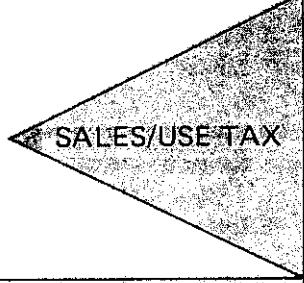


TAX REPORT



WISCONSIN DEPARTMENT OF REVENUE

SEPTEMBER 1981

NEW SALES/USE TAX LAWS ENACTED

The 1981-83 budget bill (Chapter 20, Laws of 1981) which was signed by the Governor on July 29, 1981 and was published July 30, 1981, contains the following items relating to sales/use taxes:

- 1. **Retailers Discount Changed** (Create 77.61(4)(c), effective for sales and use taxes payable on returns filed for taxable years beginning on or after January 1, 1983.)

Retailers will receive a 2% discount on the first \$10,000 of their sales and use tax payable during the taxable year, a 1% discount on the 2nd \$10,000 of tax payable and a .5% discount on sales and use tax payable which exceeds \$20,000 during the taxable year, if the payment of the taxes was not delinquent.

For example, if a person had \$8,000 of sales and use tax payable for the entire taxable year, such retailer would be entitled to a total discount of \$160 for the entire year, assuming the entire \$8,000 was paid by the due date (\$8,000 x 2% = \$160 discount). If only \$3,000 was paid timely and \$5,000 was delinquent, the retailer would only be entitled to a 2% discount on the \$3,000 which was paid timely.

If a retailer had tax payable of \$60,000 for the entire taxable year the retailer's discount would be as follows, assuming all \$60,000 was paid by the due date:

\$10,000	\$10,000	\$40,000
x 2%	x 1%	x .5%
<u>\$ 200</u>	<u>\$ 100</u>	<u>\$ 200</u>

The total discount allowed this retailer for the entire taxable year would be \$500 (\$200 on the first \$10,000 of tax payable, \$100 on the 2nd \$10,000 of tax payable and \$200 on the remaining \$40,000). However, if \$6,000 of the first \$10,000 of tax payable during the year was delinquent, the retailer would only get the 2% discount on \$4,000 of the first \$10,000 of sales and use tax payable, plus the 1% on the 2nd \$10,000 and .5% discount on the \$40,000 which was paid by the due date.

- 2. **Define When Sales and Use Tax Returns and Other Actions are Timely Filed** (Amend 77.52(11)(b), 77.58(1)(b) and 77.59(4) and (6), create 77.58 (2)(c) and 77.61 (14), effective July 31, 1981.)

Sales and use tax returns, payments, claims for refund and appeals will be considered timely furnished, filed or made if they are mailed in a properly addressed envelope with the postage duly prepaid, if the envelope is post-marked before midnight of the due date and if the document or payment is received by the Department of Revenue within five days after the prescribed date.

- 3. **Exempt All Fuels Converted to Electric Energy, Gas or Steam** (Amend 77.54(6)(c), effective October 1, 1981.)

All fuels converted to electric energy, gas or steam by utilities and that portion of the amount of fuel converted to steam for purposes of resale by persons other than utilities will be exempt from the sales/use tax. Prior law limited such exemption to coal, oil and gas and nuclear material, rather than all fuels.

- 4. **Exempt Corporate Reorganizations** (Amend 77.51(4g)(e) and (f), create 77.51(4g)(g), effective for transfers occurring on or after July 31, 1981.)

The transfer of property in a reorganization in which no gain or loss is recognized for Wisconsin franchise or income tax purposes under ss. 71.301 to 71.368 will also be exempt from the sales and use tax.

- 5. **Define "Substantially Similar" in Section 77.51(10)(b)** (Rename 77.51(10)(b) to 77.51(4g)(h) and amend 77.51(4g)(h), effective July 31, 1981.)

Under existing law, any transfer of all or substantially all of property held or used by a person in the course of an activity requiring the holding of a seller's permit is exempt from sales and use taxes if after the transfer the ownership of property is "substantially similar" to that which existed before the transfer. The new law defines "substantially similar" in s. 77.51(4g)(h) to mean "80% or more of ownership".

- 6. **Exemption for Metropolitan Sewerage Districts** (Amend 77.54(9a)(d), effective October 1, 1981.)

A metropolitan sewerage district organized in a county having 500,000 or more population (pursuant to s. 59.96) may purchase tangible personal property or taxable services without paying the sales or use tax.

7. Exempt Aviation Fuel (Amend 77.54(11), effective January 1, 1982.)

Sales of aviation fuel sold for general aviation use will no longer be subject to sales or use tax.

8. Interest Rate Increased to 12% (Amend 77.60(1), effective for determinations or other actions made by the Department of Revenue on or after August 1, 1981 regardless of the taxable period to which they pertain.)

The interest rate on additional taxes resulting from sales/use determinations has increased from 9% to 12% per year. Interest during an extension of time to file a sales/use tax return has also increased to 12% per year.

**REMINDER - SALES TAX ANNUAL INFORMATION
RETURN NOT REQUIRED FOR 1981**

Beginning with the 1981 tax year, retailers will no longer have to file Form ST-12A, Sales Tax Annual Information Return. Eliminating the filing of this form for the 1981 tax year and thereafter resulted from legislation enacted in 1980.

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

Failure to properly report use tax is 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 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.

CARPETING INSTALLATIONS

The sale and installation of wall-to-wall carpeting on the customer's property constitutes a real estate improvement. The gross receipts from the sale of such carpeting and the installation charge to the customer are not subject to the tax.

The Attorney General of Wisconsin and the Office of Consumer Protection of the Wisconsin Department of Agriculture indicate that it is an **unfair trade practice** to illegally collect tax from customers when the gross receipts from the transaction are not taxable under the law. Any retailers improperly collecting tax on the sale and installation of carpeting which becomes a real estate improvement should discontinue this practice.

A person (seller) who sells and installs carpeting which becomes a real estate improvement, whether the installation is performed by the seller's employees or by an independent subcontractor hired by the seller, is the consumer of the carpeting and other materials used in such installation. The sales and use tax applies to the sale of tangible personal property (carpeting) to the seller. The 4% tax is measured by the seller's purchase price of such property, and not by gross receipts received from the customer for the price of the carpet and its installation.