

(b) Tangible personal property consumed or destroyed or losing its identity in the manufacture of tangible personal property in any form destined for sale.

**Tax 11.45 Sales by pharmacies and drug stores.** Tax 11.45(1), (2)(a), (2)(b)(intro.), (2)(c)(intro.), and (3)(intro.) are amended, to reflect proper format; (3)(a) to (e) are amended, to reflect the exemption for parts and accessories; (3)(h) is repealed and recreated, to correctly reflect sec. 77.52(2)(a)10, Wis. Stats. (1991-92); and (4) is amended, to clarify the exemption or taxability of medicare claims. The text of Tax 11.45(3)(a) to (e) and (h) and (4) is as follows:

11.45(3)(a) Artificial devices, including parts and accessories, individually designed, constructed or altered solely for the use of a particular physically disabled person which become a brace, support, supplement, correction or substitute for a bodily structure, including the extremities, of the individual.

(3)(b) Trusses, supports, shoes and braces, including parts and accessories, but only when specifically fitted or altered to fit a particular person. "Altered" includes the bending of metal stays but does not include adjusting straps or seams.

(3)(c) Antiembolism elastic hose and stockings, including parts and accessories, prescribed by a physician and sold to the ultimate consumer.

(3)(d) Artificial limbs, artificial eyes, hearing aids and batteries, colostomy, ileostomy and urinary appliances, artificial breast forms, pacemakers, and other equipment, including parts and accessories, worn as a correction or substitute for any functioning part of the body. This exemption ~~shall~~ does not apply to wigs or hair pieces, to garments designed to restrict or enhance the

body shape for cosmetic purposes, nor to breathing therapy units which are not "worn" by a person.

(3)(e) Crutches and wheelchairs including motorized wheelchairs and scooters for use by persons who are ill or disabled, open and closed end walkers with or without casters and canes which provide walking support by making contact with the ground at more than one point, including parts and accessories.

(3)(h) The repair, service, alteration, fitting, cleaning and maintenance of items in this subsection.

(4) **MEDICARE CLAIMS.** The administrator of Medicare claims, such as surgical care-blue shield, is under contract to withdraw funds from the United States treasury to pay the providers of medical services or for medical supplies and equipment. If the provider of a taxable item bills the administrator directly in full or in part, the ~~sale shall be~~ portion paid by the administrator is a tax exempt sale to the United States. If the provider of a taxable item bills an individual in full or in part who then seeks reimbursement from Medicare, the ~~sale shall~~ portion paid by the administrator to the individual is not be an exempt sale to the United States.

**Tax 11.49 Service stations and fuel oil dealers.** Tax 11.49(title) is amended, to add a reference to sec. 77.52(2)(a)9, Wis. Stats; (1)(b) is amended, to correctly reflect sec. 77.52(2)(a)10, Wis. Stats. (1991-92); (1)(c)(intro.) is renumbered (1)(c), to reflect the repeal of subds. 1 to 3; it is also amended, to correctly reflect sec. 77.52(2)(a)10, Wis. Stats. (1991-92); (1)(c)1 to 3 are repealed and set forth as examples, to reflect proper format; (1)(f) is created, to reflect sec. 77.52(2)(a)9, Wis. Stats. (1991-92); (2)(d) is amended, to reflect the exemption for fuel sold for use in farming; (2)(e) to (i) are renumbered

(2)(f) to (j), to reflect the creation of new par. (e); and (2)(e) is created, to reflect the exemption for fuel sold for use in farming. The text of Tax 11.49(1)(b), (1)(c), (1)(f), (2)(d), and (2)(e) is as follows:

11.49(1)(b) The repair, service, cleaning, painting, ~~towing~~, inspection and maintenance of motor vehicles, including the total amount charged for parts and labor and including motor vehicles and truck bodies owned by nonresidents

(1)(c) The towing of motor vehicles ~~if the towing is related to the repair, service or maintenance of the vehicle. The following services are not considered taxable towing services:~~

(1)(f) Providing parking for motor vehicles. Providing temporary storage of a motor vehicle is considered parking if the vehicle is ready and available for immediate use.

(2)(d) Sales to farmers of ~~fuel~~, parts and repairs for tractors or farm machines used directly in farming, but this exemption does not apply if these items are used in motor vehicles for highway use.

(2)(e) Sales to farmers of fuel used in farming.

**Tax 11.57 Public utilities.** Tax 11.57(2)(i) is amended as follows, to reflect the exemption for fuel sold for use in farming:

11.57(2)(i) Sales of gas or other fuel, not including electricity, to farmers ~~if the fuel is used in farm machinery that is exempt under s. Tax 11.12~~ for use in farming.

**Tax 11.70 Advertising agencies.** Tax 11.70 is repealed and recreated, to reflect proper format and improve readability, and to reflect exemptions for advertising materials subsequently shipped outside Wisconsin, items consumed in manufacturing, and containers. The text of Tax 11.70 is

as follows; examples and a note appearing in the rule are not reproduced here:

**Tax 11.70 Advertising agencies.** (ss. 77.51(14)(intro.) and (h), 77.52(1) and (2) and 77.54(2), (2m), (6)(b) and (25), Stats.) (1) DEFINITIONS. In this section:

(a) "Finished art" means the final art used for actual reproduction by photomechanical or other processes, or for display purposes. Finished art includes drawings, paintings, designs, photographs, lettering, paste-ups, mechanicals or assemblies, charts, graphs and illustrative material not reproduced.

(b) "Preliminary art" means art prepared solely for presenting an idea to a client or prospective client. Preliminary art includes roughs, visualizations, sketches, layouts and comprehensives.

(2) TAXABLE SALES. The following sales are subject to Wisconsin sales or use tax, unless an exemption in sub. (3) applies:

(a) Charges for finished art. Finished art is tangible personal property.

(b) Charges for preliminary art all or any part of which results in the production of finished art or other tangible personal property by the advertising agency. This preliminary art is tangible personal property.

(c) Sales of signs, circulars, business cards, stationary showcards, banners, posters, bulletins, direct mail advertising, catalogs, brochures, commercials, tapes or other items of tangible personal property.

(d) Photographic services or photostats.

(e) Producing, fabricating, processing, printing or imprinting tangible personal property for clients for a consideration, even though the client may furnish the materials used in producing, fabricating, processing, printing or imprinting of the tangible personal property.

(3) NONTAXABLE SALES. Charges for the following are not subject to Wisconsin sales or use tax:

(a) Preliminary art that does not result in the production of finished art or other tangible personal property.

(b) Writing original manuscripts or news releases.

(c) Writing copy to be used in media advertising.

(d) Consultation, market research and compiling statistical or other information.

(e) Recommendations for advertising themes or merchandising plans.

(f) Obtaining media space and time.

(g) Printed material which is designed to advertise and promote the sale of merchandise, or to advertise the services of individual business firms, which is purchased and stored for the purpose of subsequently transporting it outside Wisconsin by the client for use thereafter solely outside Wisconsin.

(h) Printing or imprinting tangible personal property which will be subsequently transported outside Wisconsin for use outside Wisconsin by the client for advertising purposes.

(i) Tangible personal property that will be resold by the client.

(j) Tangible personal property becoming an ingredient or component part of an article of tangible personal property or which is consumed or destroyed or loses its identity in the manufacture of tangible personal property in any form destined for sale.

(k) Tangible personal property or services that become an ingredient or component of shoppers guides, newspapers or periodicals or that are consumed or lose their identity in the manufacture of shoppers guides, newspapers or periodicals, whether or not the shoppers guides, newspa-

pers or periodicals are transferred without charge to the recipient. This exemption does not apply to advertising supplements that are not newspapers.

(l) Containers, labels, sacks, cans, boxes, drums, bags or other packaging and shipping materials for use in packing, packaging or shipping tangible personal property, if the items are used by the purchaser to transfer merchandise to customers. Also exempt are meat casing, wrapping paper, tape, containers, labels, sacks, cans, boxes, drums, bags or other packaging and shipping materials for use in packing, packaging or shipping meat or meat products, regardless of whether these items are used to transfer merchandise to customers.

(4) MEASURE OF TAX. (a) Tax applies to an advertising agency's total gross receipts from the sale of tangible personal property or taxable services without any deduction for any cost element which becomes a part of the sales price. These elements include consultation, research, copy, supervision, model fees, rentals, photostats, typesetting, postage, express, telephone, travel, agency service fees, or any other labor or service cost incurred in the production of that property. No deduction may be taken even though the costs are separately itemized in a billing to the client.

(b) Tax applies to in-progress billings for production work which ultimately results in the production of finished art work or other tangible personal property.

(5) WHEN AND WHERE SALE OCCURS. (a) The tax applies to an agency's gross receipts from the sale of or the storage, use or consumption of tangible personal property in Wisconsin regardless of whether:

1. The transfer is to the advertiser or to a third party at the direction of or on behalf of the client.

2. The client is located in or outside Wisconsin.

(b) The sale of tangible personal property or taxable services occurs when the advertising agency transfers possession of the tangible personal property to the client or the client realizes the economic benefits of the property's use, even though the property may not be physically transferred to the client.

(6) FEES ADDED TO BILLINGS. When an amount billed as an agency "fee," "retainer," "service charge" or "commission" represents services rendered which are a part of the sale of tangible personal property, the amount is taxable. If it clearly represents a charge or a part of a charge for any nontaxable service rather than for the sale of tangible personal property, it is not taxable. A fee representing both taxable and nontaxable sales shall be reasonably allocated between taxable and nontaxable sales.

(7) PURCHASES BY AGENCIES. (a) An advertising agency is the seller of, and may purchase without tax for resale, any item that:

1. Is resold before use by the advertising agency.

2. Becomes physically an ingredient or component part of tangible personal property the advertising agency produces and sells.

(b) An advertising agency is the consumer of all tangible personal property other than tangible personal property purchased for immediate sale to customers or that becomes physically an ingredient or component part of tangible personal property sold by the agency. As the consumer, the advertising agency is subject to Wisconsin sales or use tax on the tangible personal property purchased.

**Tax 11.71 Computer industry.** Tax 11.71(title) is amended, to add a reference to sec. 77.51(20), Wis. Stats.; (1)(e)6 is amended, to clarify

that taxable personal property includes computer programs, except custom programs; (2)(a)(intro.) and 1 are amended, to reflect proper format; and (2)(b)(intro.) is amended, to reflect the taxability of computer programs, except custom programs. The text of Tax 11.71(1)(e)6 and (2)(b)(intro.) is as follows:

11.71(1)(e)6. Custom programs do not include basic operational programs or prewritten programs.

(2)(b) The retail sale, lease, rental or license to use ~~prewritten programs and basic operational programs~~ computer programs, except custom programs, including the maintenance and enhancement of those programs, whether transferred in a machine readable form such as cards, tapes or discs, or transferred in any other manner to the lessee or purchaser such as by telecommunications, or written instructions on coding sheets. The tax applies to the total charge for these programs, including:

**Tax 11.83 Motor vehicles.** Tax 11.83(title) is amended, to add references to secs. 77.56(3) and 77.71(4), Wis. Stats.; (2)(a) is amended, to reflect proper format; (2)(c) and (d) are amended, to reflect the exemption for parts and accessories for adaptive equipment; (3)(a) is amended, to reflect the exemption for occasional sales to in-laws; (4)(a) is amended, to reflect the position that truck bodies include semi-trailers; (4)(b) is amended, to correctly reflect sec. 77.52(2)(a)10, Wis. Stats. (1991-92); (6) is amended, to clarify that sales or use tax (not just sales tax) paid to another state for a vehicle purchased outside Wisconsin shall be credited against Wisconsin use tax; (7)(a) is amended, to reflect proper grammar; (7)(b) is amended, to address the exemption under sec. 77.54(9a), Wis. Stats. (1991-92); (7)(c) is created, to reflect sec. 77.56(3), Wis. Stats. (1991-92); (8)(b) is amended, to

reflect proper grammar and the position regarding use tax on vehicles withdrawn from inventory; and (10) and (14) are amended, to reflect proper language and format. The text of Tax 11.83(2)(c), (2)(d), (3)(a), (4)(a), (4)(b), (7)(b), (7)(c), and (8)(b) is as follows:

11.83(2)(c) Gross receipts from equipment and accessories sold with a motor vehicle. However, adaptive equipment, including parts and accessories, that makes it possible for handicapped persons to enter, operate or leave a vehicle as defined in s. 27.01(7)(a)2, Stats., is exempt from sales and use tax if the equipment is purchased by the handicapped person, a person acting directly on behalf of the handicapped person or a nonprofit organization.

(2)(d) Gross receipts from charges for all parts and labor for repair, service and maintenance performed on a motor vehicle, including charges for installation of accessories or attachments, except charges for adaptive equipment, including parts and accessories, that makes it possible for handicapped persons to enter, operate or leave a vehicle as described in par. (c).

(3)(a) The occasional sale of a motor vehicle is taxable, unless the transfer is to the spouse, parent, stepparent, father-in-law, mother-in-law, child or stepchild, son-in-law or daughter-in-law of the transferor or is transferred from an individual to a corporation which is solely owned by the individual; and the motor vehicle has been previously registered in Wisconsin in the name of the transferor; and the transferor is not a motor vehicle dealer. ~~A son-in-law or daughter-in-law is not allowed this exemption.~~

(4)(a) The gross receipts from the sales of motor vehicles or truck bodies to nonresidents of Wisconsin, including members of the armed forces, who will not use the vehicles or trucks for which the truck bodies

were made in Wisconsin other than in their removal from Wisconsin are exempt. Truck bodies include semi-trailers. However, the separate sale of a "slide-in" camper to a nonresident is taxable if delivery is in Wisconsin.

(4)(b) Gross receipts from the repair by a Wisconsin retailer of a nonresident's motor vehicle or truck body is subject to the tax.

(7)(b) A motor vehicle transferred as a gift or as a prize in a contest or drawing is exempt when registered with the department of transportation by the recipient or prize winner. However, the sale of the vehicle to the donor of the gift or prize is taxable, unless the donor is an organization described in s. 77.54(9a), Stats.

(7)(c) A motor vehicle donated to an organization described in s. 77.54(9a), Stats., is not subject to Wisconsin use tax.

(8)(b) Retail dealers ~~shall~~ may not report on the basis prescribed in par. (a) for service vehicles such as wreckers or pick-up trucks, ~~or~~ autos used by customers when their car is being repaired or any vehicle properly capitalized and depreciated for Wisconsin franchise or income tax purposes. Wholesalers, distributors, brokers or manufacturers may not report on this basis.

**Tax 11.84 Aircraft.** Tax 11.84(1)(b)1 is amended, to reflect the exemption for transfers to stepparents, stepchildren, and in-laws and (1)(c), (2)(b), (3), (4)(intro.), and (4)(b) are amended, to reflect proper format and grammar. The text of Tax 11.84(1)(b)1 is as follows:

11.84(1)(b)1. The transfer is to the spouse, parent ~~or~~, stepparent, father-in-law, mother-in-law, child, stepchild, son-in-law or daughter-in-law of the transferor;

**Tax 11.85 Boats, vessels and barges.** Tax 11.85(title) is amended, to reflect proper punctuation; (2)(b) is amended, to reflect the exemption for sales to stepparents, stepchildren, and in-laws; and (3)(a) is amended, to reflect proper format. The text of Tax 11.85(2)(b) is as follows:

11.85(2)(b) Sales of boats to the spouse, parent ~~or~~, stepparent, father-in-law, mother-in-law, child, stepchild, son-in-law or daughter-in-law of the transferor shall be exempt if the boat was previously registered with the Wisconsin department of natural resources or documented under the laws of the United States in the transferor's name and if the transferor is not engaged in the business of selling boats.

**Tax 11.88 Mobile homes.** Tax 11.88(3)(b) is amended, to reflect the exemption for sales of certain mobile homes and (3)(d) is amended, to reflect the exemption for sales to in-laws. The text of Tax 11.88(3)(b) and (3)(d) is as follows:

11.88(3)(b) Under s. 77.51(4)(b)6 and (15)(b)5, Stats., 35% of the total gross receipts from the sale of a certain new mobile home which is a primary housing unit homes is exempt from the tax. No credit is allowed for trade-in allowances on the purchase of a these new mobile home homes. The 35% exemption applies to a new mobile home that is:

1. A primary housing unit under s. 340.01(29), Stats., or

2. Transported in two unattached sections if the total size of the combined sections, not including additions and attachments, is at least 984 square feet measured when the sections are ready for transportation.

(3)(d) Under s. 77.54(7), Stats., mobile homes transferred to the spouse, parent, stepparent, father-in-law, mother-in-law, child or, stepchild, son-in-law or daughter-in-law of the transferor are exempt occasional sales if the mobile home has been previously registered or titled in Wisconsin in the name of the transferor and the transferor is not engaged in the business of selling homes.

**Tax 11.95 Retailer's discount.** Tax 11.95(1) is amended as follows, to reflect a law change in the computation of the retailer's discount provision:

11.95(1) For timely reporting state and county sales or use tax collected on their retail sales, retailers may deduct ~~2% of the first \$10,000 of sales and use tax payable during the retailer's tax year, 1% of the second \$10,000 of sales and use tax payable and .5% of the sales and use tax payable in excess of \$20,000 each~~ on retail sales during the retailer's tax year.

**Tax 14.03 Household income and income.** Tax 14.03(3)(a) is amended, to reflect proper format; (4)(b)10 is amended, to reflect a law change to include in income nontaxable interest from state or municipal bonds; and (4)(b)15, 23.d, and 23.f are amended, to reflect proper format. □