



Tax Releases

"Tax releases" are designed to provide answers to the specific tax questions covered, based on the facts indicated. In situations where the facts vary from those given herein, the answers may not apply. 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.

The following tax releases are included:

Sales and Use Taxes

1. Color Copiers Used in Art Departments (p. 25)
2. Fuel and Electricity Consumed in the Manufacture of Shoppers Guides, Newspapers, and Periodicals (p. 25)
3. Prepackaged Combinations of Food, Food Products, and Beverages Constitute Meals - Effective August 1, 1997 (p. 26)

SALES AND USE TAXES

Note: The following tax releases interpret the Wisconsin sales and use tax law as it applies to the 5% state sales and use tax. The 0.5% county and 0.1% stadium sales and use taxes may also apply. For information on sales or purchases that are subject to the county or stadium sales and use tax, refer to Wisconsin Publication 201, *Wisconsin Sales and Use Tax Information*.

1 Color Copiers Used in Art Departments

Statutes: Section 77.54(6)(a), Wis. Stats. (1995-96)

Wis. Adm. Code: Section Tax 11.39(2)(b) (October 1997 Register)

Background: Section 77.54(6)(a), Wis. Stats. (1995-96), provides an exemption from Wisconsin sales and use tax for "Machines and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property and safety attachments for those machines and equipment."

Facts:

- Company A is in the business of screen-printing and embroidering on sportswear apparel (shirts, caps, sweatshirts, etc.).
- Company A purchased a color copier to be used in its art department.
- The color copier is to be used for the following:
 - a) as a scanning device, to scan pictures and enter them into the computer so that additional work can be done on the designs.
 - b) as a printer, where sketches and designs created on the computer can be sent to the color copier.

Question: Does the purchase of the color copier qualify for the manufacturing exemption under sec. 77.54(6)(a), Wis. Stats. (1995-96)?

Answer: No. The machinery or equipment must be used exclusively and directly by a manufacturer in manufacturing tangible personal property. Because the color copier is used in the development of designs, it is not used exclusively and directly in manufacturing, and it thus does not qualify for exemption. □

2 Fuel and Electricity Consumed in the Manufacture of Shoppers Guides, Newspapers, and Periodicals

Statutes: Section 77.54(2m), Wis. Stats. (1995-96)

Wis. Adm. Code: Section Tax 11.56 (April 1994 Register)

Background: Section 77.54(2m), Wis. Stats. (1995-96), provides an exemption from Wisconsin sales and use tax for "The gross receipts from the sales of and the storage, use or other consumption of 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, newspapers or periodicals are transferred without charge to the recipient..."

Question: Are fuel and electricity consumed in the manufacture of shoppers guides, newspapers, and periodicals subject to Wisconsin sales and use tax?

Answer: No. The fuel and electricity are exempt from Wisconsin sales and use tax under sec. 77.54(2m), Wis. Stats. (1995-96), because they are consumed in manufacturing shoppers guides, newspapers, and periodicals. □

3 Prepackaged Combinations of Food, Food Products, and Beverages Constitute Meals — Effective August 1, 1997

Note: This tax release supersedes the tax release in *Wisconsin Tax Bulletin* 102 (July 1997), page 20. The only change is that this tax release applies only to sales of the prepackaged combinations described below, if the sale occurs on or after August 1, 1997. Sales and use tax does not apply to sales of such prepackaged combinations if the sale occurred before August 1, 1997.

Statutes: Section 77.54(20), Wis. Stats. (1995-96)

Wis. Adm. Code: Section Tax 11.51(2)(c)5, (December 1996 Register)

Background: Section 77.54(20), Wis. Stats. (1995-96), provides an exemption from Wisconsin sales and use tax for the gross receipts from sales of, and the storage, use or other consumption of certain food, food products, and beverages for human consumption.

An exception to this exemption is found in sec. 77.54(20)(c)2.a, Wis. Stats. (1995-96), which provides that sales of meals and sandwiches are subject to Wisconsin sales or use tax.

The Wisconsin Statutes do not define the terms “meal” or “sandwich.” However, sec. Tax 11.51(2)(c)5, Wis. Adm. Code, December 1996 Register, provides some guidance as to what constitutes a meal. This section provides in part that “A meal usually consists of a diversified selection of foods which are not susceptible of consumption in the absence of at least some articles of tableware and which are not conveniently consumed while one is standing or walking.”

Facts 1

- ABC Company offers for sale a combination of meat, cheese, and crackers in one package.
- Each packaged combination contains 6-8 crackers, 6-8 slices of cheese, and 6-8 slices of meat.
- The packaged combination is advertised as constituting a meal and is sold for a single price.

Facts 2

- DEF Company offers for sale a combination of meat, cheese, crackers, a fruit drink, and a small candy bar in one package.
- Each packaged combination contains 6-8 crackers, 6-8 slices of cheese, 6-8 slices of meat, a fruit drink, and a small candy bar.
- The packaged combination is advertised as constituting a meal and is sold for a single price.

Facts 3

- GHI Company offers for sale a combination of pizza crusts, shredded cheese, sliced pepperoni, a small package of pizza

sauce, a fruit drink, and a small candy bar in one package.

- Each packaged combination contains 3-4 mini pizza crusts, shredded cheese, several slices of pepperoni, a small packet of sauce along with a plastic utensil for spreading the sauce, a fruit drink, and a small candy bar.
- The packaged combination may be eaten heated or unheated.
- The packaged combination is advertised as constituting a meal and is sold for a single price.

Facts 4

- JKL Company offers for sale a combination of a sandwich, a bag of pretzels or potato chips, and cookies in one package.
- The packaged combination is advertised as constituting a meal and is sold for a single price.

Question: Are sales of any of the packaged combinations described in Facts 1 through 4 above subject to Wisconsin sales or use tax?

Answer: Yes. Sales of all of the above described packaged combinations are subject to Wisconsin sales or use tax under sec. 77.54(20)(c)2.a, Wis. Stats. (1995-96), as meals if the sale occurs on or after August 1, 1997. □