

WISCONSIN TAX NEWS

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amended return or changes by the Internal Revenue Service to the Department within the required 90 day period, an assessment may be made at any time within 10 years after the date on which the Wisconsin tax return was filed.

F. COLLECTION OF DELINQUENT TAXES

1. Tax Warrants a Lien Against Personal Property. [Amended s. 71.13 (3) (b), effective May 5, 1976]

Warrants filed by the Department in a delinquent tax matter will be a lien against personal property. Previously, such warrants were a lien only against real property.

2. Filing of Delinquent Tax Warrants. [Amended s. 806.13, created s. 805.115, effective May 5, 1976]

Previously, when a taxpayer had delinquent taxes, a tax warrant was filed with the Clerk of Court in the county in which the taxpayer resided. If the taxpayer owned property in another county, a certified transcript of the original warrant was filed in such county. This provision will permit the Department to file a duplicate copy of the warrant rather than a certified transcript.

3. Employer Certification for Delinquent Gift, Sales and Use Taxes. [Amended ss. 71.135, 72.86 (4) and 77.62 (1), effective May 5, 1976]

An employer may be required to withhold additional tax from income of an employee if the employee has delinquent gift or sales and use taxes. Previously, the employer could only be required to withhold additional amounts if the employee had delinquent income or withholding tax.

4. Application of Partial Payments.

[Amended ss. 71.13 (4) (a) & (b) and 77.61 (2), created s. 71.13 (4) (g), effective May 5, 1976]

All payments made on tax delinquencies will be applied to cost, penalties and interest, and any remaining balance to principal. Previously, the statutes did not specify the application of certain payments.

5. Contractor Liable for State Taxes on Public Contracts. [Amended ss. 289.14 (1) and 289.15 (1), effective May 5, 1976]

On public contracts, a primary contractor will be responsible for state taxes. State taxes will also be subject to a lien on any monies due the primary contractor.

SENATE BILL 139—CHAPTER 344, LAWS OF 1975 (Date Published: June 8, 1976)

Exempt Payments to Victims of Crime. [Created s. 71.01 (3) (g)]

Beginning in 1977, victims of serious crimes (for example, murder, burglary or rape) or their dependents may receive compensation from the Department of Industry, Labor and Human Relations. Compensation awards may range from \$200 to \$10,000. Section 71.01 (3) (g), Wis. Stats., is created to provide that such awards may be excluded from the Wisconsin taxable income of the recipients.

TAX RELEASES

("Tax Releases" are designed to provide answers to the specific tax questions covered, based on the facts indicated. However, the answers may not apply to all questions of a similar nature. In situations where the facts vary from those given herein, it is recommended that advice be sought from the Department. Unless otherwise indicated, Tax Releases apply for all periods open to adjustment. NOTE: Many of these were formerly distributed to Department personnel as sales tax memos or reports. It is thought that these positions would be of help to taxpayers and tax practitioners.)

SALES TAX

I. Admissions

A. Tours & Cruises

The sale of admissions to pleasure tours or cruises on boats is taxable. This includes a cruise on a lake or river bordering on the state even though a part of the waterway is beyond the borders of this state. (See Roy A. Franz d/b/a Big River Boat Lines v. Department of Revenue 9 WTAC 117 January 31, 1972). The

Franz case involved pleasure cruises on the Mississippi River to points in Minnesota and Iowa, with such cruises originating and terminating at LaCrosse, Wisconsin.

The transportation of passengers by ship from Milwaukee to a port in Michigan is not taxable if the primary purpose of the trip is to obtain transportation to a port in Michigan, even though the common carrier may advertise the trip as a Lake Michigan cruise. However, the meals and beverages sold by the carrier while in Wisconsin waters are subject to the tax.

B. Bingo Operations

The gross receipts from conducting bingo games are subject to a 4% sales tax, as well as a 2% gross receipts tax imposed under the bingo law. Both taxes are collected by the Bingo Control Board. An organization will not be required to register with the Department of Revenue merely to report the receipts from conducting bingo games.

An organization's requirements for sales tax registration depend entirely upon its activities other than bingo. If its other activities (excluding bingo) qualify as exempt occasional sales, the gross receipts derived from conducting bingo games will not affect this occasional sale status. If the organization has a Seller's Permit because of other activities, it must report the sales tax on bingo receipts to the Bingo Control Board, and the tax on other activities to the Department of Revenue.

Sales of bingo supplies to the organization conducting bingo operations are taxable except: (1) when the sale is to an exempt purchaser, such as a church, or (2) the sale is of merchandise prizes which are to be awarded to winners of the bingo games. In the latter situation the purchaser should give his supplier a properly filled out Resale Certificate.

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C. Campground Receipts

The receipts from the sale or furnishing of access to recreational facilities (camp grounds) are subject to the sales tax where the campground operator furnishes facilities such as: clubhouse; swimming pool, pier or raft; electrical service; fireplaces; picnic tables; laundry room; water system; children's playground; or other improvements to attract campers.

The operator's receipts are taxable whether collected on a daily or an annual basis. For example, when mobile home or travel trailer owners rent space in the campground on an annual basis for use by the lessees on weekends during the summer months, the campground operator's total rental receipts are taxable.

However, the lease of space to mobile home owners who use a mobile home as their permanent residence is not subject to the sales tax.

D. Concessionaires

The gross receipts of concessionaires operating recreational devices or facilities at fairs, carnivals and other temporary locations are subject to the sales tax. The concessionaire is permitted to purchase prizes to be awarded to customers without tax "for resale".

E. Health Spa Operations

The receipts from sales of health spa memberships entitling purchasers to use such facilities as sauna rooms, ultra-violet sun ray rooms, steam rooms, inhalation rooms, exercising machines, swiss facial contouring machines, indoor swimming pools and hydro-therapy baths are not subject to the sales tax.

F. Riding Stables

The fees received by operators of riding stables for providing riding horses to customers are receipts from providing services which are subject to the sales tax under s. 77.52 (2) (a) 2, Wis. Stats. The horse is one part of the total overall recreational facility provided the customer.

Furthermore, these receipts are not considered rental receipts which entitle the stable operator to purchase the horse without tax for rental. The exemptions for farming do not apply to the feed, hay, medicine or equipment that a stable operator purchases for use by the riding horses.

If a stable operator boards horses for non-farmers, the total boarding charge is taxable, but the feed provided such horses may be purchased for resale without tax.

G. Shooting Preserves and Fish Ponds

The total gross receipts from sales of admissions received by operators of pheasant farms, fenced area game bird and animal farms and private fish hatcheries are subject to the sales tax. This is true even though a portion or all of the charge is based on the number of birds taken or pounds of fish caught.

Separately stated charges for picking feathers or cleaning fish are not taxable. Charges for bait or the use of fishing tackle are taxable. The operators of these recreational facilities may purchase the birds to be released, or the fish to stock the fishing pond, without tax.

H. Concert-Professional Entertainers.

The charges for admissions to concerts where professional entertainment is involved are subject to the tax. Thus, where any of the people involved in presenting the concert such as the director, the soloists or the accompanists are paid for their services the admissions to the concert become taxable even when there is only one or two concerts given annually and even though the pay is small (such as \$10) for each rehearsal and concert.

I. YMCA Dues

YMCA membership dues are not subject to the sales tax.

J. County and District Fairs

The charges for admission to a grandstand and entrance to fairgrounds are taxable under the 4% general sales tax law as the sale of admissions to places of amusement, athletic entertainment or recreational events or places. The sale of tangible personal property (e.g., beer and meals) at the fairgrounds or in the grandstand is taxable.

The furnishing of parking space for motor vehicles by anyone other than a governmental unit is taxable. Accordingly, charges for the providing of parking for fairgoers by a fair association are taxable, even though the land may be owned by the county.

Rental of space to concessionaires and exhibitors and charges for advertising in fair booklets are not subject to the tax.

II. Delivery Charges

A. Florists' FTD Services

On all orders taken by a Wisconsin florist and telegraphed to a second florist, located in Wisconsin or outside this state, the florist taking the order from the customer will pay the 4% tax on his gross receipts. A Wisconsin florist receiving telegraphic instructions for the delivery of flowers, wreaths, etc. from other florists, located either within or outside of Wisconsin, will not pay tax on the receipts realized from such deliveries.

B. Telegraph Company Charge

A separate charge for the personal delivery of an intra-state telegram is taxable.

C. Delivering "Free" Item

The delivery of "free" wood shavings by a mill to dairies, stables and other customers for which a delivery charge is made constitutes a taxable sale, even though the mill may regard the charge as a reimbursement of its hauling expense.