further concluded that Woodward had not shown it qualified for any of the the exemptions it claimed. Specifically, the Commission concluded that the guides were not "destined for sale" within the sec. 77.54(2), Wis. Stats., exemption; the materials and supplies Woodward used after July 1, 1978, to print its own guides were not exempt under sec. 77.54(15), Wis. Stats.

The Court of Appeals affirmed the Commission's decision and concluded that:

A. When material facts are not in dispute and only matters of law are in issue, the Court may review the record *ab initio* and substitute its judgment for that of the Tax Appeals Commission.

B. The physical form of the shoppers' guide is essential to the advertising it contains. Consequently, the sale of Woodward's shoppers' guides is the sale of the service of printing of tangible personal property under sec. 77.52(2)(a)11., Wis. Stats.

Section 77.51(4), Wis. Stats., defines "sale at retail." It does not define "resale." However, by virtue of subs. (k), the transfer by Woodward's purchasers of the shopping guides to members of the public free of charge does not prevent Woodward's sales from being retail sales.

C. Having already held that Woodward's sale of its shopping guide printing services to others is a sale under sec. 77.52(2)(a)11., Wis. Stats., to hold that sec. 77.51(4), Wis. Stats., not only makes Woodward's sale to its purchasers a retail sale but also makes the same sale exempt as "destined for sale" would render sec. 77.51(4)(k), Wis. Stats., meaningless. The same section would both cause the tax to be imposed and exempt the transaction from the tax, an absurd result.

D. Woodward's "destined for sale" contention is rejected for the same reasons stated above. That Woodward gives away its own shoppers' guides free of charge does not constitute a resale.

E. For reasons previously stated, the Court has held that the shoppers' guides Woodward prints for itself or others are not "destined for sale." The exemption Woodward relies on does not apply.

F. Section 77.54(15), Wis. Stats., as amended, exempts shoppers' guides from the sales and use tax, but not the materials and supplies used to print shoppers' guides. Because the statute is silent with respect to materials and supplies, and because the Court must strictly construe an exemption against the taxpayer, the materials and supplies Woodward used on and after July 1, 1978, were not exempt from the use tax.

G. The record is silent as to whether after July 1, 1978, Woodward distributed no less than 48 issues in a twelve-month period. Because of the strong presumption favoring constitutionality and Woodward's failure to show that the post-July 1, 1978, classification disparately treats Woodward, its challenge to the Commission's construction of sec. 77.54(15), Wis. Stats., also fails.

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

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TAX RELEASES

("Tax Releases" are designed to provide answers to the specific tax questions covered, based on the facts indicated. However, the answer 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.)

The following Tax Releases are included:

Individual Income Taxes

Corporation Franchise or Income Taxes

Sales/Use Taxes

County Sales/Use Taxes

INDIVIDUAL INCOME TAXES

1. Basis Adjustment Under Wisconsin's Marital Property Law

Statutes: Section 71.05(10)(e), Wis. Stats. (1987-88)

Note: This Tax Release applies with respect to deaths occurring on or after January 1, 1986.

Background: Generally, Internal Revenue Code sec. 1014 provides that the basis of real or personal property acquired from a decedent is its fair market value on the date of the decedent's death (or on the alternate valuation date, if chosen). In community property states, a husband and wife usually are considered as each owning half of the community property. If either spouse dies, the surviving spouse's half of the community property, as well as the decedent spouse's half, is entitled to a basis adjustment to the date-of-death value (IRC sec. 1014(b)(6)). For this double-basis adjustment to apply, at least half of the community property must be includable in the decedent's gross estate for federal estate tax purposes.

Internal Revenue Code sec. 1014(e) provides that where a decedent receives a gift of appreciated property within one year of death, and the property is reacquired by the donor or the donor's spouse, the decedent's adjusted basis immediately prior to the decedent's death is carried over and becomes the donor's (and donor's spouse's) basis in the property. Consequently, there is no basis adjustment on account of the death. For income tax purposes, IRC sec. 1041 defines any transfer between spouses, even those for full and adequate consideration, as having been acquired by gift. Therefore, any transfer to the decedent by the decedent's spouse may result in an IRC sec. 1014(e) basis adjustment denial.

For Wisconsin purposes, the basis of real or personal property acquired from a decedent is determined under the Internal Revenue Code. However, a modification is required, under sec. 71.05(10)(e), Wis. Stats. (1987-88), for any difference between the federal estate tax value and the Wisconsin inheritance tax value.

Note: Throughout this Tax Release, it should be understood that marital property and survivorship marital property can be created only while the classification rules of ch. 766, Wis. Stats., apply to the marriage. These rules apply "during marriage" which is defined as that period in which both spouses are domiciled in Wisconsin that begins at the determination date and ends at dissolution of the marriage or at the death of a spouse (sec. 766.01(8), Wis. Stats. (1987-88)).

Question 1: Under Wisconsin's marital property law, upon the death of one spouse, will the property of both spouses receive a double- basis adjustment under sec. 1014(b)(6), IRC, to the date-of-death value?

Answer 1: The Internal Revenue Service has determined that Wisconsin's marital property system is a type of community property (Rev. Rul. 87-13, 1987-1 C.B. 20). Therefore, for federal and Wisconsin tax purposes, certain property of spouses will receive a double-basis adjustment under sec. 1014(b)(6), IRC. However, the Internal Revenue Service has indicated that certain assets cannot be classified as marital property or as containing marital property and, therefore, will not receive a double-basis adjustment upon the death of one spouse.

The following property **will** receive a double-basis adjustment for both federal and Wisconsin purposes:

a. Property acquired after the spouses' determination date which is titled as marital property.

b. Property acquired after the spouses' determination date which is titled as survivorship marital property.

c. Property acquired after the spouses' determination date which is classified as marital property or survivorship marital property by operation of law (sec. 766.60(4)(b)1. and 2., Wis. Stats. (1987-88)). For example, if a document of title expresses an intent to establish a tenancy in common exclusively between spouses after their determination date, the property is marital property. If a document of title expresses an intent to establish a joint tenancy exclusively between spouses after their determination date, the property is survivorship marital property.

d. Property acquired before the spouses' determination date which is reclassified as marital property by a marital property agreement or court order. If a marital property agreement or court order reclassifies the whole of joint tenancy or tenancy in common property as marital property, the property will be treated as marital property for basis adjustment purposes (Rev. Rul. 87-98, 1987-2 C.B. 206).

e. Property acquired before the spouses' determination date and titled solely in one spouse's name if, as a result of mixing, it is not possible to trace the nonmarital property component. Mixing can occur in two ways and can result in either the whole of the property, or only a portion, being classified as marital property.

   First, marital property (either cash or assets) can be mixed with nonmarital property. For example, if one spouse purchased a home prior to the marriage and marital property wages are used to make mortgage loan payments or substantial home improvements, the home is mixed property. If the nonmarital property component cannot be traced, the mixing rule will reclassify the whole of the home as marital property. If the nonmarital property component can be traced, only the remaining component would be classified as marital property.

   Second, a marital property component is created when there is substantial appreciation of nonmarital property resulting from the substantial efforts of either spouse, for which reasonable compensation was not received.

f. Untitled property acquired before the spouses' determination date where the presumption that the property is marital property isn't rebutted.

g. Untitled property acquired after the spouses' determination date which the marital property law classifies as marital property.

The following property of spouses **will not** receive a double-basis adjustment for either federal or Wisconsin purposes:

a. Property acquired before the spouses' determination date in joint tenancy solely between the spouses. It is the department's understanding that the Internal Revenue Service's position is that marital property and joint tenancy are incompatible ownership forms; therefore, property held in a joint tenancy form that was acquired in whole or in part with marital property will not receive a double-basis adjustment, even if it were otherwise classified by the mixing rule as marital property. (However, see the exception in previous part c.) The portion of the joint tenancy in the decedent's estate for death tax purposes will receive a basis adjustment to the date-of-death value for both federal and Wisconsin purposes.

b. Property acquired before the spouses' determination date in tenancy in common exclusively between the spouses. It is the department's understanding that the Internal Revenue Service's position on tenancies in common is the same as for joint tenancies. Therefore, for both federal and Wisconsin purposes, only the property included in the decedent's estate for death tax purposes will receive a basis adjustment to the date-of-death value.

c. Property owned by one or both spouses with another person either as joint tenants or tenants in common. The Internal Revenue Service has indicated that there can be no marital property in an asset held with a nonspouse. It appears that a marital property agreement cannot classify such an asset as marital property. A basis adjustment to the date-of-death value will occur only upon the death of the titled spouse; the death of the nontitled spouse will not result in a basis adjustment.

d. Property owned by a decedent that would have been marital property if acquired under the marital property law, called "deferred marital property," and "augmented marital property estate" property. Despite the Internal Revenue Service's previous statement to the contrary, the Internal Revenue Service now agrees with the department that such property will not receive a double- basis adjustment. However, the property included in the decedent's estate for death tax purposes will still receive a basis adjustment to the date-of-death value.

Example: A husband and wife were married and domiciled in Wisconsin on January 1, 1986. They did not have a marital property agreement. On September 1, 1988, the wife died. The husband is the sole beneficiary of the wife's estate. At the date of death, the husband and wife owned the following property:

a. Home acquired in 1960 in joint tenancy for $35,000. Substantial improvements costing $25,000, which were paid for out of marital property funds, were made in 1987. The home's fair market value on September 1, 1988, was $150,000.

b. Rental property acquired in 1975 in tenancy in common for $100,000. Mortgage payments made in 1986, 1987, and 1988 were from marital property. Depreciation of $59,250 was claimed. The property's fair market value was $350,000 on September 1, 1988.

c. Stock A acquired in 1970 by the wife by inheritance. Its fair market value in 1960 was $1,000 and on September 1, 1988, was $100,000.

d. Stock B acquired in 1986, titled as marital property, for $10,000. Its fair market value on September 1, 1988, was $11,000.

e. Stock C acquired in 1980 by the wife for $15,000 using her wages, and titled in her name alone. Its fair market value on September 1, 1988, was $20,000.

The husband's new basis in the property is computed as follows:

a. Home	
Amount subject to death tax (1/2 x $150,000), plus	$ 75,000
Amount of original basis not adjusted above (1/2 x $60,000)	30,000
Total basis of home	$105,000
b. Rental property	
Amount subject to death tax (1/2 x $350,000)	$175,000
Amount of original basis not adjusted above (1/2 x ($100,000 - $59,250))	20,375
Total basis of rental property	$195,375
c. Stock A	
Amount subject to death tax (100% x $100,000)	$100,000
Amount of original basis not adjusted above (full basis adjusted above)	-0-
Total basis of stock A	$100,000
d. Stock B	
Amount subject to death tax (1/2 x $11,000)	$ 5,500
Amount of marital property not adjusted above (1/2 x $11,000)	5,500
Total basis of stock B	$ 11,000
e. Stock C	
Amount subject to death tax (100% x $20,000)	$ 20,000
Amount of original basis not adjusted above (full basis adjusted above)	-0-
Total basis of stock C	$ 20,000

Question 2: If spouses use a marital property agreement to reclassify their property as marital property, to pass to the survivor of the two at death, and one spouse dies within one year of making the agreement, will either the decedent's one-half or the surviving spouse's one-half of the newly-reclassified marital property receive a basis adjustment?

Answer 2: Under IRC sec. 1014(e), the transfer to the decedent by the decedent's spouse would result in the denial of a basis adjustment to the decedent's one-half of such property that passes back to the spouse. However, it is unclear whether the surviving spouse's one-half of such property will receive a basis adjustment. It is the department's position, contingent upon a contrary ruling by the Internal Revenue Service, that if a sec. 1014(e), IRC denial exists for the decedent's one-half, a basis adjustment is also denied for the surviving spouse's one-half of the property.

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CORPORATION FRANCHISE OR INCOME TAXES

1. Carryovers in Certain Corporate Acquisitions

Statutes: Section 71.26(3)(n), 1987-88 Wis. Stats., and section 3203(47)(y), 1987 Wisconsin Act 27

Background: Prior to the enactment of 1987 Wisconsin Act 27, which generally federalized the determination of net income for Wisconsin franchise and income tax purposes, the Wisconsin Statutes did not provide for the carryover of tax attributes (net operating losses, credits, etc.) from a merged corporation to the surviving corporation (*Fall River Canning Co. vs. Department of Taxation*, 3 Wis. (2d) 632). However, a Wisconsin net operating loss incurred by a corporation was allowed to be carried forward and offset against the net income of the same corporation for up to 15 years. The stock ownership of such a corporation did not affect the amount of net operating loss available for offset.

With the enactment of 1987 Wisconsin Act 27, which is generally effective for the 1987 taxable year and thereafter (taxable years ending on or after July 31, 1987), Wisconsin follows secs. 381, 382, and 383 of the Internal Revenue Code (IRC) as amended to December 31, 1986, except that secs. 381, 382, and 383, IRC are modified so that they apply to Wisconsin net operating losses and Wisconsin credits rather than federal net operating losses and federal credits.

Section 381, IRC provides that in certain situations a corporation may take carryovers of another corporation's tax benefits, privileges, elective rights, and obligations. This is available to a parent corporation after complete liquidation of a subsidiary, and to the transferee in a nontaxable corporate acquisition of property in certain types of reorganization. The items that may be taken into account include net operating loss carryovers, unused charitable contribution deduction carryovers, unused credits, and accounting, inventory, and depreciation methods.

Sections 382 and 383, IRC limit the amount of income that a corporation can offset using net operating loss carryovers and the amount of excess credit that can be carried over after certain changes in ownership.

Generally, under sec. 382, IRC, if the ownership of more than 50% in value of the stock of a "loss corporation" changes, the corporation becomes a "new loss corporation", and the amount of taxable income of any "post-change year" that may be offset using "pre-change losses" is limited. The amount of limitation is determined by multiplying the value of the stock of the corporation just prior to the ownership change by the federal long-term tax-exempt rate in effect on the date of the change. Two kinds of ownership changes that can trigger the income limitation on corporation net operating loss carryforwards are an ownership shift involving a "five % shareholder" and any "equity structure shift". If a corporation fails to meet certain business continuity requirements, the corporation's net operating loss carryforwards are eliminated entirely.

Question 1: When are secs. 381, 382, and 383, IRC, as modified by the Wisconsin Statutes, effective for Wisconsin franchise and income tax purposes?

Answer 1: Sections 381, 382, and 383, IRC, as modified, apply for Wisconsin for the 1987 taxable year and thereafter. Therefore, these sections apply to mergers, acquisitions, ownership changes, etc. which occur during the 1987 taxable year and thereafter (i.e. taxable years ending on or after July 31, 1987).

Question 2: What Wisconsin net operating losses and credits of a predecessor corporation are available to a successor corporation? Are the carryovers limited to those from taxable year 1987 and thereafter?

Answer 2: Any Wisconsin net operating loss or credit carryover that would be available to a predecessor corporation becomes available to the successor corporation. For example, beginning with net operating losses incurred in the taxable year 1980, a 15 year carryforward period is provided. Therefore, Wisconsin net operating losses from the taxable year 1980 and thereafter are available to the successor corporation. The carryovers are **not** limited to those losses incurred or credits computed in taxable year 1987 and thereafter.

Question 3: Do the limitations provided in secs. 382 and 383, IRC, apply even though Wisconsin doesn't allow a corporation to file consolidated returns?

Answer 3: Yes. While secs. 1501 to 1505, 1551, 1552, 1563, and 1564, IRC, which relate to consolidated returns, are excluded from Wisconsin's definition of the Internal Revenue Code, secs. 382 and 383, IRC, have only been modified so that they apply to Wisconsin net operating losses and Wisconsin credits rather than federal losses and federal credits. Therefore, limitations provided in secs. 382 and 383, IRC, apply even though consolidated filing is not permitted.

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2. Manufacturing for Purposes of the Manufacturer's Sales Tax Credit

Statutes: Section 71.28(3), Wis. Stats. (1987-88)

Wis. Adm. Code: Section Tax 2.11, September 1983 Register

Background: Company ABC processes whole fresh beef carcasses to produce "boxed beef." "Boxed beef" is beef carcasses cut into smaller, more manageable pieces for sale to butcher shops which will do the final cutting and packaging for retail sale to the customer.

Refrigerated beef carcasses (38-40°F) are unloaded from trucks into the production area (Area C) of Company ABC where they are cut, trimmed, vacuum sealed, and boxed in a process taking less than one hour. The temperature of Area C is maintained at 35°-38°F. The product is then sent to Area B where the temperature of the meat is lowered to 28°F, slightly above the temperature at which meat freezes. This process takes 2 to 3 days.

The majority of Company ABC's customers are retailers. Therefore, it is necessary that the product be cooled to 28°F so that it remains fresh and looks fresh.

Question: May the electricity used to keep Areas B and C at the correct temperature be used to compute the manufacturer's sale tax credit?

Answer: Section 71.28(3), Wis. Stats. (1987-88), provides that sales and use tax paid for electricity used in the manufacture of tangible personal property may be used to compute the manufacturer's sales tax credit. Manufacturing is defined as the production by machinery of a new article with a different form, use, and name from existing materials by a process properly regarded as manufacturing.

The electricity consumed in Area B for reducing the temperature of the product from 35-38°F down to 28°F is considered used in manufacturing because it makes the product ready for sale. Therefore, the sales and use tax paid on such electricity may be used in the computation of the manufacturer's sales tax credit.

The sales and use tax paid on electricity consumed in Area C does not qualify for credit. The product is not in the area long enough, nor is the temperature differential great enough to cause a change in temperature of the product and, therefore, the process cannot be considered manufacturing.

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3. Unrelated Business Income - Exemption for State and Other Units of Government

Statutes: Sections 71.24(1m) and 71.26(1)(a) and (b), Wis. Stats. (1987-88)

Note: This Tax Release applies only to taxable years 1988 and thereafter.

Background: Section 71.26(1)(a), Wis. Stats. (1987-88), provides that certain corporations are exempt from Wisconsin income or franchise taxation, except that they will be taxed on unrelated business taxable income as defined in section 512 of the Internal Revenue Code. Section 71.26(1)(b), Wis. Stats. (1987-88), provides that income received by the United States, the State of Wisconsin, and all counties, cities, villages, school districts, or other political units of the State of Wisconsin shall be exempt from Wisconsin income or franchise taxation.

Section 71.24(1m), Wis. Stats. (1987-88), provides that every corporation subject to a tax on unrelated business taxable income under sec. 71.26(1)(a), Wis. Stats. (1987-88), shall file a return with the department if a federal return is also required to be filed.

Question 1: Is the State of Wisconsin, or any county, city, village, school district or other political unit of the State of Wisconsin:

a. Subject to the Wisconsin tax on unrelated business income?

b. Required to file Form 4T, which is the Wisconsin return for computing the tax on unrelated business income?

Answer:

a. No. These entities are exempt from **all** Wisconsin income and franchise taxes, including the tax on unrelated business income (sec. 71.26(1)(b), 1987-88 Wis. Stats.).

b. No. A Form 4T is not required to be filed by any of these entities because their unrelated business income is exempt from Wisconsin income and franchise taxation.

Question 2: Is a university which is part of University of Wisconsin system, required to pay a Wisconsin income or franchise tax on its unrelated business taxable income? (Assume it is subject to a federal tax on its unrelated business income.)

Answer 2: No. Under case law, a university that is part of the University of Wisconsin system should be considered a part of the state. Although sec. 71.26(1)(a), Wis. Stats. (1987-88), would impose a Wisconsin tax on the university's unrelated business income; sec. 71.26(1)(b), Wis. Stats. (1987-88) specifically exempts from taxation all income of "the state." Therefore, such a Wisconsin state university is exempt from Wisconsin income or franchise taxation on its unrelated business income, even though for federal purposes, such income may be taxable. Accordingly, a Form 4T does not have to be filed with the Department of Revenue.

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SALES/USE TAXES

1. Cooling Towers - Real or Personal Property/Manufacturing

Statutes: Sections 77.51(20), 77.52(2)(a)10 and 77.54(6)(a), (6m) and (9a), Wis. Stats. (1987-88)

Wis. Adm. Code: Sections Tax 11.04, January 1979 Register, Tax 11.39(1), July 1987 Register, and Tax 11.40(1)(b) and (2)(c), November 1981 Register

Background: A power plant provides electricity, heat, and chilled water to various buildings in a complex. The current 5 cell cooling tower which serves the chiller is being expanded.

The cooling tower consists of a wooden framework providing support for both exterior surfaces and interior cells consisting of fill, drift eliminators, and the water distribution system. The cooling tower is set on and securely bolted to a concrete foundation (collection base). A powerful fan is mounted on the roof of the structure to draw air through the structure.

Hot water (101°F) is sprayed onto the fill made of PVC sheet in a honeycomb pattern maximizing surface area and air turbulence. The tower cools the water by evaporation. Once the water is cooled to 85°F, it drains to the collection basin and is pumped to chiller units. Fresh water is added constantly to replace the evaporated water.

The chiller units provide chilled water (42°F) through a closed loop underground piping system to cool the various buildings of the complex. The chilled water piped into the buildings comes off the building at 56°F and returns to the chiller units where it is again cooled to 42°F. The chillers, although driven by steam, do not themselves use or make steam.

Question 1: Is the cooling tower (including additions thereto) real or personal property?

Answer 1: The cooling tower (including the addition to the cooling tower) constitutes real property. The tower sits on a concrete foundation and is securely bolted to that foundation in numerous places. The frame and decking are made with ordinary building materials (e.g., pressure treated lumber). The large size of the structure indicates a real property improvement. The tower, although it could be dismantled and moved, will most probably remain as located for its entire useful life and be repaired or replaced piecemeal indefinitely.

Because the cooling tower is considered a real property improvement, the contractor erecting the tower will not charge sales tax to the power plant. Instead the contractor must pay sales or use tax on its cost of materials used in constructing the tower.

Question 2: Does a cooling tower, used in conjunction with a chiller unit in cooling various buildings, qualify as machinery and equipment used directly in manufacturing?

Answer 2: No. A cooling tower does not qualify as machinery and equipment used directly in manufacturing for two reasons. First, the cooling tower is real property (see Question 1) and secondly, the power plant's cooling of various buildings in the complex does not constitute manufacturing. No item of tangible personal property is being produced. Rather, a service is being performed on the buildings.

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2. Discount Cards

Statutes: Sections 77.51(4), 77.52(1), and 77.53(1), Wis. Stats. (1987-88)

Facts: For $20, ABC Company furnishes its customers an ABC discount card. The customer may use the card for a limited time period to receive a 15% discount on the purchase of ABC merchandise. In addition, any customer purchasing the discount card receives a 5" x 8" portrait.

Question 1: Is the $20 received by ABC Company from the customer for the discount card subject to Wisconsin sales tax?

Answer 1: Yes. The $20 paid to purchase the discount card is a taxable receipt because it is considered to be a payment for merchandise.

Question 2: Is ABC Company liable for use tax on its cost of the portrait (the portrait is given to a customer who pays $20 for the discount card)?

Answer 2: No. Part of the consideration by ABC Company for the $20 payment by the customer is the transfer of a portrait to the customer.

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COUNTY SALES/USE TAX

1. County Tax: Transitional Provisions Relating to Services

Statutes: Sections 77.51(14) and 77.77(1), Wis. Stats. (1987-88)

Background: Services subject to the 5% Wisconsin sales tax are **not** subject to the 1/2% county tax if:

a. The services are furnished to the customer **before** the effective date of the county ordinance (i.e., April 1 of a particular year), regardless of the date of billing or payment, or

b The services are furnished to the customer **after** the effective date of the county ordinance, but the service is:

1) Billed to the customer **before** the effective date of the county ordinance, **and**

2) Paid **before** the effective date of the county ordinance. (Note: In this situation, both the billing **and** payment must occur **before** the effective date of the county ordinance.)

Question 1: What is the definition "paid" for purposes of "b.2)" above?

Answer 1: "Paid" means that payment for the service is delivered to the retailer in person or, if payment is made by mail, the payment check is placed in a properly addressed envelope and postmarked before the April 1 date the county ordinance became effective.

Example 1: Customer A, whose home is located in a county which adopted the county tax effective April 1, 1988, has taxable landscaping services performed at his home on April 15, 1988. However, the customer received a bill from the landscaper for this service on March 1, 1988, with the request that it be paid by March 30, 1988. The customer mailed the check and the envelope was postmarked April 1, 1988. Although the billing was made before April 1, 1988, payment was not made before April 1, 1988. Therefore, the exemption from county tax does not apply.

Note: If Customer A in Example 1 had paid the bill before April 1, 1988 (i.e., had the envelope postmarked before April 1, 1988), the services would have been exempt from the county tax because the customer would have been billed before April 1, 1988, and he or she would have paid the bill before April 1, 1988.

Example 2: Customer B, whose home is located in a county which adopted the county tax effective April 1, 1988, has taxable plumbing services performed at his home on March 30, 1988. Customer B receives a bill from the plumber on April 2, 1988, and pays the bill on April 15, 1988.

The plumbing service performed at the customer's home on March 30, 1988, is not subject to the county tax because it was furnished to the customer **before** April 1, 1988, the effective date of the county tax. Since the service was performed before April 1, 1988, the date of billing and date of payment have no effect upon whether or not this service is taxable.

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