



Private Letter Rulings

“Private letter rulings” are written statements issued to a taxpayer by the department, that interpret Wisconsin tax laws based on the taxpayer’s specific set of facts. Any taxpayer may rely upon the ruling to the extent the facts are the same as those in the ruling.

The ruling number is interpreted as follows: The “W” is for “Wisconsin”; the first four digits are the year and week the ruling becomes available for publication (80 days after it is issued to the taxpayer); the last three digits are the number in the series of rulings issued that year. The date is the date the ruling was issued.

Certain information that could identify the taxpayer has been deleted. Additional information is available in Wisconsin Publication 111, “How to Get a Private Letter Ruling From the Wisconsin Department of Revenue.”

The following private letter rulings are included:

Sales and Use Taxes

Exemptions - photocopies of public records

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Telecommunication services - interstate services

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* W 0107002 *

November 27, 2000

Type Tax: Sales and Use Taxes

Issue: Exemptions - photocopies of public records

Statutes: Section 77.54(32), Wis. Stats. (1997-98)

This letter responds to your request for a private letter ruling.

Facts:

The City of XYZ has charged Wisconsin sales tax on the sale of the following types of photocopies in the past:

1. Copies of police accident reports;

2. Copies of the personnel file of an employee, who is filing a grievance, that are provided to the attorney representing such employee; and
3. Copies provided to the attorney of a developer that is filing a lawsuit against the city.

Question:

Are the City of XYZ charges for photocopies as described in 1 – 3 of the *Facts*, above, subject to Wisconsin sales and use taxes?

Answer:

Copies of (1) police accident reports, and (2) the personnel file of an employee, who is filing a grievance, that are provided to the attorney representing such employee, are exempt from Wisconsin sales and use tax under sec. 77.54(32), Wis. Stats. (1997-98).

Copies provided to the attorney of a developer that is filing a lawsuit against the city are also exempt from Wisconsin sales and use tax under sec. 77.54(32), Wis. Stats. (1997-98), provided the items copied are records as defined in *Analysis*, below.

Analysis:

Law

Section 77.54(32), Wis. Stats. (1997-98), provides a sales and use tax exemption for:

“The gross receipts from charges, including charges for a search, imposed by an **authority**, as defined in s. 19.32(1), for copies of a **public record** that a person may examine and use under s. 16.61(12) or for copies of a **record** under s. 19.35(1).” (Emphasis added.)

The charge for copies must meet the following criteria to qualify for exemption under sec. 77.54(32), Wis. Stats. (1997-98):

1. The charge must be made by an **authority** as defined in sec. 19.32(1), Wis. Stats. (1997-98), and
2. The charge must be for copies of either:

- a) **public record** that a person may examine and use under s. 16.61(12); or
- b) **record** under sec. 19.35(1), Wis. Stats. (1997-98).

Section 19.32(1), Wis. Stats. (1997-98), provides, in part, that:

“ ‘Authority’ means any of the following having custody of a record: a state or local office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order...”

Section 77.54(32), Wis. Stats. (1997-98), relies on the definitions of “public records” and “record” found in:

A. Section 16.61(2)(b), Wis. Stats. (1997-98):

“ ‘Public records’ means all books, papers, maps, photographs, films, recordings, optical disks, electronically formatted documents or other documentary materials, regardless of physical form or characteristics, made, or received by any state agency or its officers or employees in connection with the transaction of public business, and documents of any insurer that is liquidated or in the process of liquidation under ch. 645. ‘Public records’ does not include:

- 1. Records and correspondence of any member of the legislature.
- 1m. Any state document received by a state document depository library.
- 2. Duplicate copies of materials the original copies of which are in the custody of the same state agency and which are maintained only for convenience or reference and for no other substantive purpose.
- 3. Materials in the possession of a library or museum made or acquired solely for reference or exhibition purposes.
- 4. Notices or invitations received by a state agency that were not solicited by the agency and that are not related to any official action taken, proposed or considered by the agency.

- 5. Drafts, notes, preliminary computations and like materials prepared for the originator’s personal use or prepared by the originator in the name of a person for whom the originator is working.
- 6. Routing slips and envelopes.”

B. Section 19.32(2), Wis. Stats. (1997-98):

“ ‘Record’ means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. ‘Record’ includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks. ‘Record’ does not include drafts, notes, preliminary computations and like materials prepared for the originator’s personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.”

Application of Law

The City of XYZ is an “authority” within the meaning of sec. 19.32(1), Wis. Stats. (1997-98).

Copies of police accident reports and the personnel file of an employee meet the definition of “record” in sec. 19.32(2), Wis. Stats. (1997-98), because they are material(s) on which information is recorded or preserved that a requestor has the right to inspect under sec. 19.35(1)(a), Wis. Stats. (1997-98). Additionally, such material “...has been created or is being kept by an authority...” (i.e., the City of XYZ). Therefore, the charges for police accident reports and personnel files of employees are exempt from tax.

Assuming that the content of the copies that are provided to the developer’s attorney meet the definition of “record,” the charges are exempt from tax.

Note: The exemption in sec. 77.54(32), Wis. Stats. (1997-98), applies only to the charge for copies of records that may be reviewed under sec. 16.61(12) or 19.35(1), Wis. Stats. (1997-98). [↗](#)

* W 0105001 *

November 15, 2000

Type Tax: Sales and Use Taxes

Issue: Telecommunication services - interstate services

Statutes: Section 77.52(2)(a)5, Wis. Stats. (1997-98)

Wis. Adm. Code: Section Tax 11.66 (September 1997 Register)

This letter responds to your request for a private letter ruling.

Facts, as stated in your request:

Frame relay service is a packet-based data communication technology that provides high-speed, protocol-transparent switched connectivity between remote computers. Company DEF's ("DEF's") customers use frame relay service to establish cost-effective, high performance links between their geographically dispersed locations.

DEF's frame relay service consists of three components - local exchange carrier (LEC) access, access channels (ports), and permanent virtual circuits (PVCs). Each component is billed separately. The LEC access and access channel together are referred to as the frame relay access facility (FRAF). The FRAF provides the physical connection between the customer's equipment and DEF's frame relay network. The LEC access component of the FRAF is priced identically to the LEC access component of private line. The LEC access component consists of a charge for the dedicated access line between the customer's location and DEF's point of presence (POP), and separately stated connection charges associated with that access line such as a central office connection charge and an access coordination fee.

The access channel component of the FRAF includes a charge for the connection between DEF's POP and DEF's frame relay network. The monthly charges for both the LEC access and the access channel are fixed in amount but vary between customers based on each customer's specific needs (i.e., speed, bandwidth, or term commitment).

The third component of DEF's frame relay service is the PVC. The PVC is a fixed, logical transmission path

between two defined locations through a packet or cell based network. The PVC provides essentially the same service as a dedicated private line. The PVC is established between two specific locations so that all frames transmitted between the two locations always follow the same path. The main difference between a PVC and a private line is that a PVC is a switched, shared network connection between two locations, and a private line is a dedicated, direct connection between two locations. Like the private line charge, the PVC charge is a flat rate per month and is not determined by actual usage. For the flat monthly fee, customers can transmit as much information as they want between two predetermined points.

Request:

DEF requests an opinion from the Department on the following question:

Does the frame relay service sold by DEF qualify as private line service under Wisconsin law, thereby making interstate frame relay service exempt from Wisconsin sales tax under sec. Tax 11.66(4)(d), Wis. Adm. Code (September 1997 Register)?

Ruling:

The answer is no. The frame relay service described in the facts is not private line service, and does not qualify for exemption under sec. Tax 11.66(4)(d), Wis. Adm. Code (September 1997 Register).

Analysis:

Section 77.54(2)(a)5., Wis. Stats. (1997-98), imposes Wisconsin sales and use tax on:

"The sale of telecommunications services that either originate or terminate in this state; except services that are obtained by means of a toll-free number, that originate outside this state and that terminate in this state; and are charged to a service address in this state, regardless of the location where that charge is billed or paid, and the sale of the rights to purchase telecommunications services, including purchasing reauthorization numbers, by paying in advance and by using an access number and authorization code."

Section Tax 11.66(4)(d), Wis. Adm. Code (September 1997 Register), provides that gross receipts from the sale or charge for the following services are not taxable:

“Interstate private line service, including tie lines and foreign exchange service, charged on a flat rate basis.”

Section Tax 11.66(1), Wis. Adm. Code (September 1997 Register), provides:

“ ‘Private line’ means a dedicated local or interexchange channel provided for communication between 2 points without use of the local or toll switching network, for the exclusive use of one or several customers.”

Because the frame relay service sold by DEF uses a switched, shared network connection, it does not meet the definition of private line service provided in sec. Tax 11.66(1), Wis. Adm. Code (September 1997 Register). In addition, the request does not indicate that the PVC is reserved for the exclusive use of “one or several customers,” which is another requirement to be a private line. Therefore, the frame relay service sold by DEF does not qualify for the exemption provided in sec. Tax 11.66(4)(d), Wis. Adm. Code (September 1997 Register). [↩](#)