



TAX REPORT

WISCONSIN DEPARTMENT OF REVENUE

NEW SALES AND USE TAX LAWS ENACTED IN 1984

The Wisconsin Legislature recently enacted new sales and use tax laws. This report explains these new laws, with the effective date of each law shown in parentheses after the title.

Exempt Sales of Raffle Contest Tickets (Effective September 1, 1983)

In 1983 the Legislature passed a law imposing the sales tax on raffle contest tickets beginning September 1, 1983. However, a new law (1983 Wisconsin Act 510) enacted in 1984 now provides that the sales of raffle contest tickets are exempt from sales tax, retroactive to September 1, 1983.

This new law also provides that interest or penalties may not be imposed by the Department on any person who failed to apply for a seller's permit during the period raffle contest tickets were taxable, provided the sole requirement for the seller's permit was to sell raffle contest tickets.

In June, 1984 the Department mailed a notice to every organization which applied to the Department of Regulation and Licensing for a raffle license on or after September 1, 1983. This notice explains that any person who paid a sales tax on raffle contest tickets may now file a claim for refund of the tax paid on such tickets. It also explains that any person who obtained a seller's permit for the sole purpose of selling raffle contest tickets may now cancel its permit by returning it to the Department of Revenue with the words "Cancel - Raffle Only" on the permit.

Exempt Waste Reduction and Recycling Machinery and Equipment (Effective July 1, 1984)

Beginning July 1, 1984, there is a new sales/use tax exemption for waste reduction and recycling machinery and equipment (including parts) which are exclusively and directly used for waste reduction and recycling activities which reduce the amount of solid waste generated, reuse,

recycle or compost solid waste, or recover energy from solid waste. (1983 Wisconsin Act 426)

This new law also exempts motor vehicles which are not required to be licensed for highway use and which are exclusively and directly used in conjunction with waste reduction or recycling activities which reduce the amount of solid waste generated, reuse, recycle or compost solid waste, or recover energy from solid waste.

For purposes of this exemption for waste reduction and recycling machinery and equipment and motor vehicles (as provided in s. 77.54(5)(c) and (26m), Wis. Stats.) "solid waste" means garbage, refuse, sludge or other materials or articles, whether these materials or articles are discarded or purchased, including solid, semi-solid, liquid or contained gaseous materials or articles resulting from industrial, commercial, mining or agricultural operations or from domestic use or from public service activities.

Exempt Charges for Copying Public Records (Effective April 27, 1984)

Charges by an "authority" for copying public records under s. 16.61(12) or 19.35(1) are exempt from the sales/use tax. For purposes of this exemption, "public records" include confidential records. Charges for the search of public records are also exempt. (1983 Wisconsin Act 287)

"Authority" (as defined in s. 19.32(1)) means any of the following having custody of a record: a state or local office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; a governmental or quasi-governmental corporation; any court of law; the assembly or senate; a nonprofit corporation which receives more than 50% of its funds from a county or a municipality, as defined in s. 59.001(3), and which provides services related to public health or safety to the county or municipality; or a formally constituted subunit of any of the foregoing.

This law also provides that any person, including an "authority" who, on April 27, 1984 has a liability for sales

taxes for charges for copying records under s. 19.35(1) is absolved of that liability. However, no refunds may be made of sales taxes paid before April 27, 1984 in respect to such charges.

Exempt Periodicals Which are Distributed Without Charge (Effective September 1, 1983)

Periodicals (e.g., magazines such as controlled circulation publications) sold to publishers for distribution without charge or regularly distributed by or on behalf of publishers without charge to the recipient are exempt from the sales/use tax. (1983 Wisconsin Act 498)

Exempt Rentals of Mobile Homes Used for Lodging for One Month or More (Effective July 1, 1984)

The rental of a mobile home used for lodging for a continuous period of one month or more is exempt from sales/use tax, regardless of whether the mobile home is classified as real or personal property. (1983 Wisconsin Act 341) A "mobile home" is defined in s. 66.058(1)(e) as follows:

"'Mobile home' is that which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances, except that a house trailer is not deemed a mobile home if the assessable value of such additions, attachments, annexes, foundations and appurtenances equals or exceeds 50 percent of the assessable value of the house trailer."

Examples of exempt rental receipts under this new law are as follows: (Effective July 1, 1984)

1. A mobile home which is personal property because it is located in a mobile home park or other place, where the land on which the mobile home is located is not owned by the mobile home owner. The rental of this mobile home for lodging purposes on a month to month (or annual) basis is not taxable.
2. A campground operator's mobile home is located in a recreational area where the campground operator also owns the land on which the mobile home is located. The rental of this mobile home for lodging purposes on a month to month (or annual) basis is not taxable.

The following rentals were previously taxable and continue to be taxable:

1. Mobile homes used for lodging which are rented for periods of less than one month, regardless of whether

the mobile home is classified as real or personal property.

2. Mobile homes rented for one month or more, if the mobile home (which is classified as personal property) is used for purposes other than lodging (Examples: temporary classrooms, displays for exhibitors, or offices for contractors).

Property Purchased Without Tax Subject to Sales Tax if Used in Nonexempt Manner (Effective May 10, 1984)

If a purchaser issues an exemption or resale certificate to a seller and then uses the property for a taxable purpose, the purchaser will be liable for payment of the sales tax, rather than a use tax. (1983 Wisconsin Act 405)

Example: A purchaser provides the seller with a resale certificate and therefore buys the desk without payment of any sales or use tax. Rather than reselling the desk, the purchaser ships the desk to its office in Illinois where the desk will be used by the purchaser's employees. Under this new law (1983 Wisconsin Act 405) the purchaser will be liable for payment of Wisconsin sales tax on this desk. Under prior law, the desk would have been subject to use tax except that s. 77.51(16) provided no use tax was owing because the desk was subsequently shipped outside of Wisconsin.

Increase Dollar Amounts Used to Establish Filing Frequency for Sales/Use Tax Returns (Effective for tax years beginning on or after January 1, 1985)

For tax years beginning on or after January 1, 1985, a retailer will file monthly sales/use tax returns if the amount of tax due in any one calendar quarter is more than \$600 (prior law was \$500). If a retailer's sales and use tax liability for any calendar quarter exceeds \$3,600 (prior law was \$3,000), returns will be due by the 20th of the month following the end of the monthly reporting period. (1983 Wisconsin Act 405)

In late 1984, the Department of Revenue will send a written notice to those persons who will have a change in their filing status of sales/use tax returns.