

Wisconsin Tax Appeals Commission held that trucks used exclusively to haul treated sludge from a waste treatment facility to a landfill five miles away were exempt as component parts of the exempt facility under sec. 77.54(26), Wis. Stats. (1989-90). The waste treatment facility and landfill had been approved by the Department of Revenue's Property Tax Bureau as exempt from property taxes. The Department of Revenue filed a notice of nonacquiescence with respect to this decision.

Facts and Question: Company ABC is a manufacturer. Company ABC constructed and operates a waste treatment facility and landfill to handle the waste from its manufacturing operations.

Company ABC purchased a dump truck that is used exclusively by Company ABC to haul waste materials (e.g., sludge, bark, dirt) from its waste treatment facility to its landfill. The dump truck is used as an integral part of Company ABC's landfill operations. The waste treatment facility and landfill have been approved by the De-

partment of Revenue's Property Tax Bureau as exempt from property taxation.

The Department of Revenue's Property Tax Bureau has granted approval of the dump truck as exempt from property tax under sec. 70.11(21)(a), Wis. Stats. (1989-90), if it had been subject to property tax.

Is the sale of the dump truck to Company ABC subject to Wisconsin sales or use tax?

Answer: No. Due to the approval of the dump truck as a part of a waste treatment facility by the Property Tax Bureau, the dump truck must be considered exempt for Wisconsin sales and use tax purposes as a component part of a waste treatment facility under sec. 77.54(26), Wis. Stats. (1989-90).

(Note: The Department of Revenue's nonacquiescence in the *Fort Howard* case does not affect this answer.) □



Private Letter Rulings

"Private letter rulings" are written statements issued to a taxpayer by the department that interpret Wisconsin tax laws to the taxpayer's specific set of facts. Any taxpayer may rely upon the ruling to the same extent as the requestor, provided the facts are the same as those set forth in the ruling.

The number assigned to each ruling is interpreted as follows: The "W" is for "Wisconsin," the first two digits are the year the ruling becomes available for publication (80 days after the ruling is issued to the taxpayer), the next two digits are the week of the year, and the last three digits are the number in the series of rulings issued that year. The date following the 7-digit number is the date the ruling was mailed to the requestor.

Certain information contained in the ruling that could identify the taxpayer requesting the ruling has been deleted. Wisconsin Publication 111, "How to Get a Private Letter Ruling From the Wisconsin Department of Revenue," contains additional information about private letter rulings.

The following private letter ruling is included:

Sales and Use Taxes
Service enterprises — satellite
antenna removal, site surveys
W9241012, July 16, 1992
(p. 39)

✱ W9241012, July 16, 1992

Type Tax: Sales and Use

Issue: Service enterprises — satellite antenna removal, site surveys

Statutes: Sections 77.51(15)(c)2 and 77.51(2)(a)10, Wis. Stats. (1989-90)

This letter responds to your request for a private letter ruling regarding the Wisconsin sales and use tax implications of providing satellite antenna services.

Facts

As a local subcontractor, XYZ Corporation provides the following services:

1. Removal of satellite antennas and electronics, including satellite receivers and computers; repossession.
2. Site surveys; driving to site to obtain information on cable length, antenna placement, build-

ing structure, building permit requirements, etc.

XYZ Corporation bills Company B for these services. Company B is hired by the seller of the satellite systems (Company A) to coordinate the installation of the satellite systems.

Request

What are the Wisconsin sales and use tax implications of these two types of business activities?

Ruling

1. The removal of satellite antennas and electronics by itself is a service which is not subject to Wisconsin sales or use tax. However, the service of removing satellite antennas and electronics, if performed in conjunction with taxable sales of satellite antennas or electronics, is subject to Wisconsin sales or use tax, regardless of whether the charge for satellite antenna removal is separately stated.
2. Site surveying by itself is a service which is not subject to Wisconsin sales or use tax. However, site surveying in conjunction with taxable sales of satellite antennas or electronics is subject to Wisconsin sales or use tax, regardless of whether the charge for site surveying is separately stated.

Analysis

Section 77.52(2)(a), Wis. Stats. (1989-90), provides that sales of certain services are subject to Wisconsin sales tax. Since the removal of satellite antennas and electronics and site surveying are not among the services listed as taxable, the gross receipts for these services are generally not taxable.

However, sec. 77.51(15)(c)2, Wis. Stats. (1989-90), provides that "sales price" includes the amount charged for labor or services rendered in installing or applying tangible personal property sold. Therefore, Company A's charges for the removal of satellite antennas and electronics and site surveying, in conjunction with taxable sales of satellite antenna systems, are subject to tax.

Following is the tax treatment for the transactions involved when Company A's sale of satellite antenna systems are (1) sales of tangible personal property, and (2) real property improvements.

1. *Sales of Tangible Personal Property by Company A:* Section Tax 11.68(6)(a)2, Wis. Adm. Code, June 1991 Register, provides that satellite antennas installed in business, industrial or commercial buildings, schools and hospitals remain personal property after installation. Sales of these satellite antenna systems are subject to sales tax.

Note: Sales made to Wisconsin governmental units or to organizations holding a Certificate of Exempt Status are exempt from sales or use tax.

The charges by XYZ Corporation to Company B for removal of satellite antennas and electronics and for site surveys are for nontaxable services only. Accordingly, XYZ Corporation does not need to obtain an exemption certificate from Company B.

The charge by Company B to Company A for the installation of the satellite antenna system, which includes the charges by XYZ Corporation is for the installation of tangible personal property, which is a taxable

service. However, Company B may obtain a resale certificate from Company A since Company A is reselling the installation service to the purchaser of the satellite antenna system.

Company A's entire charge to the purchaser, including any amounts charged for the antenna survey, installation, and the removal of the old antenna, is subject to sales tax.

2. *Real Property Improvements by Company A:* Satellite antenna systems installed in residential buildings, including apartment buildings and convalescent homes, become a part of realty after installation. A transaction which involves both the sale and installation of satellite antenna systems is not subject to sales tax. However, purchases of items consumed by any of the parties involved in such real property improvements are subject to sales or use tax.

The charges by XYZ Corporation to Company B for removal of satellite antennas and electronics and for site surveys are for nontaxable services only. Accordingly, XYZ Corporation does not need to obtain an exemption certificate from Company B.

Because the satellite antenna system becomes a part of realty after installation, Company B's charges to Company A for the installation, which includes the charges by XYZ Corporation are not subject to sales tax, and it is not necessary for Company B to obtain an exemption certificate from Company A. □