

# TAX REPORT

## CLAIMS FOR REFUND OF SALES/USE TAX

If you overpaid your sales or use tax, you should promptly file a claim for refund with the department. No special form is necessary, but the department has a form which you may use to file a refund claim entitled "Amended Sales and Use Tax Return - Form ST-12X." Copies may be obtained from any department office.

A refund claim must be in writing, must indicate the reporting period in which the overpayment was made and must contain a statement giving the specific grounds upon which it is based. The statement describing the basis of the claim is important because if the claim is disallowed by the department, an appeal of the department's action to the Wisconsin Tax Appeals Commission is limited to the grounds set forth in the original refund claim. The period in which the overpayment was made must be indicated in the refund claim in order to compute interest on the overpayment.

The only person who may apply for a refund is the person who paid the tax to the department. Therefore, persons who have paid the tax to a retailer must obtain any refund they are entitled to through the retailer. The retailer is the person who actually paid the tax to the department, and the one who must apply for the refund.

## CARPET AND FLOOR TILE INSTALLATION

Contractors and subcontractors are the consumers of tangible personal property used by them in real property construction activities (commonly referred to as "realty improvements"), and the sales and use tax applies to the sale of tangible personal property to them. Affixing carpeting or tile permanently to realty is regarded as a real property construction activity.

A person who sells and installs carpeting or tile in a permanent manner, 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, tile, and other materials used in such installation. The 5% tax is

measured by the contractor's purchase price of such property and not by gross receipts received from the customer for the carpet or tile and its installation. (For example, if the contractor's installed price to a customer is \$1,000 and the cost of materials used in the job is \$600, tax is payable on 5% of \$600, or \$30; if the contractor does not pay the \$30 tax to his or her supplier when purchasing the material, the contractor must remit \$30 of tax to the department.)

## FARMER'S PURCHASES

A number of exemptions are allowed for specified types of items purchased by persons engaged in farming, agriculture, horticulture and floriculture as a business enterprise. The farmer making an exempt purchase must furnish a properly completed and signed "Farmer's Exemption Certificate" (Form S-206) to the seller to claim an exemption.

Section 77.54(3), Wis. Stats., contains an exemption for a farmer's purchases of tractors and machines, including accessories, attachments and parts therefor which are used directly in farming.

Exempt accessories, attachments and parts include batteries, tires, spark plugs, tractor cabs, cab radios, canvas covers, oil filters and slow moving vehicle signs. Accessories, attachments and parts do not include supply type items such as fluids (e.g., antifreeze, motor oil and other lubricants), or milk filters which must be replaced frequently or every time a machine is used.

The exemption does **not** apply to (a) highway motor vehicles and highway trailers, or the parts, supplies and repairs of such highway vehicles or (b) building materials used to improve realty, such as cement, drain tile, light fixtures and fencing, including the poles and plastic shade material used in raising ginseng.

The exemption does apply to all-terrain vehicles which are not licensed for highway use if the vehicle is used exclusively in farming.

An exemption is also allowed for a farmer's purchases of seeds for planting, plants, feed, fertilizer, soil conditioners, sprays, pesticides, fungicides, breeding and other livestock, poultry, farm work stock, baling twine and baling wire, and containers for fruits, vegetables, grain and animal wastes.

"Feed" includes medicated feed or drug carriers purchased for use as an ingredient of medicated feed, the primary purpose of which is the prevention of disease in livestock or poultry. "Feed" does not include a mixture labeled and sold for specific treatment or cure of a disease. Medicines (including antibiotics) which are administered to animals or poultry, either directly or as an additive to drinking water, are taxable.

"Fertilizer" and "soil conditioners" do not include fill dirt, top soil, wood chips, wood shavings, litter and hormone growth stimulants but they do include lime spread on the barn floor to reduce odors which is subsequently spread on farm fields.

"Pesticides" include products used to sanitize dairy equipment, if registered with the U.S. Environmental Protection Agency as a pesticide and advertised and sold as a pesticide. Each bottle or can containing the pesticide has an EPA pesticide registration number on it.

"Animal waste containers" and their component parts may be purchased without tax by a farmer. A contractor constructing an animal waste container for a farmer may also purchase the component parts, such as concrete, without tax by issuing a valid "Resale Certificate" to the seller of the component parts.

## RETAIL SALES OF NEWSPAPERS AND PERIODICALS

All retail sales of newspapers are exempt from the sales tax, whether made by subscription or sold over-the-counter by any retail store.

Retail over-the-counter sales of magazines and other periodicals at a newsstand or any other retail business became subject to the sales tax, effective September 1, 1983. However, magazines and periodicals sold by subscription and regularly issued at average intervals not exceeding 3 months are not taxable if they qualify for the second class mail rate or as a controlled circulation publication.

## CHEMICALS AND CLEANING AGENTS USED BY A MANUFACTURER

### When Used By "Food Processors"

Food processors must maintain high sanitation standards to control bacteria in the manufacturing plant as required by the U.S. Department of Agriculture.

Chemicals and cleaning agents used by a food processor to clean manufacturing machinery and processing equipment or to clean the walls, ceilings, floors and drains of the room(s) in which manufacturing takes place are exempt from the sales/ use tax under s. 77.54(2), Wis. Stats., whether used during the hours the plant is operating or at any other time. These chemicals and cleaners are consumed or destroyed or lose their identity in the manufacture of tangible personal property in any form destined for sale in accordance with the Wisconsin Tax Appeals Commission decision in *Oscar Mayer & Co., Inc. vs. Wisconsin Department of Revenue* of May 30, 1984.

Chemicals and cleaning agents used in the research department, storage areas, visitor areas, offices and yards or to clean motor vehicles are taxable.

**Examples:** (1) A smokehouse in a meat processing plant has a "clean-in-place-system" and the detergents used to sanitize the interior walls and floors are exempt from sales/use tax. (2) Sanitizing agents used by a special cleaning crew in a cheese plant to clean manufacturing equipment during the hours the plant is not in operation are exempt. (3) Chemicals and cleaners used to wash down the walls, ceilings and floor in a dairy or other type of milk processing plant are exempt.

### When Used By Persons Who Are Not Food Processors

Chemicals and cleaning agents used by a manufacturer (who is not a food processor) to clean manufacturing machinery and processing equipment are exempt from the sales/use tax under s. 77.54(2), Wis. Stats., whether used during the hours the plant is operating or at any other time. Chemicals and cleaning agents used by such a manufacturer to clean the walls, ceiling and floor of the room(s) in which manufacturing takes place are taxable as are those used in the research department, storage areas, visitor areas, offices and yards or to clean motor vehicles.

**Examples:** (1) Chemicals and cleaning agents used to clean the processing equipment are exempt even though used during the hours the plant is not in operation. (2) Chemicals and cleaners used to wash down the walls, ceiling and floor or clean the drain in the manufacturing plant are taxable.