

# TAX REPORT

Sales/Use Tax

JUNE 1990

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## NEW WISCONSIN SALES AND USE TAX LAWS

The Wisconsin Legislature enacted new sales and use tax laws in 1990 which may affect you. This report explains these new laws which were enacted in 1990. The Wisconsin Act number and the effective date of each new law is shown in parenthesis after the title. If you have any additional questions regarding these new laws, contact any Department of Revenue office.

**1. Cloth Diaper and Diaper Services Exempt** (1989 Wis. Act 335, amend sec. 77.52(2)(a)6 and create secs. 77.51(1m) and (3m) and 77.54(40), effective July 1, 1990.)

Laundry, dry cleaning, pressing, and dyeing services performed on cloth diapers by a diaper service are exempt from sales and use tax. Also, the sale, lease, or rental and the storage, use, or other consumption of cloth diapers are exempt from sales and use tax.

"Cloth diaper" means a cloth diaper used for sanitary purposes.

"Diaper service" means a business primarily engaged in the lease or rental, delivery, and laundering of cloth diapers.

**2. Exempt Snowmobile Trail Groomers** (1989 Wis. Act 270, create sec. 77.54(38), effective July 1, 1990.)

An exemption from sales and use tax is provided for snowmobile trail groomers and attachments that are purchased, stored, used, or consumed by a snowmobile club that (a) meets at least 3 times a year, (b) has at least 10 members, (c) promotes snowmobiling, and (d) participates in the Department of Natural Resources' snowmobile program under sec. 350.12(4)(b), Wis. Stats.

**3. Exempt Adaptive Equipment for Handicapped Persons to Enter, Operate, or Leave a Vehicle** (1989 Wis. Act 238, create sec. 77.54(22)(f), effective June 1, 1990.)

Adaptive equipment that makes it possible for handicapped persons to enter, operate, or leave a vehicle, as defined in sec. 27.01(7)(a)2, Wis. Stats., is exempt from sales and use tax if that equipment is purchased by the

individual who will use it, a person acting directly on behalf of that individual, or a nonprofit organization.

Section 27.01(7)(a)2, Wis. Stats., defines a "vehicle" as an automobile, motor truck, motor delivery wagon, motor bus, motorcycle, or other similar motor vehicle.

**4. Nexus Standards for Foreign Corporations That Are Publishers** (1989 Wis. Act 336, amend sec. 77.51(13h), see effective dates below.)

"Retailer engaged in business in this state" (i.e., a retailer who has nexus in Wisconsin for use tax) does not include a foreign corporation that is a publisher of printed materials if its only activities in Wisconsin do not exceed the 4 activities described below:

1. The storage of the publisher's raw materials for any length of time in Wisconsin in or on property owned by a person other than the publisher and the delivery of the publisher's raw materials to another person in Wisconsin if that storage and delivery are for printing by that other person.
2. The purchase from a printer of a printing service or of printed materials in Wisconsin for the publisher.
3. The storage of the printed materials for any length of time in Wisconsin in or on property owned by a person other than the publisher.
4. Maintaining, occupying and using, directly or by means of another person, a place that is in Wisconsin, that is not owned by the publisher and that is used for the distribution of printed materials.

**Note:** (a) For a foreign corporation that is a publisher of books and/or periodicals other than catalogs, this provision is effective January 1, 1980. This includes publishers who publish 1) only books, 2) only periodicals other than catalogs, 3) books and periodicals other than catalogs, 4) either books and/or periodicals other than catalogs, and in addition, other materials (e.g., catalogs, advertising flyers).

(b) For all other publishers that are foreign corporations (other than those included in (a) above, this provision is effective January 1, 1990.

## ARE YOU CORRECTLY REPORTING WISCONSIN USE TAX?

Failure to report use tax is the most common error on sales and use tax returns. Before you file your return, make sure your use tax is correctly reported on lines 17-21 of the return.

The Wisconsin use tax is a 5% tax (plus 1/2% county tax, where applicable) imposed on the purchase price of tangible personal property or taxable services that are used, stored, or otherwise consumed within Wisconsin, upon which a sales tax has not been paid.

Examples of use tax include:

- Property to be used in Wisconsin is purchased outside Wisconsin. (Note: The property would have been subject to sales tax if purchased in Wisconsin.)

Example: A Wisconsin company purchases an office machine for \$10,000 from an Illinois seller who has no business activities in Wisconsin. The buyer (Wisconsin company) is liable for Wisconsin state use tax of \$500 on the purchase price of this machine ( $\$10,000 \times 5\% = \$500$ ).

- Property is purchased for resale (to sell to others) or for a nontaxable use and is then used by the purchaser in a taxable manner. No sales tax was paid when purchasing the property.

Example: A furniture store buys desks to resell to customers. The furniture store gives the seller a resale certificate. Therefore, no sales tax is charged on the sale of desks to the furniture store. A desk costing \$500 is then taken from the furniture store inventory and used by the furniture store in its office. The furniture store owes \$25 Wisconsin use tax on the desk ( $\$500 \times 5\% = \$25$ ).

If you are liable for the 5% Wisconsin state use tax, lines 17-21 of the sales and use tax return are used to compute the amount of Wisconsin use tax you owe

**Caution:** A negligence penalty of 25% of the additional sales and use taxes due may be imposed against you if an incorrect return is filed due to neglect. If a return is filed with intent to defeat or evade sales and use taxes, a fraud penalty of 50% of the additional taxes due may be imposed.

## SPEAKERS BUREAU

The Department of Revenue's Speakers Bureau provides speakers to professional organizations and community groups throughout Wisconsin. If you would like a speaker to address your group, please call the Speakers Bureau at (608) 266-8640.

Subjects that may be discussed include updates on income, corporate, and sales tax laws, audit procedures, common taxpayer errors, how tax laws apply to exempt organizations, sales tax problems of contractors, manufacturers, etc.

Note: There is no charge for services provided by the Speakers Bureau.

## NEED AN EASY WAY TO RESEARCH WISCONSIN TAX QUESTIONS?

Subscribe to the Wisconsin Department of Revenue's Topical and Court Case Index. This index will help you find a particular Wisconsin statute, administrative rule, Wisconsin Tax Bulletin article or tax release, publication, Attorney General opinion, or court decision that deals with your particular Wisconsin tax question.

The index is divided into two parts. The first part, called the "Topical Index", gives references to alphabetized subjects for the various taxes. The taxes include individual income, corporation franchise or income, sales/use, withholding, gift, estate, and inheritance, cigarette, tobacco products, beer, intoxicating liquor and wine, and motor fuel.

The second part, called the "Court Case Index", lists Wisconsin Tax Appeals Commission, Circuit Court, Court of Appeals, and Wisconsin Supreme Court decisions by alphabetized subjects for the various taxes.

This index will be available in December, 1990. The annual cost is expected to be \$14 per copy, plus sales tax. Subscribers will receive the full index in December, 1990 and also an addendum providing updated information in May, 1991. To subscribe, send your check to: Wisconsin Department of Administration, Document Sales, P.O. Box 7840, Madison, WI 53707.