

\$100,000 and B's was \$10,000. Corporation B's net tax liability for the 1984 calendar year was \$15,800 (computed on \$200,000 Wisconsin net income).

May Corporation B use exception number 1 to the addition to the tax (s. 71.22(10)(a), 1983 Wis. Stats.) in determining the amount of its estimated tax payments for 1984? What amount must Corporation B use as the "tax shown on the return of the corporation for the preceding taxable year" to qualify for this exception?

Answer: Corporation B may use exception number 1 and satisfy the requirements of s. 71.22(10)(a), 1983 Wis. Stats., by timely paying \$2,500 ($\$10,000 \div 4$) for each of the four installment periods applicable to its 1984 tax liability. Corporation A's 1983 liability of \$100,000 is not included in Corporation B's 1983 tax liability for this purpose. Corporation B is not subject to the 90% payment requirement for 1984 in s. 71.22(10)(a) and (b), 1983 Wis. Stats., because its 1984 Wisconsin net income was less than \$250,000.

SALES/USE TAXES

1. Farmers' Exempt Milk House Supplies

Statutes: section 77.54(34), 1985 Wis. Stats.

Facts and Question: A farm supply store sells various items to persons engaged in farming that may be used in and around the farm milking parlor or milk house. Which items may be purchased without tax under s. 77.54(34), Wis. Stats., by a farmer who issues a properly completed Farmers Exemption Certificate (Form S-206) to his or her supplier?

Answer: The following items are considered milk house supplies for sales/use tax purposes: milk filters, soaps, detergents, pipeline cleaners, manual cleaners, acid cleaners, sanitizers (i.e., iodine and chlorine), udder washes and dips, udder balms, teat dilators, insect strips, paper towels, cloth udder towels, udder sponges, brushes and brooms, window cleaners and water softener salt.

This exemption does not apply to purchases of electricity or equipment, including dispensers, sinks, faucets, buckets and pails, strainers, washup hose or milk cans.

2. Paging Equipment in Central Office of Telephone Company

Statutes: section 77.54(24), 1983 Wis. Stats.

Wis. Adm. Code: section Tax 11.66(2), January 1983 Register

Facts and Question: A telephone company purchased paging equipment which is located in their central office with the other telephone equipment. The equipment consists of a computerized paging terminal and related equipment. A person wishing to page a subscriber dials an ordinary seven-digit telephone number followed by coded digits activating the computerized automatic paging terminal. The terminal initiates a radio transmission that causes the pager to beep. The pagers provide one-way communication. When the subscriber receives a radio transmission he/she must make an ordinary telephone call to a designated telephone number to ascertain the message.

The paging equipment was charged to the company's central office equipment account. The Bureau of Utility Ac-

counting in the Wisconsin Public Service Commission indicates that this one-way paging equipment is properly charged to Account No. 221, Central Office Equipment.

Is this purchase of paging equipment by a telephone company which is charged to the company's central office equipment account exempt under s. 77.54(24), 1983 Wis. Stats?

Answer: Paging equipment charged to Account 221, "Central Office Equipment" by a telephone company in accordance with accounting methods approved by the Wisconsin Public Service Commission, is exempt from the Wisconsin sales/use tax under s. 77.54(24), 1983 Wis. Stats.

3. Cable Company Purchases Cable It Installs

Statutes: sections 77.51(5) and (28) and 77.52(2)(a)12, 1983 Wis. Stats.

Wis. Adm. Code: section Tax 11.66(2), January 1983 Register

Facts and Question: A cable TV company purchases and then installs its own underground cable. Outside contractors or other persons are not involved in this underground work. Is the purchase of the cable a taxable transaction?

Answer: This transaction is subject to the sales and use tax under s. 77.52(1), Wis. Stats., because persons engaged in providing CATV service are the consumers of the tangible personal property used in providing such services under section Tax 11.66(2).

4. News Service Provides Ticker Tape

Statutes: sections 77.51(29) and 77.52(1), 1983 Wis. Stats.

Wis. Adm. Code: section Tax 11.29, July 1977 Register, and section Tax 11.67, September 1984 Register

Facts and Question: A news service company provides the service on a video screen or on a ticker. The ticker provides a printed (hard) copy. If a subscriber elects to receive the service on a ticker, it must use equipment provided by the news service. If the subscriber prefers video screen reception, it must provide its own equipment.

The subscriber is charged for each office in which it elects to take the service, and there is a separate charge for each ticker. The news service company breaks its subscriber's billing down to itemize the service and the equipment charge. The news service company charge for the equipment is approximately 48% of the total amount charged a subscriber each month for service and equipment. The contract signed by the subscriber also sets forth one amount for the news service and a separate charge for the equipment provided.

Are the gross receipts from the charge for the equipment subject to the sales tax, when the equipment is used in conjunction with a news service?

Answer: The gross receipts received from charges for tickers are subject to tax under s. 77.52(1), Wis. Stats., under the factual situation in this particular case. This equipment is not being provided "incidental" to the news service so that the charges would not be subject to the sales tax.

5. Service of Shredding Sensitive Business Records

Statutes: sections 77.51(4)(h) and 77.52(2)(a) 10 and 11, 1983 Wis. Stats.

Wis. Adm. Code: section Tax 11.38, October 1976 Register

Facts and Question: A person operates a mobile shredding service on a truck chassis, which shreds sensitive business records at the customer's place of business. The shredded material is bagged or balled. The customer is charged an hourly rate based on the labor and machinery involved. The taxpayer uses a shredder-baler with 5 tons pressure which has a capacity of producing 8 bales per hour. The shredded material is handled in one of three ways:

- (a) Left with the customer to be disposed of or sold by the customer,
- (b) Destroyed by shredder operator (material which cannot be recycled is incinerated), or
- (c) Sold by shredder operator to customers for packaging and shipping materials.

Is this a taxable service under the definition of gross receipts in s. 77.51(4)(h), Wis. Stats., or under s. 77.52(2)(a) 10 or 11, Wis. Stats.?

Answer: The gross receipts from the service of shredding sensitive business records is not a taxable service under the sales and use tax law.

6. Manufacturing in a "Self-Service" Print Shop Which Uses Photocopy Machines

Statutes: sections 77.51(27) and 77.54(2) and (6)(a), 1983 Wis. Stats.

Wis. Adm. Code: section Tax 11.56, August 1985 Register

Facts and Question: A small print shop is engaged in three different types of operations at one location. The three different types of operations are as follows:

- (a) The "back room" which contains the typical commercial printers'-type machinery, such as offset presses, where the printer's employees use the printing machinery to perform large volume jobs.
- (b) The copier-duplicator area where the printer's employees use photocopy machines to produce up to 200 copies of an item for a customer. If more than 200 copies are needed, and the customer is not in a particular hurry, the job is run on an offset press in area (a).
- (c) The "customer" area where office supplies, self-service selectric typewriters, a work table and self-service copy machines are made available for the use by customers. If customers want to make their own copies they must obtain an auditron at the counter which is plugged into the copy machine and it records the number of copies made. The customer then returns the auditron to a print shop employee, who issues a bill or collects a cash payment from the customer.

Copy machines use dispersant, a drying agent which disappears into the air, and toner, which is ink which is transferred to the paper.

Which of the operations in the three different areas are considered "manufacturing" under s. 77.51(27), 1983 Wis.

Stats., so that the exemption under s. 77.54(6)(a), 1983 Wis. Stats., applies?

Answer: The printing operations conducted in areas (a) and (b) are essentially equivalent to a commercial printer's operations and qualify as "manufacturing" under s. 77.51(27), 1983 Wis. Stats. As such, the printing equipment used in these areas are exempt manufacturing machines under s. 77.54(6)(a), Wis. Stats. The repair of and supplies used in these machines are also exempt from the sales/use tax.

The employees of a manufacturer generally operate the manufacturer's machines in a step-by-step production process popularly regarded as manufacturing. When customers operate photocopy machines, the activity does not meet the popularly regarded concept in s. 77.51(27), Wis. Stats. Since the activity of customers is not "manufacturing" there is no exemption for the purchase of the copy machines used in the "customer" area (c) or for the supplies used to operate such machines. However, the paper and toner which are transferred to the customer may be purchased without tax for resale by the print shop operator.

7. Scope of Manufacturer's Machinery Exemption in a Manufacturer's Steam Plant

Statutes: sections 77.51(27) and 77.54(6)(a), 1983 Wis. Stats.

Wis. Adm. Code: section Tax 11.40, November 1981 Register, and section Tax 11.68(4)(b), January 1984 Register

Facts and Questions: A manufacturer produces steam in a steam plant which is used to operate its manufacturing machinery on the production line. Which of the following items are exempt under s. 77.54(6)(a), Wis. Stats., so that the repair and maintenance of such items are also exempt from the sales/use tax?

- (a) Turbines which produce steam which run the generators which produce electricity.
- (b) Boiler condensate system which reduces the steam to water, demineralizes it, and returns it to the boiler.
- (c) Feed water system which conditions water for use in boiler.
- (d) Blowdown equipment which takes water off boiler and rids it of minerals.
- (e) An O₂ system used to measure the amount of oxygen in the exhaust stack and to meter the amount of air going into the boiler for combustion.
- (f) An oil heater used to heat the oil as it moves toward the boiler. This assists in pumping and atomizing for better combustion.
- (g) A water pump in the river which pumps water to the cooling tower.
- (h) Air compressors which produce compressed air only used in manufacturing machines.
- (i) Ash handling equipment used to dispose of waste products.
- (j) Precipitators located in a chimney.
- (k) Coal pile crane, hoppers and crushers in the coal yard and the conveyor which transfers coal to the boiler.

- (l) Cooling towers used to cool water running through the compressors and generators.

Answer: In the manufacturer's powerhouse the items listed in (a), (b), (c), (d), (e), (f) and (h) and the conveyor which transfers coal to the boiler (k) are directly and exclusively used in the step-by-step manufacturing process and the exemption in s. 77.54(6)(a), Wis. Stats., applies to such items. The river water pump (g), the ash handling equipment (i), precipitators (j), the coal pile crane, hoppers and crushers in the coal yard (k) and cooling towers (l) are not used directly in manufacturing and are not exempt under s. 77.54(6)(a). However, the precipitators and cooling towers may qualify as exempt waste treatment facilities for property tax purposes under s. 70.11(21), Wis. Stats., which in turn would create a sales tax exemption under s. 77.54(26).

Note: Other manufacturers may not use the same item in exactly the same way and the tax status could vary accordingly. The tax status of an item purchased by a manufacturer always presents a question of fact dependent entirely upon the actual use to which the purchaser puts such purchase.

WITHHOLDING TAXES

1. Reporting Requirements for Employers of Agriculture, Domestic or Other Employees Exempt from Withholding Tax

Statutes: sections 71.10(8n), 71.19(1) and 71.20(1), 1983 Wis. Stats.

Wis. Adm. Code: section Tax 2.04 and 2.90, September 1983 Register

Background: Section 71.20(1), 1983 Wis. Stats., requires an employer, at the time of payment of "wages" to an employee, to deduct and withhold state taxes from such wages. Section 71.19(1) provides that "wages", for purposes of withholding state taxes, shall not include remuneration paid:

- (a) For active service as a member of the armed forces of the United States for any month during any part of which such member served in a combat zone during an induction period or was hospitalized as a result of wounds, disease or injury incurred while serving in a combat zone during an induction period;
- (b) For agricultural labor;
- (c) For domestic service in a private home, local college club or local chapter of a college, fraternity or sorority;
- (d) For service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service;
- (e) For services by a citizen or resident of the United States for a foreign government or an international organization;
- (f) For services performed by a duly ordained, commissioned or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

- (g) For services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
- (h) For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which newspapers or magazines are charged to him;
- (i) For services not in the course of the employer's trade or business to the extent paid in any medium other than cash;
- (j) To, or on behalf of, an employee or his beneficiary from a trust created or organized in the United States and forming part of a stock bonus, pension or profit sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries and which trust is exempt from taxation, unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust;
- (k) For personal services performed in Wisconsin in the form of retirement, pension and profit-sharing benefits, received by nonresidents after retirement from the employ of the employer for whom such personal services were performed;
- (l) To, or on behalf of, an employee or beneficiary from a plan described in s. 815.18(31)(a) under which the benefits are fully funded by life insurance or annuities;
- (m) If the remuneration paid by an employer to an employee for services performed during one-half or more of any payroll period of not more than 31 consecutive days constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages, but if the remuneration paid by an employer to an employee for services performed during more than one-half of any such payroll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages;
- (n) In the form of tips paid to employees if the tips are paid in a medium other than cash or if the cash tips received by an employee in any calendar month are less than \$20.

Even though the remuneration in (a) through (n) above is not included in the definition of "wages" for withholding purposes, and is therefore not subject to withholding, an informational return is still required to be filed. Section 71.10(8n), 1983 Wis. Stats., provides that any resident or nonresident who pays an individual \$600 or more in a calendar year of remuneration excluded from the definition of wages shall, on or before January 31 of the succeeding year, furnish the Department of Revenue a written statement in such form as required by the Department disclosing the name of the payor, the name and address of the recipient and the total amount paid to the recipient in the year. If the individual received wages and also remuneration excluded from the definition of wages, both from the same payor, the wages and the excluded remuneration

shall both be reported to the Department, regardless of the amount of the excluded remuneration. A Form W-2 Wage and Tax Statement should be completed for each recipient.

Filing Procedures: If an employer is registered with the Wisconsin Department of Revenue for withholding income tax from employee's earnings, a copy of each employee's Form W-2 should be submitted with the Employer's Annual Reconciliation of Wisconsin Income Tax Withheld from Wages (Form WT-7).

If an employer is not registered for Wisconsin withholding and is not required to withhold Wisconsin income taxes for any employees, the type of employment (agriculture, domestic, etc.) should be indicated on the state copy of the Form W-2 in box 4, Employer's State number. Send the completed Form W-2 to the Wisconsin Department of Revenue, Post Office Box 8920, Madison, Wisconsin 53708, by January 31 following the year in which the wages or remuneration were paid.