



TAX REPORT

SALES / USE TAX

WISCONSIN DEPARTMENT of REVENUE

MARCH 1974

ADMISSIONS

The sale of admissions to places of amusement, athletic, entertainment or recreational events or places and the furnishing for dues, fees or other considerations, the privilege of access to clubs or the privilege of having access to or the use of amusement, entertainment, athletic or recreational facilities are taxable. This includes admissions to movies, ballets, musical and dance performances, fairs, snowmobile and automobile races, and pleasure tours or cruises. Admissions to customer participation events such as swimming, skiing, bowling, skating, bingo, golfing, curling, dancing, card playing, hayrides, hunting, fishing, and horseback or pony riding are also taxable.

The tax applies to dues of organizations which have as an objective the supplying of amusement, athletic, entertainment or recreational facilities to their members such as country clubs, golf clubs, athletic clubs, swimming clubs, yachting clubs, tennis clubs, and the like. The dues of civic, fraternal, religious, patriotic and lodge type organizations, which are **not** organized for the purpose and objective of furnishing amusement, athletic, entertainment or recreational facilities to their members, are not taxable. Admissions to museums of history, art or science, and admissions to auto or trade shows, if professional entertainment is not provided at the show, are not taxable. Finally, admissions to antique shows are not taxable unless the charge for admission tickets can be used as a credit against the price of merchandise purchased.

So-called "donations" collected in connection with the conducting of a taxable event are subject to the 4% tax. For example, the sponsors of a bingo game and the participants both realize that the "donations" must continue to be made by the participants or it would not be possible to continue the game.

Bowling alley proprietors, who must pay tax on all their regular bowling fees, are only required to pay tax on a portion of bowling tournament entrance fees. From the total tournament fees collected, they may subtract the amount advertised and set aside for prize money. The balance is subject to the sales tax.

The proceeds received from members for initiation fees, special assessments, dues, and stock sales of clubs supplying amusement, athletic, entertainment or recreational facilities to members are charges for the privilege of obtaining access to such clubs, and are taxable receipts of the clubs.

SELF-SERVICE CAR WASHES

The total gross receipts of persons engaged in the business of providing coin-operated self-service car washes which involve a pressurized spray of soap and water are taxable, as are the receipts of all other persons providing car wash service.

SERVICES VS. RENTALS

A person who uses his own equipment to perform a job and who assumes the responsibility for the satisfactory completion thereof, is considered to be performing a service. On the other hand, a person who furnishes equipment with an operator to perform a job which the lessee will supervise and be responsible for the satisfactory completion thereof, is considered a lessor renting such equipment. If it is customary or mandatory that the lessee take the operator with the leased equipment, the entire charge is subject to the tax. However, the operator's services are not taxable if the lessee has the option of renting such equipment without the operator and the operator's services are separately billed.

PARKING AND STORAGE

Providing parking space for motor vehicles and aircraft or docking or storage space for boats for a consideration are taxable services. The gross receipts from providing storage, other than boat storage, such as fur coat storage, food storage, locker space charges, cloak room charges, and safe deposit box charges are not subject to the sales tax. Note, however, that the charge for cleaning and glazing a fur coat is taxable, even though the storage charge is not taxed.

"Parking" of a motor vehicle or aircraft implies the unit is readily available and capable of being used on short notice. "Storage" implies the unit is put away for a considerable period of time and is not ready or available for immediate use.

Since Section 77.52(2)(a)9, Wisconsin Statutes, imposes a tax on the gross receipts from providing parking space for motor vehicles, landlords who charge tenants for parking or who allow a discount to tenants that do not use the parking facilities must pay a sales tax on their gross receipts. See *Farwell Arms*, Docket No. S-4130, decided by the Wisconsin Tax Appeals Commission on October 26, 1973. In cases where a discount is allowed the landlord's taxable gross receipts are the difference between the discounted price and the amount received when parking facilities are provided.

BODY SHOP SUPPLIERS (Automotive Supply Wholesaler)

Persons that sell body shop supplies to body shop operators and have signed resale certificates from such operators may sell without tax items which are physically transferred to the customer's vehicle and leave the shop with the repaired vehicle. This includes paints, paint spray hardeners, plastic filler, welding rods and auto parts.

The tax is imposed on the body shop supplier's gross receipts from the sales to body shop operators (including auto dealers with body shops and other repairmen) of tools, equipment and supplies used or consumed in performing this motor vehicle repair service. Taxable supplies include sandpaper, masking paper and tape, buffing pads, paint thinner, lacquer thinner, clean and glaze compound, disc

pads, paint remover, paint masks, tack rags, steel wool, industrial gases, metal conditioner, brushes, lacquer removing solvent, rubbing compound, wax and grease remover, fluxing materials, disc adhesive and all other items not physically transferred to the customer's vehicle. A supplier cannot accept a signed Resale Certificate in good faith on items which are not physically transferred to the customer, **except** where the repairman certifies that he sells a particular item in significant amounts over-the-counter. In order for the supplier to make sales without tax under the Certificate, the repairman-purchaser must specify on the Resale Certificate each specific type of item which he sells over-the-counter.

SCHOOL BUSES AND MAIL CARRIERS

The gross receipts from the sales of school buses to school bus operators under contract with a public or private school to transport students are not subject to the 4% sales tax. The repair services and parts for such school buses are also exempt. However, since by definition buses are limited to motor vehicles having a passenger carrying capacity of ten or more persons, the sales of ordinary automobiles and station wagons do not qualify for the exemption. In addition, the exemption does not apply when a manufacturer purchases a bus for the purpose of hauling its own employees, as such hauling is not "for hire" hauling and the bus, therefore, is not used exclusively as a contract carrier.

A person engaged in the transportation of mail by motor vehicle between post offices under contract with the Postal Department may purchase his trucks, tractors, etc., without sales tax under s. 77.54(5)(b) of the Wisconsin Statutes. However, the purchases of automobiles by rural route carriers are not exempt.

MANUFACTURER'S BOOKLET

The department is publishing a booklet which describes the status of manufacturers under the sales and use tax law. It should be available for distribution by May 1, 1974. If you desire a copy of this booklet, please write to this department in care of the Income, Sales, Inheritance and Excise Tax Division, Post Office Box 39, Madison, Wisconsin 53701.

TAXABLE FABRICATION LABOR

Fabrication labor performed for consumers is a taxable service whether or not the customer provides the materials. It consists of one or more steps in the creation or production of tangible personal property. Some common examples of taxable fabrication labor are:

- (a) Producing a hand tailored suit, dress, coat, or other clothing.
- (b) Key punching and keystroke or keyverifying data processing cards.
- (c) Firing ceramics.
- (d) Assembling advertising displays
- (e) Cutting holes in "I" beams, adding flanges, etc., for construction jobs.
- (f) Cutting lumber to specifications of a customer.

FEDERAL FOOD STAMPS

A retailer's gross receipts from the redemption of Federal Food Stamps are not subject to the 4% sales tax. This is true even though the stamps are used to purchase items that would otherwise be taxable, such as candy, popcorn, gum, confections and soft drinks.

SPECIAL LEASE OR RENTAL SITUATIONS

1. Lease Cancellation Charge: The payment by a lessee to a lessor for the cancellation of a lease of tangible personal property is subject to the 4% tax. The receipts are consideration arising out of the original lease which have the effect of decreasing the term of the lease and thereby increasing the rental payments for the actual period the property was used.

2. Delivery and Erection of Leased Property: Although certain lessors of scaffolding or other tangible personal property separately set forth charges for transportation, assembly and dismantling the leased property, these charges are taxable. Leases are continuing sales and the tax applies to charges by the lessor for delivery of the leased property to and from the location where the lessee uses the property. This is true whether transportation is provided by the lessor or someone hired by the lessor. The labor for erecting (reassembly) and dismantling leased property are taxable services provided in conjunction with the sale.

3. Advertising Signs and Billboard Leases: Because leases and rentals of tangible personal property are taxable, it is often necessary to make a distinction between the lease or rental of a sign and a charge made for space on the sign. The following two examples illustrate this distinction.

- (a) A car dealer has a sign company install a large sign on his premises and pays a monthly rental to the sign company. Since the sign company has the right of removal, the sign remains tangible personal property and the lease receipts are taxable. Repair service and maintenance of the sign would also be taxable.
- (b) The sign company owns and maintains a large billboard along the Interstate Highway system. A car dealer (or advertising agency) enters into a contract with the sign company to have his advertising message displayed thereon for a specified period of time. The receipts received are not taxable lease receipts because no transfer of the possession of the sign has taken place, and the car dealer has no right to possession of the sign, nor any other right therein except the right to have his advertising message remain on public display.

If the sign company in Example (b) above contracts with a third party for maintenance services on the sign (e.g. painting, electrical repairs, etc.), such services are subject to the tax if the sign is on land which is not owned by the owner of the sign.

TRADING STAMPS

A sheet of trading stamps is of small tangible value, but it has a much greater intangible value, because the stamps are accepted as the equivalent of money at the time of redemption.

A trading stamp company's acquisitions of trading stamps, trading stamp books, and advertising and promotional materials furnished to retail merchants are taxable transactions. The trading stamp company is the consumer of these items.

The transfer of the stamps by the trading stamp company to the retail merchant is not subject to the tax. This is a part of the overall advertising and promotional service provided the merchant by the trading stamp company.

The retailer may not deduct from his taxable gross receipts from merchandise sold any part of the amount he pays the trading stamp company for the trading stamps he gives his customers.