

# TAX REPORT

## RETAILER'S DISCOUNT ON SALES AND USE TAX RETURN - FORM ST-12

Retailers are entitled to a 2% discount on the first \$10,000 of their sales and use tax payable on retail sales during the taxable year, a 1% discount on the 2nd \$10,000 of tax payable and a 1/2% discount on sales and use tax payable which exceeds \$20,000 during the taxable year. The discount is not allowed if the tax is paid after the due date for payment.

Example 1: A retailer filing returns on a quarterly basis for the calendar year 1984 has \$2,000 of sales and use tax payable each quarter for 1984 (total tax of \$8,000 for 1984). This retailer is entitled to a total discount of \$160 for 1984, assuming all of the \$8,000 tax was paid by the due dates. (\$8,000 x 2% = \$160 discount).

However, if only \$6,000 tax due was paid by the due dates and the tax of \$2,000 shown on the fourth quarter return was paid after the due date, the \$40 discount would not be allowed on that late tax payment of \$2,000. A discount of \$120 (\$6,000 x 2% = \$120) would be allowed on the total tax of \$6,000 which was paid by the due dates of the 1st, 2nd and 3rd quarter returns (\$2,000 tax timely paid with each of these 3 returns).

Example 2: A retailer had tax payable of \$60,000 for the entire 1984 calendar year. The retailer's discount would be computed as follows, assuming all \$60,000 was paid by the due dates:

|                  | 1st \$10,000<br>Tax Payable | 2nd \$10,000<br>Tax Payable | Tax Exceeding<br>\$20,000 |
|------------------|-----------------------------|-----------------------------|---------------------------|
| Tax Payable      | \$10,000                    | \$10,000                    | \$40,000                  |
| Rate of Discount | x 2%                        | x 1%                        | x .5%                     |
| Discount         | <u>\$ 200</u>               | <u>\$ 100</u>               | <u>\$ 200</u>             |

The total discount allowed this retailer for 1984 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 1984 was not paid by the due dates, the retailer would only receive the 2% discount on \$4,000 of the first \$10,000 of sales and use tax payable, plus the 1% discount on the 2nd \$10,000 and 1/2% discount on the \$40,000 which was paid by the due dates. The total discount for 1984 would be \$380, computed as follows:

$$\begin{aligned}
 &2\% \times \$ 4,000 = \$ 80 \\
 &1\% \times \$10,000 = \$100 \\
 &1/2\% \times \$40,000 = \$200 \\
 \text{Total Discount for 1984} & \quad \underline{\$380}
 \end{aligned}$$

## DRY CLEANERS' AND LAUNDRIES' PURCHASES

Effective September 1, 1983, retailers such as laundries and dry cleaners must pay tax on their purchases of all items transferred to customers "incidentally" in providing laundry and dry cleaning services (see definition of "incidentally" below). This includes items which are transferred to customers with clean linen or clothes such as hangers, handkerchiefs, bags, boxes, shirt boards, shoulder guards, twisters and pins. If a retailer had these items in inventory on August 31, 1983, which were purchased without tax under the law in effect before September 1, 1983, the retailer is liable for use tax on such inventory items at the time they are transferred to customers on or after September 1, 1983.

Retailers such as laundries and dry cleaners also continue to be the consumers of, and must pay tax on purchases of, solvents, soaps, detergents, spotting compounds, water repellents, disinfectants, fabric softeners, starch, dyes, mat compounds, fire repellent compounds and marking tags which they use for laundering, dry cleaning or identification purposes.

("Incidentally" as used above is defined in the law as "depending upon or appertaining to something else as primary; something necessary, appertaining to, or depending upon another which is termed the principal; something incidental to the main purpose of the service. Tangible personal property transferred by a service provider is incidental to the service if the purchaser's main purpose or objective is to obtain the service rather than the property, even though the property may be necessary or essential to providing the service." This definition of incidental is found in s. 77.51(29), Wis. Stats.)

## MANUFACTURING EXEMPTION EXPANDED

### Mobile Manufacturing Units

A new law, 1983 Wisconsin Act 27, contains a provision which expands the definition of "manufacturing" for sales tax purposes to include "mixing and processing if performed in mobile units mounted on trucks or trailers." This new exemption, which became effective September 1, 1983, most commonly applies to redi-mix concrete units on trucks and feed grinding units mounted on trucks.

This new exemption does not apply to the truck chassis, including the motor which propels the vehicle on the highway, because the truck chassis and its motor are used to provide a transportation service. However, the exemption does apply to the mixing unit and accessories mounted on the truck which are used to produce concrete or feed. An example of an accessory exempt from tax is a diesel engine used exclusively to operate a feedmobile mixing unit, if it does not provide any power to move the vehicle on the highway.

The exemption applies to the redi-mix concrete truck's mixing unit whether the truck hauls from a dry mix or wet mix batching plant.

If a complete truck is sold, which has an exempt mixing unit attached, and the agreement between the seller and buyer does not separately set forth the sales price of the exempt mixing unit and the taxable truck chassis, a reasonable allocation shall be made to determine the price relating to each portion.

#### Retreading Tires

On June 2, 1983 in an oral decision involving **Lerman Tire Service Ltd.**, the Wisconsin Tax Appeals Commission held that the process of retreading tires is considered to be manufacturing for sales/use tax purposes. This taxpayer had 5 full time employes and \$100,000 worth of equipment directly and exclusively used in this tire retreading operation. This decision represents a reversal of the Commission's previous conclusions relating to whether tire retreading is manufacturing.

#### OXYGEN EQUIPMENT EXEMPT FROM TAX

Effective September 1, 1983, equipment used to administer oxygen for medical purposes is exempt from the sales/use tax, if the person using the equipment has a written prescription for oxygen. Sales, leases and rentals of oxygen walkers, oxygen concentrators, oxygen containers, and regulators and flow meters used with these devices, are exempt. In addition, the exemption applies to cannula, masks and oxygen supply tubing used with exempt equipment. Cylinder carts used to transport and hold the oxygen container do not qualify for this exemption.

#### NON-SUBSCRIPTION SALES OF PERIODICALS ARE TAXABLE

Effective September 1, 1983, all sales of periodicals not sold by subscription are taxable, regardless of the interval with which they are issued. For example, magazines sold from the magazine rack of a store are taxable, regardless of whether they are issued at weekly, monthly, quarterly or other time intervals. Periodicals sold over-the-counter which are taxable as of September 1, 1983 include the *National Enquirer*, *The Star*, *Sporting News*, *National Examiner*, *Grit*, *Sun*, *Globe*, *Your Health & Medical Bulletin*, *Barrons* and *NBA Today*. (This list is not all inclusive.)

Although newspapers sold over-the-counter or by subscription continue to be exempt, the above named publications do not qualify as "newspapers".

#### NON-TAXABLE GROSS RECEIPTS

Gross receipts from the following types of sales of tangible personal property or services are not subject to the sales/use tax:

1. **Hearing aid batteries.** Sales of batteries for use in hearing aids are exempt. The seller is not required to obtain any type of exemption certificate from the purchaser for this exemption transaction.
2. **Kerosene.** Sales of fuel oil, coal, propane, steam and wood used for fuel and sold for residential use are exempt. Kerosene is included within this exemption because it is a type of fuel oil.

3. **Schools' sales of photocopies.** An elementary or secondary school's sales of photocopies are exempt under s. 77.54(4), Statutes. This exemption does not apply to sales by colleges, universities, vocational, technical and adult education schools or any school that is not an elementary or secondary school.

#### TAXABLE GROSS RECEIPTS

1. **Bartering Receipts.** A restaurant exchanges meals for advertising time on radio and television. The normal selling price of the advertising time is a taxable gross receipt of the restaurant because a retailer's taxable gross receipts are defined in s. 77.51(11)(a), Wis. Statutes, to include sales "valued in money, whether received in money or otherwise".
2. **Installing and Removing Piers.** Many piers are installed in the spring and removed from the water in the fall. While they are in storage during the winter any needed repairs are made. The gross receipts from the installation, removal or repair of piers are subject to the sales or use tax.

#### SALES TO GOVERNMENTAL UNITS AND SCHOOLS

Sales of tangible personal property or taxable services which are purchased directly by and used by the federal or state government, by municipalities or by public schools are not subject to the sales tax, and need not be supported by exemption certificates if a copy of the purchase order received from such exempt entity is retained by the seller. However, sales to employes of these entities are taxable, even though the organization may subsequently reimburse the employe for the expenditure.

#### 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.

#### NEW MOTOR VEHICLE PUBLICATION

The Department recently published a new publication entitled "How Wisconsin Sales and Use Tax Applies to Motor Vehicle Sales, Leases and Rentals" (Publication 202). It provides information about how the sales and use tax law applies to motor vehicle transfers, leases, rentals, repairs, service and maintenance, including examples of taxable and exempt transactions. It should be helpful to motor vehicle dealers and auto repairers.

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