



TAX REPORT

SALES/USE TAX

WISCONSIN DEPARTMENT of REVENUE

MARCH 1970

Who Qualifies As a Manufacturer?

The sales and use tax law provides an exemption for "machines and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property". Manufacturing consists of an operation at a fixed location whereby through the application of machines a new article with a different form, use and name is produced by a process popularly regarded as manufacturing.

Before accepting a Manufacturer's Exemption Certificate (Form S-207m) from a purchaser, a supplier should first determine that the purchaser is a "manufacturer". Technical Information Memorandum S-31 issued by the department provides the following guidelines for suppliers regarding the types of business operations that are ordinarily considered to be manufacturers:

Bakeries
Battery Makers
Brewing, Distilling and Soda Water Bottling Plants
Candy Factories
Cement and Concrete Plants (but not concrete mixing units mounted on trucks)
Chemical Processing Plants
Concrete Block, Brick and Tile Producers
Creameries
Dairies
Electric Generating Companies
Flour and Feed Mills
Food Processing Plants - Canning and Freezing
Foundries - Iron, Brass and Aluminum
Glass Making Plants
Machine and Equipment Producers
Meat Packing and Processing Plants
Motor Vehicle and Aircraft Factories
Paint Factories
Paper Making Plants
Printers
Refineries
Sawmills
Shoe and Clothing Factories
Smelting and Steel Factories
Tanneries
Tool, Die and Pattern Making Plants

By way of illustration and not of limitation, the following are deemed non-manufacturers:

Automotive Parts Rebuilding
Dental Laboratories
Farming
Fish Hatcheries
Highway Trucking
Hotels

Laundries, Cleaning & Pressing Plants
Logging
Mining
Quarrying
Raising and Breeding of Animals
Real Property Construction Activities
Repair Services
Restaurants
Sand and Gravel Pit Operators
Scrap Yard Operations
Television and Radio Stations
Tire Retreading

Use of the Manufacturers' Exemption Certificate (Form S-207m)

A supplier who has accepted a properly completed Form S-207m in good faith marked for "continuous" use may make sales to the manufacturer without tax as long as the nature of the articles sold could qualify for one of the five exempt uses provided for on the form, and the seller has no knowledge that any of the items on a particular order will be used for a nonexempt purpose.

Each order of the manufacturer should refer to the Form S-207m on file, or in some other manner indicate the purchaser is claiming an exemption in respect to the particular order. It is not necessary for the purchaser to indicate on each purchase order the exact type of exemption claimed for each item or group of items purchased, as long as the purchaser claims the entire order qualifies for exemption from the tax.

If a particular order contains exempt and non-exempt items, the purchaser must designate which items fall into each category.

Fuel Purchased by Manufacturers

A few retailers have mistakenly presumed that manufacturers are authorized to purchase fuel or electricity without tax under the general sales tax law. This is incorrect. The new law provides that the gross receipts from sales of fuel and electricity to manufacturers are subject to the 4% tax.

Revised Resale Certificate (Form S-205)

This certificate has been changed to permit certain purchasers for "resale" to use the form, even though they do not have a Wisconsin Seller's Permit. The form indicates these purchasers may use one of the two following procedures:

(a) A wholesaler who sells only to other sellers for resale may insert "Wholesale Only" in the space for the Seller's Permit number; or (b) A person registered as a seller in another state, who makes no retail sales in Wisconsin, may insert the name of the state in which registered and that state's Seller's Permit number.

National Banks

National banks are subject to the 4% Wisconsin use tax, effective January 1, 1970. Sales, leases or rentals made to national banks were previously subject to the sales tax. Now sales, leases or rentals by national banks are taxable. Tangible personal property they purchase out-of-state for use in Wisconsin is taxable, except for property purchased pursuant to written contracts entered into before September 1, 1969. This exception does not apply to leases and rentals because they are deemed to be continuing sales under the law.

Services vs. Rentals

A person who uses his own equipment to perform a job and who assumes the responsibility for the satisfactory completion thereof would be 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, would be considered a lessor renting such equipment. If it is 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 they are optional to the lessee and billed separately.

Detail of Exempt Sales Required

Sales and use tax returns require a summarization of deductions and exemptions claimed by retailers to arrive at sales subject to the 4% tax. Returns filed will be reviewed in the department's processing center to make certain that retailers are providing the information required. Failure to supply essential detailed "deduction" information will result in a disallowance of deductions and an increase in sales tax liability.

Occasional Sale Exemption

The conditions necessary for a transaction to qualify as an exempt "occasional" sale are more restrictive under the new general sales tax law than they were under the prior law. Under the new law no sale may be considered occasional if:

- A. The seller holds or is required to hold a Seller's Permit at the time of such sale.
- B. The facts and circumstances support the inference that the seller is pursuing a vocation, occupation or business, or a partial vocation, occupation or part-time business (e.g. operator of a county fair, or a person who has a food stand at the county fair).
- C. The sales of tickets or admissions are to an event where "professional entertainment" is provided.

If there is any doubt as to whether a sale is an exempt occasional sale, the sponsor should contact the department for a determination.