

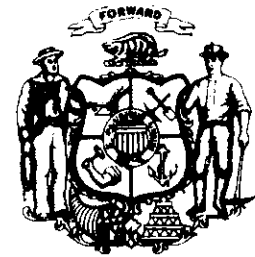
WISCONSIN TAX BULLETIN

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NEW INCOME TAX LAW AFFECTS TAXPAYERS WITH LESS THAN \$12,000 OF INCOME

Significant changes in the individual income tax laws were passed by the Legislature in September and approved by the Governor in October. The new law (Chapter 111, Laws of 1977) was enacted at the request of the Governor and will apply to income tax returns for the 1977 taxable year and subsequent years.

The new law will benefit about 290,000 individuals, all of whose incomes are under \$12,000. The new law enacts 3 types of changes:

- 1) Increases the filing requirement for full-year residents.
- 2) Provides a new low-income allowance which varies depending on a taxpayer's age and marital status.
- 3) Allows the standard deduction and low-income allowance to be increased if a taxpayer has dependents.

Filing Requirement

Under current law (s. 71.10 (2) (a) 4, Wis. Stats.) for the taxable year 1976, the filing requirements vary depending on a taxpayer's age and marital status. The amounts of gross income which require a taxpayer to file a return range from \$1,950 for single persons under age 65 to \$2,900 for married couples when both spouses are age 65 or older.

The new law (s. 71.10 (7) (a) 5) for the 1977 taxable year and thereafter provides that nonresidents and part-year residents are required to file a Wisconsin income tax return if the single person's or married couple's gross income is \$2,000 or more.

Full-year residents will have the following filing requirements for taxable year 1977 and subsequent years:

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Marital status and age	Required to file if gross income of single person (or if married if combined gross income of both spouses) was:
Single, under 65	\$3,200 or over
Single, 65 or over	\$4,200 or over
Married, both under 65	\$5,200 or over
Married, one spouse under 65 & one 65 or over	\$6,200 or over
Married, both spouses 65 or over	\$7,200 or over

Variable Low-Income Allowance

Taxpayers will continue to have the option of claiming itemized deductions, the percentage standard deduction or the low-income allowance.

Under current law for the 1976 taxable year, the percentage standard deduction is 15% of Wisconsin total income, not to exceed \$2,000 for a single individual or \$2,000 in the aggregate for a husband and wife. The low-income allowance is \$1,300 for a single individual or \$1,300 in the aggregate for a husband and wife.

The new law for 1977 and subsequent taxable years does not change the percentage standard deduction, except for the additional amounts allowed for dependents as explained below. However, the low-income allowance has been increased for many taxpayers.

The new low-income allowance will range from \$1,300 to \$5,700 (exclusive of the additional deduction for dependents) depending on a taxpayer's income, age (under 65 vs. 65 or over) and marital status. A husband and wife may split the low-income allowance between them as desired. The 1977 income tax booklets will have a table to allow persons to easily determine their low-income allowance.

Additional Deductions for Dependents

Under the new law beginning with taxable year 1977, single individuals with total income under \$12,000 and married couples with aggregate total income under \$12,000 will increase their percentage standard deduction or low-income allowance for each dependent claimed on their tax returns. The additional deduction is as follows:

Wisconsin total income (or combined total income of husband and wife)	Addition for each dependent
Less than \$5,000	\$800
\$5,000 to \$5,999	\$700
\$6,000 to \$6,999	\$600
\$7,000 to \$7,999	\$500
\$8,000 to \$8,999	\$400
\$9,000 to \$9,999	\$300
\$10,000 to \$10,999	\$200
\$11,000 to \$11,999	\$100
\$12,000 or over	0

If persons are married, both claim the percentage standard deduction and the combined total income of husband and wife is less than \$12,000, each spouse must claim a standard deduction of 15% of his or her own income. However, any additional deduction

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which is available for dependents may be split between the spouses as they desire. One spouse may claim the entire additional amount or each spouse may claim a portion of it. For example, if there are 4 dependents and a total combined income of \$10,500 (\$8,000 earned by spouse A and \$2,500 earned by spouse B), the standard deduction would be computed as follows:

Spouse A - \$8,000 X 15% = \$1,200

Spouse B - \$2,500 X 15% = \$375

Because there are 4 dependents, an additional \$800 of deduction (4 X \$200) is available. That amount may be divided between the spouses in any manner they choose.

ELECTION CAMPAIGN FUND CHECKOFF WILL BE ON 1977 INCOME TAX RETURNS

Chapter 107, Laws of 1977 (published October 20, 1977) establishes a Wisconsin Election Campaign Fund to provide campaign funds to eligible candidates for a statewide office and the state legislature. The law (s. 71.095 (2)) requires the Department to place a space on each individual income tax return to allow taxpayers to designate \$1 to the fund.

Beginning with the 1977 income tax return, each individual filing a tax return may designate \$1 of the individual's net tax liability for placement in the Election Campaign Fund. A space will be provided on Wisconsin Forms 1 (long form) and 1A (short form) for persons to make the designation.

Only persons with a net tax liability of at least \$1 may make the designation. If a taxpayer is married, the taxpayer's spouse may also designate \$1 to the fund if the spouse has at least \$1 of net tax. If one spouse designates \$1, the other spouse is not required to also designate \$1.

A contribution to the fund will not increase an individual's tax or reduce an individual's refund.

SOME CHANGES MADE IN NEXT YEAR'S INCOME TAX FORMS

The major tax forms to be used in filing 1977 Wisconsin income tax returns have been finalized and sent for printing. The 1977 forms are generally very similar to the 1976 forms. They will, however, contain some

changes resulting from recently enacted legislation, including the 1977-79 Budget Act (Chapter 29, Laws of 1977) and the law enacting changes to the Wisconsin standard deduction and low-income allowance (Chapter 111, Laws of 1977). The more significant changes include the following:

INDIVIDUALS

1. The booklets for Form 1 (long form) and Form 1A (short form) will contain a table for persons with adjusted gross income of less than \$12,000 to determine their low-income allowance under the new law. (See related article on this item in this bulletin.)

2. Forms 1 and 1A will permit designation of \$1 of a taxpayer's net tax liability to the Wisconsin Election Campaign Fund. (See related article on this item in this bulletin.)

3. Form 1 will request taxpayers to indicate their filing status (single, married and filing a combined return or married and filing a separate return) similar to the current question on Form 1A.

4. The 1977 tax tables in Forms 1 and 1A have been expanded to cover gross tax for incomes up to \$14,000. The 1976 tables only set out the tax for incomes up to \$10,000. Persons exceeding that had to calculate their own tax. In addition, gross tax figures in the tables will be expressed in whole dollars. Amounts have been rounded to delete the cents.

5. Schedule I (used to account for differences between federal and Wisconsin law) and its instructions have been revised. The new form and instructions will reflect the differences between adjusted gross income and itemized deductions as computed for federal and Wisconsin income tax purposes for 1977. To date, there are only five such differences.

6. Wisconsin will again have a child and dependent care schedule (Schedule 2441W). Child and dependent care expenses will continue to be calculated and treated as a Wisconsin itemized deduction, differing from the federal income tax treatment of these expenses as a federal income tax credit.

7. There will be no Wisconsin sick pay schedule (1976 Schedule 2440W) for 1977. Beginning with tax year 1977, Wisconsin will recognize the same sick pay exclusion allowable for federal tax purposes.

8. Form 1 will have a line for individuals to claim a farmland preservation credit. This credit will be available for the first time.

HOMESTEAD

1. Two new questions have been added to Schedule H. These questions ask the claimant if at the time of filing Schedule H the claimant resides in a) property exempt from real estate taxes or b) a nursing home and receives medical assistance under Title XIX. Most persons answering in the affirmative will not qualify for a homestead benefit. A line has also been added to Schedule H for a claimant to enter the \$600 household income reduction factor. If a claimant, a spouse or dependent is 65 years or older at the close of 1977, household income will be reduced by \$600 for the claimant.

2. A question has been added to the rent certificate asking the landlord if the rental property is subject to real estate taxes.

HOMESTEAD FILING DEADLINE

Less than 2 months remain for eligible Wisconsin renters and homeowners to file a 1976 Wisconsin Homestead Credit Claim if they have not already done so.

December 31, 1977 is the last day for filing a claim for Homestead Credit (Schedule H) for the year 1976. The law does not permit late returns nor extensions of time to file.

So far this year, about 234,000 Homestead Claims have been filed. These claims have averaged \$205 and provided residents with nearly \$48 million in rent and property tax rebates.

For 1976, Wisconsin residents 18 years of age or older who had total household income during that year of less than \$7,500 may qualify for a benefit. Some of the requirements are:

- full year Wisconsin residency
- person cannot be claimed as a dependent on someone else's 1976 federal income tax return, except for persons age 62 or older
- person cannot be a recipient of general relief or Aid to Families With Dependent Children (AFDC) when filing the Homestead Claim.

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For information about eligibility requirements, instructions on how to file, or obtaining the form, Schedule H, contact any of the Department's 36 offices throughout the state or write to the Department of Revenue, P. O. Box 80, Madison, WI 53701.

BULK ORDERS OF TAX FORMS

The order blank (Form P-744) for requesting a bulk supply of 1977 Wisconsin income tax forms was mailed in early October. Bulk orders of income tax forms requested by professional tax preparers are subject to a minimal handling charge. However, no charge is made for forms which will be used for distribution to the general public such as is commonly done by many banks, post offices, and libraries.

Persons ordering bulk supplies of tax forms are again asked to determine their order amounts as accurately as possible. Orders for forms should be placed as early as possible. This will aid the Department in identifying possible shortages of forms.

If you are not currently on the Department's mailing list to receive the bulk order blank and would like one, call any Department office or write to the Department of Revenue, Central Services Section, P. O. Box 58, Madison, WI 53701.

INFORMATION REPORTS WILL BE REQUIRED FOR NONRESIDENT ENTERTAINERS IN 1978

Beginning January 1, 1978, every Wisconsin employer of an entertainment corporation or nonresident entertainer or athlete will be required to report to the Department certain information about each Wisconsin performance within 90 days of the performance. This law covers performances for which the contract price exceeds \$1,950. The reporting requirement was enacted in the 1977-79 Budget Act (Chapter 29, Laws of 1977).

Under the new law, an "employer" is any Wisconsin resident person or firm which engages the services of a nonresident entertainer or athlete or an entertainment corporation. In the absence of such "employer", the person required to report to the Department

will be the resident person last having receipt, custody or control of proceeds of the entertainment event.

The law defines "entertainment corporation" as a domestic or foreign corporation which derives income from amusement, entertainment or sporting events in this state or from the services of an entertainer.

The information report (Form 9C) will require such information as the name, address and Wisconsin tax identification number (if any) of the employer; the entertainer's stage name, true name, address and social security number or the name and address of the entertainment corporation; and the date, place and total amount of remuneration received for each performance.

Form 9C, which is presently being developed, should be available in December 1977 and may be obtained at that time by writing: Wisconsin Department of Revenue
Central Services Section
P. O. Box 58 (Use P. O. Box 8903 as of January 1, 1978)
Madison, Wisconsin 53701 (Use zip 53708 as of January 1, 1978)

Any questions about the requirements of this law may be directed to:
Wisconsin Department of Revenue
Compliance Bureau
P. O. Box 39 (Use P. O. Box 8902 as of January 1, 1978)
Madison, Wisconsin 53701 (Use zip 53708 as of January 1, 1978)
Phone: (608) 266-2776

REPORT ON LITIGATION

(This portion of the WTB summarizes recent significant Tax Appeals Commission and Wisconsin court decisions. In cases which decisions adverse to the Department's position are rendered, it will be noted whether or not the Department acquiesces or will appeal.)

Sterling Custom Homes Corp. vs. Department of Revenue (Circuit Court of Dane County, Case No. 154-305, May 16, 1977.) The sole issue before the court was whether Sterling Custom Homes Corporation ("Sterling") (a) was involved in selling tangible personal property in the form of building materials to contractors or builders, or

(b) was the contractor or builder and the consumer of the materials furnished.

Sterling prefabricated custom-built homes and marketed them through 15 regional sales managers who worked with local builders, contractors and realtors. Customers purchased homes from a local builder, contractor or realtor and the building permit was normally issued in the name of the builder or contractor. Sterling's contracts were with the builder-contractor. Sterling did not deal directly with the home owner, other than advising the builder-contractor of the cost of the exterior house shell. The builder-contractor forwarded each customer's plans and specifications to Sterling, which prefabricated the home in its manufacturing plant.

The builder-contractor prepared the foundation for the home and installed dry-wall, plumbing, heating and wiring in the shell. After the foundation had been prepared, Sterling's drivers delivered the sections of the exterior shell to the job-site and participated in the placement of the shell on the foundation. Sterling selected the type of crane and operator best suited to the setting and assembly of the component parts on the foundation which was done in accordance with Sterling's erection drawings.

The court found that, under these conditions, Sterling was a contractor performing a real property construction activity. It therefore was the consumer of the personal property used in this construction activity and had to pay sales and use tax on the cost of such property.

The Department has appealed this decision to the Wisconsin Supreme Court.

Moebius Printing Co. vs. Department of Revenue (Circuit Court of Dane County, Case Nos. 152-169 and 152-238, May 13, 1977.) Prior to May 12, 1972, the sales and use tax law contained a use tax exemption for advertising materials printed outside Wisconsin which were transported outside the state for use solely outside the state. The exemption resulted from s. 77.51(16), Wis. Stats., which excluded from the definition of "storage" and "use" the "keeping, retaining or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state."

On May 12, 1972, a sales tax exemption was established for printed material designed to advertise and promote the sale of merchandise or to advertise the services of indi-

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vidual business firms, if such printed material is used solely outside the state. (s. 77.54 (25), Wis. Stats.)

The issue in this case was whether the retailer was entitled to a sales tax exemption for advertising materials purchased in Wisconsin and shipped outside the state for exclusive use outside the state prior to May 12, 1972.

The court held that the retailer was entitled to the exemption. It stated that the legislative intent reflected that such a sales tax exemption existed prior to May 12, 1972 and that s. 77.54 (25) merely clarified the law in 1972.

The Department has appealed this decision to the Wisconsin Supreme Court.

Department of Revenue vs. James T. Jacobson (Circuit Court of Bayfield County, Case No. 7519, July 6, 1977.) The taxpayer was employed as a Wisconsin state trooper during the years 1970 through 1973, inclusive. The sole issue was whether the meal reimbursement funds he received from his employer were includable in gross income for Wisconsin income tax purposes.

The taxpayer contended that the meal reimbursements were excludable under s. 119 of the Internal Revenue Code. That section provides that to be excludable, meals must be furnished for the convenience of the employer and on the business premises of the employer.

The state highway patrol had certain policies regarding troopers' meals. Among them, troopers are not allowed to carry bag lunches or consume them on the roadside or in their vehicle. They must eat in close proximity to their assigned sector and may not go home for meals. The meals shall be eaten at the convenience of troopers when the workload allows. Troopers must be available to respond to emergencies at all times, and troopers are reimbursed for actual out-of-pocket expenses incurred as the result of such policies.

In this case, the taxpayer was stationed in northern Wisconsin and had not included his meal reimbursement in gross income. The taxpayer claimed that the meals were furnished in cash reimbursement form, for the convenience of the employer and pursuant to the employer's standards.

The Court overturned the Wisconsin Tax Appeals Commission and held that the meal reimbursements are taxable income. The Court held that the cash reimbursement was not the same as "meals" and did not, as such, fit within the statutory exemption language.

St. Michael Hospital of Franciscan Sisters, Milwaukee vs. David Adamany, as Secretary of the Department of Revenue, and Becker Construction Co., Inc. (Circuit Court of Milwaukee County, Case No. 449-303, July 7, 1977.)

The hospital claimed that its purchases of construction materials which were incorporated into a hospital addition constructed by Becker Construction Company, were exempt from the sales and use tax. The Department of Revenue assessed the construction company sales taxes, interest and penalties. The hospital's contract with the construction company provided that the hospital would reimburse the construction company for any amounts assessed.

The hospital went directly to circuit court asking for a declaratory judgment and the Secretary of Revenue moved that this action be dismissed until normal administrative remedies had been exhausted. The Court held that it had the jurisdiction and authority to void the Department's assessment against the construction company and denied the motion to dismiss.

The Department has appealed this decision to the Wisconsin Supreme Court.

Phillip Cullen vs. Department of Revenue (Circuit Court of Dane County, Case No. 152177, July 7, 1977.) Snowmobiles, all-terrain vehicles and boats were rented to the public by the taxpayer at the Lake Geneva Playboy Club-Hotel. The taxpayer owned the snowmobiles and all-terrain vehicles and the club owned the boats. Taxpayer contracted in writing with the club to maintain the equipment and operate on a commission basis for the benefit of club guests. A fact in dispute was who collected the fees, the taxpayer or the club.

The contract was silent on who was responsible for paying the sales tax. The issue before the Court was whether Mr. Cullen or the club had the responsibility of reporting the tax on these rental receipts. The Tax Appeals Commission affirmed the Department's assessment against Mr. Cullen.

The Court held that the Commission's findings of facts were in error and remanded the case to the Commission for further review. Changing the findings of fact may affect the conclusions of law issued by the Commission. The Court stated, however, that as a matter of law, the club, which owned the boats, was legally responsible for the sales tax on the rentals and commissions for the boats. It left open the question of whether the operator could also be liable for such taxes.

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. All references to section numbers are to the Wisconsin Statutes unless otherwise noted.)

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 - Entry Fees

A. Entry Fees Paid by Professionals

Snowmobile race entry fees are not subject to the sales tax when the primary motive of the majority of persons entering the contest is "business" and not "recreation". At large snowmobile races, commonly most of the entrants are manufacturers who ship semitrailer loads of their snowmobiles to the event. They pay an entry fee (e.g., \$25) with the motive of winning some portion of the event and using the success for advertising purposes. Under these conditions, receipts from snowmobile entry fees (both fees of professional and amateur entrants) are not taxable because the majority of entrants are not pleasurable or recreationally occupied by the event.

Entry fees of both professional and amateur entrants are also not taxable for other sporting-type contests in which the primary motive of the majority of entrants is business, not recreation. Such events include golf tournaments, rodeos and auto races.

B. Entry Fees Paid to Enter Fishing Contests

A fee paid for entering a fishing contest on public waters is not taxable as an admission to a recreational facility. If the contest is held on a lake, river or other public waters and anyone may enter the recreational facility, the entry fee is generally a device for collecting funds to be used as prizes and is not taxable.

II. Mailing Services

If a Wisconsin printer's in-state or out-of-state customer requests a completed order (except exempt printed advertising material

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destined for exclusive out-of-state use) be shipped to an independent mailing service firm in Wisconsin, the gross receipts received by the printer are subject to sales tax. In this situation, the mailing service firm is the designee and agent of the purchaser and the sale has been completed in Wisconsin pursuant to s. 77.51 (4r), Wis. Stats. It is immaterial whether the mailing service firm mails all or part of the material outside Wisconsin.

If a printer contracts with a mailing service firm, bookbinder, or similar business to mail material, only the portion mailed to Wisconsin addresses is subject to tax. In this situation, the mailer is the designee and agent of the printer, and delivery does not take place in Wisconsin in respect to the material mailed to out-of-state addresses.

III. Door and Window Repairs

If storm doors, storm windows, interior doors or interior windows are repaired on a homeowner's premises, the service is considered the repair of real estate and not subject to sales tax. However, if this repair service is performed off the homeowner's premises, the charge for the service is taxable.

IV. Furnishing Asphalt

A person who furnishes and spreads liquid asphalt in its final resting place on a roadway or driveway is a contractor and the consumer of the liquid asphalt. Sales of such materials to the contractor are subject to the sales tax.

A person acts as a retailer if he or she delivers liquid asphalt to a storage area, such as a storage tank, where it is subsequently mixed with dry materials and applied by the purchaser. The gross receipts from such sales are subject to the tax.

V. Use Tax

Assume that a nationwide company has its central office and warehouse in Wisconsin. Office forms and supplies are distributed to all other plants in the nation from the Wisconsin warehouse. A printing plant is located in the warehouse, in which paper stock is converted into office forms. The company purchases the paper stock from an unregistered out-of-state supplier, which does not collect any tax on the transaction.

Under these facts, the use tax does not apply to the paper stock used to print forms for out-of-state use. The use tax applies to the portion of the paper stock for forms used in the Wisconsin office and warehouse or shipped to other Wisconsin plants of the company.

VI. Grocers' Reporting Methods

A grocery store operator may collect and report the sales tax in one of 3 methods:

Method 1: Segregate taxable and non-taxable items at the check-out counter. Total the taxable items and then add the tax. Maintain a daily record of taxable sales. Report and pay tax on gross receipts from taxable sales.

Method 2: Use purchase invoices to establish the ratio between taxable and non-taxable items purchased. Apply this ratio (percentage) to total gross receipts to arrive at taxable sales. Each store operator must establish the ratio for a store by a sample sufficient in scope to properly reflect taxable sales. The store operator is expected to re-establish ratios often enough to account for seasonal variations in sales.

Method 3: Mark up the wholesale purchase price of taxable items to their retail price. Pay the tax on monthly purchases of taxable commodities marked up to retail price.

A retailer must maintain appropriate records to be able to demonstrate that the method used reasonably reflects the proper tax liability.

A grocery store operator **MUST** request and receive the approval of the Department before using either Method 2 or 3. Approval may be requested by writing to the Wisconsin Department of Revenue, P. O. Box 39, Madison, Wisconsin 53701 (P.O. Box 8902, Madison, Wis. 53708 after December 31, 1977).

VII. Retail Cooperative's Patronage Dividends

A retail cooperative which gives annual rebates to its members based on the total amount of their purchases from the cooperative may not deduct these rebates from its gross receipts. These rebates are patronage dividends, not cash discounts, and are not deductible from the gross receipts of the cooperative for sales tax reporting.

VIII. Motion Picture Film or Tape

Section 77.54 (23m), Wis. Stats., provides a sales and use tax exemption for motion picture film or tape, and advertising materials related thereto, sold, leased or rented to a motion picture theater or radio or television station. The exemption applies to both audio and video tapes purchased by radio and television stations.

IX. Optical Company Sales

The following information may be of special interest to wholesale optical companies and other suppliers serving opticians, optometrists and ophthalmologists:

A. Taxable Sales

The following items, when sold to any person (including an ophthalmologist or optometrist) who does not furnish a Resale Certificate, are subject to the tax:

1. Contact lens solution and lens cleaners.
2. Glass guards and temple covers.
3. Tools, screw driver bits, occluders and eye crutches.
4. Opera glasses and other nonprescription goods.
5. Clip-on sunglasses, safety glasses and other glasses not ground to prescription. (Also see B below.)

B. Exempt Sales

Without Exemption Certificate: The following prescription items may be sold without tax to persons who demonstrate that they are licensed opticians, optometrists or ophthalmologists:

1. Lenses and frames for prescription glasses.
2. Contact lenses and cataract lenses.
3. Sunglasses with prescription lenses.
4. Hinges, screws and other repair parts for prescription glasses.
5. Cases and other containers which the professional will use to transfer prescription glasses to customers.

Repair labor charges for prescription glasses are also exempt.

With Exemption Certificate: The following items may be sold without tax to an optometrist or ophthalmologist only if the person furnishes a signed Certificate of Exemption:

1. Safety glasses with plano lenses.
2. Sunglasses with plano lenses.

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C. Sales for Resale

Sales of items listed as "taxable" under "A" above may be made without tax if the purchaser has provided the seller with a valid Resale Certificate.

An optometrist or ophthalmologist does not ordinarily have a Seller's Permit, and therefore cannot furnish a Resale Certificate. He or she is deemed to be a consumer, not a seller, in providing nontaxable service to patients.

An optician, however, is commonly in the business of selling to optometrists, ophthalmologists and others. If an optician sells items such as those listed in "A", the optician must have a Seller's Permit and may issue Resale Certificates.

X. Use of Exemption Certificates**A. In General**

Under the sales and use tax law, all gross receipts from sales of tangible personal property are subject to the tax unless exempt by statute. To the contrary, services are exempt unless enumerated in the statutes as taxable.

The burden of proving that a sale of tangible personal property is exempt is upon the person who makes the sale, unless an exemption certificate is accepted on an approved form in good faith from the purchaser. The Department has found that some sellers make sales without tax without acquiring an exemption certificate from the purchaser. In this situation, the seller's taxable sales are increased by the amount of the unsubstantiated deductions.

If a seller accepts an approved resale or other exemption certificate in good faith, the seller is not liable for the tax. The good faith of the seller will be questioned, however, if the seller has accepted a certificate with knowledge which gives rise to a reasonable inference that the seller knew or should have known that the purchaser did not intend to resell the property or use it for an exempt purpose.

B. Special Situations**1. Partial Exempt Use**

Some purchasers of tangible personal property purchase it for both exempt and non-exempt use, for example, fuel purchased by farmers. Utility companies and other retailers of fuels (not electricity) may handle such exemption claims in either one of two ways:

- (a) Accept an exemption claim for a specific percentage of a customer's purchases, and pay tax only on the percentage not claimed to be exempt, or
- (b) Pay tax on the full billings, but at the end of each year accept a letter from the customer stating the volume and dollar purchase value which was used in an exempt manner and file an application for sales tax refund on behalf of all such customers.

2. Repairer Provides Nontaxable Services

Persons who never have retail sales subject to the tax are not required to register and obtain a Seller's Permit, even though

they regularly purchase for resale. For example, the repair person who only performs exempt services on exempt farm machines (e.g., bulk milk coolers) could use the Certificate of Exemption (Form S-207) and claim "Repair parts purchased for resale in the repair of exempt agricultural machinery" when purchasing machinery parts.

3. Producing Exempt Item

A person engaged only in producing exempt items, such as building hay wagons or "green forage boxes" which are pulled by a tractor and are sold only to farmers, is not required to hold a Seller's Permit. When purchasing lumber, bolts, nails or component parts, the person may use Form S-207 (Certificate of Exemption), check block no. 7, and insert: "Component parts or materials purchased for resale in the form of exempt farm wagons."

4. Purchases Are Always For Resale

Persons who make all purchases for resale (such as pulpers and loggers who purchase standing timber for resale to lumber mills, paper mills, saw mills and other manufacturers) should use the Certificate of Exemption (Form S-207) and claim the exemption "Tangible personal property in any form destined for sale."

5. Farmers' Purchases

Farmers may use the Farmer's Exemption Certificate (Form S-206) to purchase parts for exempt machinery (such as spark plugs, batteries, tires, nuts, bolts and other types of property for a tractor) even though the parts may not be specifically designed for use in exempt property.