



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

Sales price of discounted items
W1113001 (p. 32)

Crane rentals and services
W1113002 (p. 33)

* W1113001 *

March 30, 2011

Type Tax: Sales and Use Taxes

Issue: Sales price of discounted items

Statutes: Section 77.51(12m) and (15b), Wis. Stats. (2009-10)

Administrative Code: Section Tax 11.32(3)(a), Wis. Adm. Code (November 2010 Register)

This letter responds to your company’s original request for a private letter ruling dated May 18, 2010, and your December 7, 2010 letter, in which you provided the additional information requested by the Department of Revenue in its August 3, 2010 letter. In your letters, you request clarification of the sales and use tax treatment of transactions relating to Company A.

Facts, as provided in your letters

- Company A, a direct seller of products, is an LLC that is headquartered in the State of California.
- Company A utilizes a network of independent sales consultants who facilitate orders of product to consumers.
- The products are shipped directly via a common carrier from Company A’s California warehouse to its customers located in Wisconsin.
- Company A’s sales representatives never own the product nor do they take delivery of the product.
- Company A collects sales taxes on behalf of its consultants and remits the tax directly to the State of Wisconsin.
- Independent sales consultants solicit persons to host a party. At the party, the sales consultant will display the merchandise and take orders from those who attend the party and desire to make purchases. All orders are processed at and shipped from Company A’s warehouse in California.
- Company A provides an incentive for the hostess to host the party. The incentive is a price reduction on a certain number of items. The number of items that are eligible to be purchased at a reduced price is dependent upon the total amount of sales for the overall party. The higher the dollar volume of sales, the more items the hostess may purchase at a discount.
- Company A does not provide coupons nor does it provide a manufacturer’s rebate. It simply provides a discount to the hostess at the point of sale. The discount is for each item purchased. The number of items that can be purchased at a discount depends upon the total sales at the party. If a hostess wishes to purchase an item that is not eligible for the discount, the item is purchased at the full retail purchase price. All items must be purchased at the party. Discounts do not apply if items are purchased at a later date.

Question: What is the proper sales price in which to assess the sales tax on merchandise sold to a hostess?

Answer: The sales price that is subject to Wisconsin sales or use tax is the total amount that Company A receives for the sale of the merchandise, which includes charges for shipping and handling, but does not include the amount of the discount provided to the customer. This assumes that Company A is not reimbursed by any other party for the amount of the discount given to the customer.

Analysis

The amount to which Wisconsin sales and use tax rate is applied is the "sales price" for sales tax and the "purchase price" for use tax. Both "sales price" and "purchase price" mean the total amount of the consideration for the retail sale, license, lease or rental of tangible personal property or items, property, or goods under sec. [77.52 \(1\) \(b\)](#), [\(c\)](#), or [\(d\)](#), Wis. Stats. (2009-10), or taxable services, valued in money, whether received in money or otherwise.

“Sales price” and “purchase price” are defined in sec. 77.51(15b)(a)3. and 4. and (12m)(a)3. and 4., Wis. Stats. (2009-10), respectively, to include services necessary to complete the sale, as well as delivery charges. Section 77.51(15b)(b)1. and (12m)(b)1., Wis. Stats. (2009-10), provides that “sales price” and “purchase price” do not include discounts that are not reimbursed by a third-party, that are allowed by a seller, and that are taken by a purchaser on a sale.

The law is explained in sec. Tax 11.32(3)(a), Wis. Adm. Code (November 2010 Register), which provides the following:

“Cash **discounts**, term discounts and coupons **that are not reimbursed by a third party and which are allowed by a retailer directly to customers reduce the sales price subject to the tax.** The customer must receive the discount for the retailer to exclude it from the sales price.” (Emphasis added.)

Since Company A is not being reimbursed by a third-party for the amount of the discount that it provides to the customer, the proper sales price or purchase price subject to Wisconsin sales or use tax is the discounted price of the item sold to the hostess at the party.

Note: When a seller receives consideration from someone other than the purchaser, this consideration may or may not be included in the “sales price” or “purchase

price” (sec. 77.51(12m)(c) and (15b)(c), Wis. Stats. (2009-10)). Since Company A is not receiving consideration from a third-party, this provision does not apply to Company A’s sales.

* **W1113002** *

April 1, 2011

Type Tax: Sales and Use Taxes

Issue: Crane rentals and services

Statutes: Sections 77.51(7) and 77.52(2)(a)9. and 10., Wis. Stats. (2009-10)

This letter responds to your request for a private letter ruling dated June 24, 2009.

In your letter, you request the Wisconsin Department of Revenue’s opinion regarding the Wisconsin sales and use tax treatment of ten examples **pursuant to the law changes that became effective on October 1, 2009.** In addition, you amended your ruling request by adding Example 11.

Facts as provided by you

Example 1:

Company #1 calls and requests a job whereby Company B would pick up two transformers and related equipment at one location, load them onto a Company B truck, haul to another location and use a crane, operator and rigger (Company B’s employees) to rig and place the transformers at the new location. Personnel from Company #1 identified the transformers at the first location but did not assist in the loading. Personnel from Company #1 gave direction as to where the transformers were to be placed at the second location, but were not on site to oversee the placement of the transformers. They also did not assist in the rigging or placement of the transformers. Company B’s personnel on site consisted of a rigger, driver and a crane operator.

Question 1:

a.) What is the Wisconsin sales tax treatment of the amounts billed to Company #1 for the above described services performed by Company B?

b.) Would the tax treatment change if the above facts were modified so that Company #1’s personnel gave direction in the form of hand signals to Com-

pany B's crane operator as to where to land the transformers?

Example 2:

Company #2 calls and requests a job whereby Company B would move a machining center within their plant. The machining center must be loaded onto Company B's trailer at one door entrance, moved to a different door, and unloaded and placed at the new location. Company #2's personnel showed the machining center to Company B's foreman in its present location and also showed Company B's foreman where the machining center needed to be moved to. No other assistance or direction was received from Company #2 personnel. Company B's personnel, using hand tools, a forklift and a crane, moved the machining center out of the plant, loaded it onto Company B's trailer, moved the machining center to a different door, unloaded the machining center and then placed it at the location desired per initial instructions from Company #2 personnel. Company B's personnel on site included a foreman, rigger, driver, forklift operator and a crane operator.

Question 2:

a.) What is the Wisconsin sales tax treatment of the amounts billed to Company #2 for the above described services performed by Company B?

b.) Would the tax treatment change if the above facts were modified so that Company #2's personnel told Company B's employees not only where to place the machining center, but also how to do the job and thus supervised Company B's personnel?

Example 3:

Company #3 calls and requests a job whereby Company B would load a large manufactured piece onto a carrier's trailer from a plant. Company #3 personnel pointed to a piece that needed to be loaded and the third party carrier was waiting for loading when Company B arrived. Company B had done similar jobs for this company many times, so no explanation of what needed to be done was needed. Company B's two riggers rigged the piece and Company B's crane and operator hoisted the piece and with the assistance of Company B's two riggers, loaded the piece onto the carrier's trailer. No other assistance was received from Company #3 personnel.

Question 3:

a.) What is the sales tax treatment of the amounts billed to Company #3 for the above described services performed by Company B?

b.) Would the tax treatment change if the above facts were modified so that Company #3's personnel assisted Company B's riggers with two employees of their own?

Example 4:

Company #4 calls and requests a move of a printing press within a plant. Company B's machinery moving salesman surveyed the job and scheduled it accordingly. When Company B arrived on site, Company B's employees were shown by Company #4's personnel where the printing press was and where it needed to be moved to. Company B's personnel, using hand tools and a fork truck moved the printing press. Company B's personnel on site included a foreman, a rigger, a driver and a fork truck operator. No other assistance was received from Company #4 personnel.

Question 4:

a.) What is the sales tax treatment of the amounts billed to Company #4 for the above described services performed by Company B?

b.) Would the tax treatment change if the above facts were modified so that Company #4's personnel gave other assistance such as technical assistance as to the best place to rig the printing press so as not to cause damage to the press?

Example 5:

Company #5 calls and requests a job whereby Company B would bring a crane, operator and riggers to the site of a ten-story building that needed a new 10,000-pound air conditioning unit placed on the roof. Company #5 has no experience in the rigging and placement of air conditioning unit(s) of this size. Company #5's personnel simply acknowledged that the third-party carrier had shown up with the air conditioning unit on its flatbed and also went to the roof to show Company B's personnel where the air conditioning unit was to be landed and placed. Company B's personnel perform the job with no assistance from Company #5's personnel.

Question 5:

a.) What is the sales tax treatment of the amounts billed to Company #5 for the above described services performed by Company B?

b.) Would the tax treatment change if the above facts were modified so that Company #5's personnel worked alongside of Company B's personnel and helped land and place the air conditioning unit on the roof?

Example 6:

Company #6 calls and requests Company B to just send a crane and operator to a job site. The crane and operator are working at the direction of Company #6 personnel to hoist and place roof top (HVAC) units on top of a building. Other than to set up the crane, Company B's crane operator does not get out of the crane. Company #6's personnel do all the rigging, direct the crane and operator with hand signals and also land and place the HVAC units.

Question 6:

a.) What is the sales tax treatment of the amounts billed to Company #6 for the above described services performed by Company B?

b.) Would the tax treatment change based on what was being hoisted, i.e. real or personal property? For example:

- 10,000-pound tank from carrier to carrier?
- Drywall through a fourth floor window?
- Set roof trusses?
- Place a pre-fabricated swimming pool into the ground?

Example 7:

Individual #7 calls and requests Company B to send just a crane and operator to place a sailboat in the water. The sailboat is brought to the dock by a third party carrier. Individual #7 has no experience in rigging a sailboat to be lifted and set into the water. The crane operator sets up his crane and then rigs the sailboat for lifting into the water. The crane operator lifts the boat into the water and Individual #7 removes the rigging from the sailboat.

Question 7:

a.) What is the sales tax treatment of the amounts billed to Individual #7 for the above described services performed by Company B?

b.) Would the tax treatment change if the above facts were modified so that Individual #7 performed all of the rigging work?

Example 8:

Company #8 calls and requests Company B to send a 300-ton crane with its counterweight to a site to erect a large silo. Company B dispatches its 300-ton crane, operator, oiler and three tractor-trailer drivers hauling counterweight to the building site. The crane, operator, oiler and counterweight drivers work to set up the crane (this would likely be invoiced as a counterweight or mobilization charge). The crane, operator and oiler then erect the silo over a period of three days at the direction of Company #8's personnel. At the end of the job the counterweight drivers return to break down and demobilize the crane.

(Note: In your phone conversation with the department on January 11, 2010, you clarified that Company B's personnel simply move the pieces of the silo before assembly or after disassembly from one place to another using the Company B supplied crane, and that Company B's personnel are not responsible for the actual installation or disassembly of the various pieces of the silo. These activities are performed by a third party hired by the customer.)

Question 8:

a.) Are the charges for mobilization and demobilization of the crane subject to sales tax?

b.) Is the crane, operator and oiler hourly charge subject to sales tax?

c.) Would the sales tax treatment change if items a.) and b.) were invoiced on the same or separate invoices?

Example 9:

Company #9 calls and requests Company B to send a 300-ton crane with its counterweight as well as a job foreman and ironworkers (riggers) to a site to erect Company #9's tower crane. Company B dispatches its 300-ton crane, operator, oiler, three tractor-trailer drivers hauling counterweight to the erection site as well as a job foreman and riggers to erect the tower crane. The crane, operator, oiler and counterweight drivers work to set up the 300-ton crane (this would likely be invoiced as a counterweight or mobilization charge). Company B's crane, operator, oiler and riggers then work to erect the tower crane. Company #9's personnel are not assisting or directing with the erection of the tower crane. At the end of the job the counterweight drivers return to break down and demobilize the 300-ton crane.

(Note: In your phone conversation with the department on January 20, 2010, you clarified that Company B's

personnel are the persons who are responsible for putting the crane together and taking it apart.)

Question 9:

a.) Are the charges for mobilization and demobilization of the crane subject to sales tax?

b.) Is the charge to erect the tower crane subject to sales tax?

c.) Would the sales tax treatment change if items a.) and b.) were invoiced on the same or separate invoices?

Example 10:

Company #10 calls and requests a crane to be dispatched to its construction site. The crane is to be used for real property improvement work such as installing trusses, moving equipment, hoisting HVAC units, etc. Since the work is likely to be sporadic in nature and the crane is not conducive to traveling back and forth each day, Company #10 asks for a monthly rate to essentially rent the crane by itself, and thus leave the crane on site for its exclusive use.

Company B's personnel operate the crane at the direction of Company #10's personnel anywhere from 0 to 40 hours per week for four weeks (one month). Company #10's personnel do not operate the crane.

Question 10:

a.) Is the monthly rental rate to leave the crane on site subject to sales tax?

b.) Is the operator charge to operate the crane subject to sales tax?

c.) What are the Wisconsin sales tax consequences if Company #10's personnel will operate the crane themselves? (In a phone conversation on January 11, 2010, you clarified that this means that personnel of Company #10 will exclusively operate the crane during the entire period the crane is rented to Company #10. Company B's personnel will not be operating the crane at any time during the period.)

Example 11:

(**Note:** In your phone conversation with the department on January 20, 2010, you indicated that you would like to add another example in which Company B performs services similar to Example #9, except that the tower crane is owned by Company B and operated by Company B's personnel while it is on-site)

Company #11 requests that Company B supply its tower crane with an operator at a job site. The crane is to be used for real property improvement work such as installing trusses, moving equipment, hoisting HVAC units, etc. However, Company B is not responsible for or involved in the actual installation of any of the property being moved. The crane will be used to move building materials around the job site in the construction of a new building. Company B dispatches its 300-ton crane, operator, oiler, three tractor-trailer drivers hauling counterweight to the erection site, as well as a job foreman and riggers to erect the tower crane. The 300-ton crane, its operator, the oiler, and counterweight drivers work to set up the tower crane (this would likely be invoiced as a counterweight or mobilization charge). Company B's crane, operator, oiler and riggers then work to erect the tower crane. Company #11's personnel are not assisting or directing with the erection of the tower crane. While Company B's tower crane is at Customer #11's job site, only Company B's personnel will operate the crane. The crane will be used in the erection of a new building. Company B's crane and operator will be involved moving property from one location to another. At the end of the job, the counterweight drivers return to break down and demobilize the crane.

Question 11:

a.) Are the charges for mobilization and demobilization of the crane subject to sales tax?

b.) Is the charge to erect the tower crane subject to sales tax?

c.) Would the sales tax treatment change if items a.), b.), and c.) were invoiced on the same or separate invoices?

Answers and Analysis:

For purposes of the answers provided, it is assumed that, in performing the services by Company B as described in this request, Company B is not also involved in the sales of or providing to any of its customers, the property being moved, erected or installed.

Applicable Wisconsin Statutes

Effective October 1, 2009 and thereafter:

Section 77.51(7), Wis. Stats., as repealed and recreated by 2009 Wis. Act 2, provides:

“(a) ‘Lease or rental’ means any transfer of possession or control of tangible personal property or items, prop-

erty, or goods under s. 77.52 (1) (b), (c), or (d) for a fixed or indeterminate term and for consideration and includes:

1. A transfer that includes future options to purchase or extend.

2. Agreements related to the transfer of possession or control of motor vehicles or trailers, if the amount of any consideration may be increased or decreased by reference to the amount realized on the sale or other disposition of such motor vehicles or trailers, consistent with section 7701 (h) (1) of the Internal Revenue Code.

(b) ‘Lease or rental’ does not include any of the following:

1. A transfer of possession or control of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) under a security agreement or deferred payment plan, if such agreement or plan requires transferring title to the tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) after making all required payments.

2. A transfer of possession or control of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) under any agreement that requires transferring title to the tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) after making all required payments and after paying an option price that does not exceed the greater of \$100 or 1 percent of the total amount of the required payments.

3. Providing tangible personal property or items, property, or goods under s. 77.52 (1)

(b), (c), or (d) along with an operator, if the operator is necessary for the tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) to perform in the manner for which it is designed and if the operator does more than maintain, inspect, or set up the tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d).

(c) 1. Transfers described under par. (a) are considered a lease or rental, regardless of whether such transfer is considered a lease or rental under generally accepted accounting principles, or any provision of federal or local law, or any other provision of state law.

2. Transfers described under par. (b) are not considered a lease or rental, regardless of whether such

transfer is considered a lease or rental under generally accepted accounting principles, or any provision of federal or local law, or any other provision of state law.”

Section 77.52(2)(a)9., Wis. Stats. (2007-08), imposes the sales tax on the sales price a retailer receives from: “Parking or providing parking space for motor vehicles and aircraft for a consideration and docking or providing storage space for boats for a consideration.”

Section 77.52(2)(a)10., Wis. Stats., as amended by 2009 Wis. Acts 2 and 28, provides that, “Except for services provided by veterinarians and except for installing or applying tangible personal property that, subject to par. (ag), when installed or applied, will constitute an addition or capital improvement of real property, the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of all items of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), unless, at the time of that repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance, a sale in this state of the type of property, item, or good repaired, serviced, altered, fitted, cleaned, painted, coated, towed, inspected, or maintained would have been exempt to the customer from sales taxation under this subchapter, other than the exempt sale of a motor vehicle or truck body to a nonresident under s. 77.54 (5) (a) and other than nontaxable sales under s. 77.522 or unless the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance is provided under a contract that is subject to tax under subd. 13m. the tax imposed under this subsection applies to the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance of items listed in par. (ag), regardless of whether the installation or application of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) related to the items is an addition to or a capital improvement of real property, except that the tax imposed under this subsection does not apply to the original installation or the complete replacement of an item listed in par. (ag), if that installation or replacement is a real property construction activity under s. 77.51 (2).”

Moving Services

A retailer’s receipts from providing the moving or transportation of tangible personal property, or items, property, or goods under sec. 77.52(1)(b), (c), or (d), Wis. Stats., are not subject to tax under sec. 77.52(2)(a)10., Wis. Stats., as amended by 2009 Wis. Acts 2 and 28, or specifically subject to tax under

any other provision under sec. 77.52(2)(a), Wis. Stats., in effect as of October 1, 2009.

Answer 1:

(Note: This answer assumes that Company B does not in any way install, attach or affix the transformers at the location where Company B delivers the transformers.)

Company B is providing equipment with an operator who does more than maintain, inspect, or set up the equipment, and is therefore not leasing or renting the equipment as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service.

(a) Company B's charges to Company #1 are not subject to Wisconsin sales or use taxes. The charges by Company B to Company #1 are for providing a moving service (moving the transformers from one location to another location). Company B's charges for providing moving services are not subject to tax.

(b) No. The tax treatment in answer 1(a) will not change if the facts are modified so that Company #1's personnel give direction in the form of hand signals to Company B's crane operator as to where to land the transformers. The fact that personnel of Company #1 give hand signals to Company B's crane operator as to where to land the transformers:

(1) will not result in Company B renting or leasing tangible personal property to Company #1, since Company B is providing tangible personal property with an operator who does more than maintain, inspect, or set up the property, and therefore is not leasing or renting the property as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service, and

(2) does not alter the outcome that Company B is providing a nontaxable moving service for Company #1.

Answer 2:

(Note: This answer assumes that Company B does not in any way install, attach or affix the "machining center" at the new location where Company B delivers it.)

Company B is providing equipment with an operator who does more than maintain, inspect, or set up the equipment, and is therefore not leasing or renting the equipment as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service.

(a) Company B's charges to Company #2 are not subject to Wisconsin sales or use taxes. The charges by Company B to Company #2 are for providing a moving service (moving the machining center from one location at Company #2's plant to another location within the same plant). Company B's charges for providing a moving service are not subject to tax.

(b) No. The tax treatment described in answer 2(a) will not change based on the fact that Company #2 provides personnel that tell Company B's employees not only where to place the machining center, but also how to do the job. The fact that personnel of Company #2 tell Company B's employees not only where to place the machining center, but also how to do the job:

(1) will not result in Company B renting or leasing tangible personal property to Company #2, since Company B is providing tangible personal property with an operator who does more than maintain, inspect, or set up the property, and is therefore not leasing or renting the property as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service, and

(2) does not alter the outcome that Company B is providing a nontaxable moving service for Company #2.

Answer 3:

(Note: This answer assumes that Company B does not in any way install, attach or affix the "manufactured piece" at the location where Company B delivers it.)

Company B is providing equipment with an operator who does more than maintain, inspect, or set up the equipment, and is therefore not leasing or renting the equipment as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service.

(a) Company B's charges to Company #3 are not subject to Wisconsin sales or use taxes. The charges by Company B to Company #3 are for providing a moving service (moving the property from one location at Customer #3's plant onto a trailer of a carrier). Company B's charges for providing a moving service are not subject to tax.

(b) No. The tax treatment in answer 3(a) will not change based on the fact that two employees of Company #3 assist Company B's riggers in rigging the property. Even though Company #3's employees will assist Company B's riggers this fact:

(1) will not result in Company B renting or leasing tangible personal property to Company #3, since Company B is providing tangible personal property with an operator who does more than maintain, inspect, or set up the property, and is therefore not leasing or renting the property as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service, and

(2) does not alter the outcome that Company B is providing a nontaxable moving service for Company #3.

Answer 4:

(Note: This answer assumes that Company B does not in any way install, attach or affix the printing press at the location where Company B moves it.)

Company B is providing equipment with an operator who does more than maintain, inspect, or set up the equipment, and is therefore not leasing or renting the equipment as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service.

(a) Company B's charges to Company #4 are not subject to Wisconsin sales or use taxes. The charges by Company B to Company #4 are for providing a moving service (moving the printing press from one location at Company #4's plant to another location within the same plant). Company B's charges for providing a moving service are not subject to tax.

(b) No. The tax treatment provided in answer 4(a) will not change if the facts are modified so that Company #4's personnel gave other assistance such as technical assistance as to the best place to rig the printing press so as not to cause damage to the press. Even though Company #4's personnel will assist Company B's personnel by providing technical assistance such as providing the best place to rig the printing press so as not to cause damage to the press, this fact:

(1) will not result in Company B renting or leasing tangible personal property to Company #4, since Company B is providing tangible personal property with an operator who does more than maintain, inspect, or set up the property, and is therefore not leasing or renting the property as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service, and

(2) does not alter the outcome that Company B is providing a nontaxable moving service for Company #4 (moving the printing press from one location to another location). Company B's charges for providing moving services are not subject to tax.

Answer 5:

(Note: This answer assumes that Company B and its personnel are not involved in installing the air conditioning unit, other than moving it from the trailer to the rooftop location prescribed by the customer.)

Company B is providing equipment with an operator who does more than maintain, inspect, or set up the equipment, and is therefore not leasing or renting the equipment as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service.

(a) Company B's charges to Company #5 are not subject to Wisconsin sales or use taxes. The charges by Company B to Company #5 are for providing a moving service (moving the air conditioning unit from a flatbed trailer to the top of a roof). Company B's charges for providing a moving service are not subject to tax.

(b) No. The fact that Company #5's personnel work alongside of Company B's personnel and help to place and land the air conditioning unit on the roof:

(1) will not result in Company B renting or leasing tangible personal property to Company #5, since Company B is providing tangible personal property with an operator who does more than maintain, inspect, or set up the property, and is therefore not leasing or renting the property as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service, and

(2) does not alter the outcome that Company B is providing a nontaxable moving service for Company #5.

Answer 6:

(Note: This answer assumes that Company B does not in any way install, attach or affix the HVAC units at the location where Company B delivers them.)

Company B is providing equipment with an operator who does more than maintain, inspect, or set up the equipment, and is therefore not leasing or renting the equipment as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service.

(a) Company B's charges to Company #6 are not subject to Wisconsin sales or use taxes. The charges by Company B to Company #6 are for providing a moving service (moving the rigged HVAC units to the top of a roof). Company B's charges for providing a moving service are not subject to tax.

(b) No. The type of property will not affect the tax treatment. In all cases, Company #6's personnel do all of the rigging, direct the crane operator with hand signals, and also land and place the property in question. Company B is providing a nontaxable moving service regardless of the type (i.e., real or personal) of property being transported.

Answer 7:

Company B is providing equipment with an operator who does more than maintain, inspect, or set up the equipment, and is therefore not leasing or renting the equipment as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service.

(a) Company B's charges to Individual #7 are for a nontaxable moving service. Company B's charges for providing the service of moving the sailboat are not subject to tax.

(b) No. The tax treatment will not change if Individual #7 performed all of the rigging work. Company B is still performing a moving service.

Answer 8:

(Note: This answer is based on the fact that Company B's personnel are not responsible for the actual assembly and/or disassembly of the silo, and that Company B's responsibility is limited to supplying a crane and operator to move the pieces to be assembled or that have been disassembled by another party to a location determined by the customer.)

Company B is providing equipment with an operator who does more than maintain, inspect, or set up the equipment, and is therefore not leasing or renting the equipment as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service. Company B's charges for providing a moving service are not subject to tax.

(a) Company B's charges to Company #8 for mobilization and demobilization of the crane are part of the sales price Company B receives from Company #8 for performing the service of moving the pieces of the silo to be assembled or that have been disassembled. Company B's charges for providing a moving service, including charges for mobilization and demobilization of the crane, are not subject to tax.

(b) Company B's hourly charges to Company #8 for the crane, operator and oiler are part of the sales price Company B receives from Company #8 from performing the service of moving pieces of the silo to be

assembled or that have been disassembled, and are not subject to tax.

(c) No. The entire charge by Company B to Company #8 is for the service of moving tangible personal property. It does not matter if the charge is a single charge or a number of separately stated charges for this service.

Answer 9:

Company B is providing equipment with an operator who does more than maintain, inspect, or set up the equipment, and is therefore not leasing or renting the equipment as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service.

Company B is responsible for the actual assembly and disassembly of Company #9's crane. As such, Company B is supplying its crane with an operator in order to perform its assembly and disassembly services to Company #9's crane. Company B's assembly and disassembly services to Company #9's crane are taxable services to tangible personal property pursuant to sec. 77.52(2)(a)10., Wis. Stats., unless an exemption applies.

(a) Yes. Company B's charges to Company #9 for mobilization and demobilization of its crane are part of the sales price Company B receives from Company #9 from performing the taxable services of assembling and disassembling Company #9's crane. Company B's charges for assembling and disassembling Company #9's crane are subject to tax.

(b) Yes. Company B's charges to Company #9 for erecting Company #9's tower crane are part of the sales price Company B receives from Company #9 from performing the taxable services of assembling Company #9's crane.

(c) No. All charges by Company B to Company #9 are part of Company B's sales price for performing taxable services to tangible personal property pursuant to sec. 77.52(2)(a)10., Stats. It does not matter if the charge is a single charge or a number of separately stated charges for these services.

Answer 10:

In (a) and (b), Company B is providing equipment with an operator who does more than maintain, inspect, or set up the equipment, and is therefore not leasing or renting the equipment as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service. In (c), Com-

pany B is renting or leasing the crane, as the Company B supplied operator does not do more than set up, inspect, and/or maintain the crane.

(a) No. The charges by Company B to Company #10 are for providing moving services (moving various types of property from one place to another at the direction of Company #10). Company B's charges for providing moving services are not subject to tax.

(b) No. The operator supplied by Company B does more than maintain, inspect, or set up the crane, and the operator is necessary for the crane to perform in the manner for which it is designed. Company B's charges for the operator in this case are part of its receipts from providing the services described in answer 10(a).

(c) When personnel of Company #10 operate the crane themselves, Company B is renting or leasing the crane to Company #10. The charges by Company B to Company #10 are charges for the lease or rental of the crane, and are subject to tax, unless an exemption applies. This includes any charges by Company B for an operator supplied by Company B who only maintains, inspects, and/or sets up the crane.

Answer 11:

Company B is providing equipment with an operator who does more than maintain, inspect, or set up the equipment, and is therefore not leasing or renting the equipment as provided in sec. 77.51(7)(b)3., Wis. Stats., but is instead providing a service. The service provided by Company B to Company #11 is a moving service. Company B's charges for providing a moving service are not subject to tax.

(a) No. Company B's charges to Company #11 for mobilization and demobilization of the crane are part of the sales price Company B receives from Company #11 from performing the service of moving tangible personal property. Company B's charges for providing a moving service are not subject to tax.

(b) No. Company B's charges to Company #11 for erecting Company B's tower crane are part of the sales price Company B receives from Company #11 from performing the service of moving tangible personal property.

(c) No. Company B's charges to Company #11 for use of the crane, including the Company B supplied crane operator, in erecting the building are charges for the service of moving tangible personal property.

(d) No. The entire charge by Company B to Company #11 is for the service of moving tangible personal property. It does not matter if the charge is a single charge or a number of separately stated charges for this service.