



# TAX REPORT

SALES/USE TAX

WISCONSIN DEPARTMENT OF REVENUE

JUNE 1981

## DON'T FORGET TO REPORT USE TAX ON FORM ST-12

The Department of Revenue's auditing of businesses indicates that failure to properly report use tax is still the most common error on sales and use tax returns. Before you file your Form ST-12, make sure your use tax is correctly reported on lines 7 and 8 of the return. The March 1981 issue of the **Tax Report** explains how to report use tax on the newly designed sales and use tax return, Form ST-12. If you have questions about sales or use tax, you may contact any Department of Revenue office for free assistance.

## NEW PUBLICATION FOR ELECTRICAL CONTRACTORS

The Department recently published a new publication entitled "How Electrical Contractors Determine Their Wisconsin Sales and Use Tax" (Publication 200). It contains general information about the sales and use tax law as it affects electrical contractors. Also included are examples of when an electrical contractor is acting as a retailer selling tangible personal property, as compared to acting as a consumer in improving realty and the sales/use tax application to such transactions. It should be helpful to persons in the electrical contracting business and to their tax practitioners.

If you want a free copy of this publication, write to Technical Services Staff, Department of Revenue, P.O. Box 8910, Madison, WI 53708.

## STATUS REPORT ON 1981 SALES/USE TAX LEGISLATION

As of May 15, 1981 the Wisconsin Legislature had not enacted any new sales and use tax laws in 1981. However, the legislature was still in session as of May 15 and a number of bills have been introduced relating to sales and use tax. If any of these bills are enacted into law, they will be reported to you in the September 1981 issue of the **Tax Report**.

## MOTOR VEHICLE RULE IS CHANGED

Administrative rule Tax 11.83, entitled "Motor Vehicles" has been amended. The major change in this rule relates to vehicles used by licensed Wisconsin retail motor vehicle dealers. Prior to the amendment, the rule provided that if sales persons use a licensed dealer's motor vehicles for purposes in addition to retention, demonstration or display, the dealer may charge the salesperson a reasonable amount for such use, and such charge is subject to the tax. However, in lieu of making such charge or reporting the tax on the cost of the vehicle, the dealer may report the tax on the following basis through June 30, 1981.

(1) For motor vehicles licensed in the name of the dealer, the tax was \$1.35 per month.

(2) For motor vehicles operated with dealer plates, the tax was \$.35 per month for each plate issued to the dealer.

As a result of the amendment to rule Tax 11.83, effective July 1, 1981 the rate is changed from \$1.35 to \$2.25 per month. For vehicles operated with dealer plates, the tax is increased from \$.35 per month to \$.60 per month.

## POINT OF SALE OF TAXABLE SERVICES AND CREDIT FOR TAXES PAID OTHER STATES

The imposition of the sales or use tax on taxable services depends upon the place of delivery or use of the property on which the service is performed, and not upon where the taxable service is performed. The following are examples:

1. A dry cleaner located in Beloit, Wisconsin has a pick-up route, including territory in Illinois. The receipts from dry cleaning or laundry services of clothing picked up in Illinois and returned to Illinois by the dry cleaner are not subject to the Wisconsin 4% tax, even though the actual service is performed in Wisconsin. In the opposite situation (i.e., Illinois dry cleaner selling in Wisconsin), the charges made to Wisconsin customers for dry cleaning are taxable.
2. An Iowa customer brings a television to a Wisconsin repair shop. When the Wisconsin repairman delivers the television to the customer in Iowa, it is a non-Wisconsin sale and not taxable. If the television is picked up by the customer in Wisconsin, the Wisconsin 4% tax applies.
3. An aircraft of a Wisconsin resident requires repairs in a neighboring state which has a 3% tax rate, and in which only the repair parts (not labor) are taxed. The person incurs a 4% Wisconsin use tax on the entire repair charge (including parts and labor) upon returning the aircraft to Wisconsin, against which may be credited the tax paid in the neighboring state. If the repairs are performed in another state with a tax rate that is 4% or more (and only parts are taxed), Wisconsin is entitled to a 4% tax on the repair labor.

### Example:

	Wis. 4% Tax Rate	Purchases in Other States			
		5% Tax Rate	3% Tax Rate	5% Tax Rate	3% Tax Rate
	Tax Paid Other State	Add'l. Wis. Tax Due	Tax Paid Other State	Add'l. Wis. Tax Due	
Repair part: \$2,000	\$ 80	\$100	\$ 0	\$60	\$20
Repair labor: \$1,000	40	0	40	0	40
Totals	<u>\$120</u>	<u>\$100</u>	<u>\$40</u>	<u>\$60</u>	<u>\$60</u>

## GIFT WRAPPING CHARGES

Charges for gift wrapping packages for customers are subject to the sales tax. The charge is taxable, regardless of whether the gift wrapping is done by a person that sold the gift to the customer, or by a person whose only business is gift wrapping.

## VACATION SHARE INTERESTS

In recreational areas some persons sell rights to use a vacation home for a specified period of time each year. Usually the agreement is in effect for a long period of time and the purchaser obtains the right to use the vacation home for one or two weeks each year during the same period of every year. Under these circumstances, the purchaser does not acquire any interest in the real estate, as title remains with the person selling the rights to use the vacation home. The gross receipts from the sale of such vacation share interest are taxable under s. 77.52(2)(a)1, Wis. Statutes, as the furnishing of rooms or lodging to transients.

## 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 to pay the 4% sales tax on their gross receipts.

## KEEPING AWARE OF NEW SALES/USE DEVELOPMENTS

How can you keep aware of new laws, interpretations and other new developments relating to Wisconsin sales and use tax. One means is to read this **Tax Report** which is sent to all persons holding a seller's permit. It is published in March, June and September of each year. In addition to the **Tax Report**, other information which may be helpful to you is the **Wisconsin Tax Bulletin** and administrative rules.

**Wisconsin Tax Bulletin.** This bulletin, which is prepared by the Department of Revenue, provides current information on various tax matters of interest to taxpayers and tax practitioners. It not only relates to sales and use tax, but also to income, corporate franchise, inheritance, gift, motor fuel, cigarette and liquor taxes. It includes information about new tax laws, interpretations of factual situations, new forms, significant court decisions and other topics.

Generally four issues are published each year. It is available to anyone on an annual subscription basis at a cost of \$5.20 per year. If you wish to subscribe, send the appropriate sum to Department of Administration, Document Sales Section, 202 South Thornton Avenue, Madison, WI 53702.

**Administrative Rules.** Rules of the Department of Revenue are a part of the Wisconsin Administrative Code. Rules interpret the sales and use tax law as well as other Wisconsin tax laws and have the force and effect of law. They are available on a subscription basis from the Department of Administration, Document Sales Section, 202 South Thornton Avenue, Madison, WI 53702. Existing rules may be obtained for \$3.12. For an additional \$3.12 annually, an update service is provided which includes all new Department of Revenue rules and changes to existing rules.

Listed below are the sales and use tax rules currently in effect.

## SALES AND USE TAX RULES

### General Provisions

- Tax 11.001 Definitions and use of terms
- Tax 11.01 Sales and use tax return forms

### Exempt Entities

- Tax 11.03 Elementary and secondary schools and related organizations
- Tax 11.04 Constructing buildings for exempt entities
- Tax 11.05 Governmental units

### Exemptions

- Tax 11.08 Medical appliances, prosthetic devices and aids
- Tax 11.09 Medicines
- Tax 11.10 Occasional sales
- Tax 11.11 Waste treatment facilities
- Tax 11.12 Farming, agriculture, horticulture and floriculture
- Tax 11.13 Sale of a business or business assets
- Tax 11.14 Exemption certificates (including resale certificates)
- Tax 11.15 Containers and other packaging and shipping materials
- Tax 11.16 Common or contract carriers
- Tax 11.17 Hospitals, clinics and medical professions
- Tax 11.18 Dentists and their suppliers
- Tax 11.19 Printed material exemption

### Gross Receipts

- Tax 11.26 Other taxes in taxable gross receipts and sales price
- Tax 11.27 Warranties
- Tax 11.28 Gifts, advertising specialties, coupons, premiums and trading stamps
- Tax 11.29 Leases and rentals of tangible personal property
- Tax 11.30 Credit sales, bad debts and repossessions
- Tax 11.32 "Gross receipts" and "sales price"

### Manufacturers and Producers

- Tax 11.38 Fabricating and processing
- Tax 11.39 Manufacturing
- Tax 11.40 Exemption of machines and processing equipment
- Tax 11.41 Exemption of property consumed or destroyed in manufacturing

### Types of Retailers

- Tax 11.45 Sales by pharmacies and drug stores
- Tax 11.46 Summer camps
- Tax 11.47 Commercial photographers and photographic services
- Tax 11.48 Landlords, hotels and motels
- Tax 11.49 Service station and fuel oil dealers
- Tax 11.50 Auctions
- Tax 11.51 Grocers' guidelist
- Tax 11.52 Coin-operated vending machines and amusement devices
- Tax 11.53 Concessionaires
- Tax 11.54 Temporary amusement, entertainment, or recreational events or places
- Tax 11.55 Agents, consignees, lienors and brokers
- Tax 11.57 Public utilities

### Service Enterprises

- Tax 11.61 Veterinarians and their suppliers
- Tax 11.62 Barbers and beauty shop operators
- Tax 11.63 Radio and television stations
- Tax 11.64 Background music
- Tax 11.65 Admissions
- Tax 11.66 Communication and CATV services
- Tax 11.67 Service enterprises
- Tax 11.68 Construction contractors
- Tax 11.69 Financial institutions
- Tax 11.70 Advertising agencies
- Tax 11.72 Laundries, dry cleaners, and linen and clothing suppliers

### Types of Tangible Personal Property

- Tax 11.78 Stamps, coins and bullion
- Tax 11.79 Leases of highway vehicles and equipment
- Tax 11.80 Sales of ice
- Tax 11.81 Industrial gases, welding rods and fluxing materials
- Tax 11.82 Mailing lists and mailing services
- Tax 11.83 Motor vehicles
- Tax 11.84 Aircraft
- Tax 11.85 Boats, vessels and barges
- Tax 11.86 Utility transmission and distribution lines
- Tax 11.87 Meals, food, food products and beverages
- Tax 11.88 Mobile homes

### Administrative Provisions

- Tax 11.91 Successor's liability
- Tax 11.92 Records and record keeping
- Tax 11.93 Annual filing of sales tax returns
- Tax 11.94 Wisconsin sales and taxable transportation charges
- Tax 11.95 Retailer's discount
- Tax 11.96 Interest rates
- Tax 11.97 "Engaged in business" in Wisconsin
- Tax 11.98 Reduction of delinquent interest rate under s. 77.62(1), Stats.