool, industrial gases, metal conditioner, brushes, lacquer removing solvent, rubbing compound, wax and

grease remover, fluxing materials, disc adhesive and all other items not physically transferred to the customer's vehicle.

### **CONSTRUCTING BUILDINGS FOR EXEMPT ENTITIES (Governments, schools, churches, etc.)**

Sales tax inquiries have been received from contractors about constructing buildings for exempt entities. Reproduced below is rule Tax 11.04 which explains how the sales and use tax law applies to such construction activities.

**Tax 11.04 Constructing buildings for exempt entities.** (ss. 77.51(4) and (18), 77.54(9a) and 77.55(1), Stats.) (1) **DEFINITION.** In this rule, "exempt entity" means a person qualifying for an exemption under ss. 77.54(9a) or 77.55(1), Stats. Section 77.54 (9a) provides an exemption for sales to this state or any agency thereof, or any county, municipality as defined in s. 41.02(4), school district or other political subdivision; any corporation, community chest fund, foundation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals. Section 77.55 (1) provides an exemption for sales to the United States, its unincorporated agencies and instrumentalities, and any unincorporated agency of instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

(2) **TAXABLE GROSS RECEIPTS.** Sales of building materials to contractors or subcontractors used in the construction of buildings

or structures, or the alteration, repair or improvement of real property for exempt entities, are subject to the tax.

(3) **PURCHASES PRESUMED TAXABLE.** When a contractor and an exempt entity enter into a construction contract to improve real property, which provides that the contractor is to furnish the building materials, it is presumed until the contrary is established, that deliveries of building materials to the contractor are made pursuant to purchases made by the contractor.

(4) **SUPPLIER IS CONTRACTOR.** A supplier, who is also the contractor who uses the building materials in the construction of buildings or structures, or the alteration, repair or improvement of real property for an exempt entity, is the consumer of such building materials, not the seller of personal property to the exempt entity. The sale of building materials to the consumer is subject to the tax.

(5) **EXEMPT GROSS RECEIPTS.** A supplier's sales of building materials made directly to an exempt entity are not taxable, even though such tangible personal property is used by the contractor in the erection of a building or structure, or in the alteration, repair or improvement of real property for the exempt entity. Suppliers of building materials may presume that a sale is made directly to an exempt entity if the supplier receives a purchase order from the exempt entity, and payment for such building materials is received from the exempt entity.