



# TAX REPORT

SALES / USE TAX

WISCONSIN DEPARTMENT of REVENUE

MARCH, 1976

## RECENT LEGISLATION

The Sales and Use Tax Law was recently amended by the addition of a number of new exemptions. Exempt are:

- (1) Coal, oil, gas and nuclear material converted to steam for the purpose of resale by persons other than utilities (Effective November 8, 1975).
- (2) Apparatus or equipment for the injection of insulin (Effective November 19, 1975).
- (3) Farmers' baling twine and baling wire (Effective December 24, 1975).

In addition, the Budget Act (Chapter 39, Laws of 1975) included an exemption for farmers' containers for animal wastes. This exemption language was inserted in Section 77.54 (3m), Wisconsin Statutes, effective July 31, 1975. Farmers may purchase animal waste containers or the component parts thereof from their local suppliers without tax by issuing a properly completed "single purchase" Farmer's Exemption Certificate (Form S-206) to the supplier. Until such time as this exemption certificate is revised, suppliers may insert another box on the certificate for "animal waste containers or component parts thereof".

## AUCTIONEERS

The department issued Technical Information Memorandum S-55.1 in July 1975. The following information summarizes the highlights of that memorandum.

Auction sales are taxable under the sales tax law, except where a specific exemption applies. The law provides that every person engaged in the business of making sales at auction is a "retailer" and the definition of "retail sale" includes any sale at an auction.

## Auction Sales Subject to the Tax

- A. Auction sales held regularly at an established place of business such as an auction house or an auction barn. Also, auctions held regularly on radio, television or CATV, and auctions sponsored on an annual or other regular basis by nonprofit organizations or others. All sales of tangible personal property sold at such auctions are taxable, including household goods and personal farm property.
- B. Auction sales of heavy equipment and going-out-of-business auction sales of retail stores, motels, laundries, wholesalers, manufacturers, contractors and service enterprises.
- C. Auction sales of antiques or works of art, except those sold with other household goods of which they were a part. Auction sales of professional or business inventories or equipment, even though they may consist of household type goods, are always taxable.
- D. Sheriff's sales and other auction sales made pursuant to orders of a Wisconsin court.
- E. Auction sales of highway motor vehicles or trailers, snowmobiles or boats. (Purchasers will pay the tax to the Department of Transportation when they register highway motor vehicles, but they should pay the tax to the auctioneer when purchasing trailers, boats or snowmobiles).

## Auction Sales Not Subject to the Tax

- A. Auction sales which involve the sale of personal farm property or household goods and which are not held at regular intervals. Such exempt auctions are generally held on the owner's premises.
1. "Household Goods". Since the concept of "household" is closely connected with "home" and "family", "household goods" must have belonged to the home and have been for family use. Household furniture includes articles necessary or ornamental to a house in furnishing or fitting it for the enjoyment of the members of the household. Thus, auction sales of goods removed from a family home (such as tables, chairs, lamps, appliances, beds, clocks, musical instruments, dressers, jugs, fruit jars and other items fitting the "household goods" description above) are not taxable. The term "household goods" does not include:  
(a) Highway motor vehicles or trailers, snowmobiles, aircraft or boats; or (b) Professional or business inventory or equipment.
  2. "Personal Farm Property". This includes tractors, implements of husbandry, and machines, equipment or other tangible property used by the farmer to till the soil and raise crops. This term does not include highway vehicles, boats, snowmobiles, riding horses or other recreational animals or their equipment.
- B. Sales for resale or sales which are otherwise exempt. If it is a sale for resale or is otherwise exempt, the person conducting the auction should obtain a properly completed exemption certificate from the purchaser.

## **WASTE TREATMENT FACILITIES**

The department recently issued Technical Information Memorandum S-56.2 and the information which follows is found in that publication. (If you desire more detailed information on this subject, write and ask for a copy of this memorandum. The address is Wisconsin Department of Revenue, Central Compliance Section, Post Office Box 39, Madison, Wisconsin 53701.)

Section 77.54 (26), Wisconsin Statutes, was repealed and recreated in the Budget Act, effective July 31, 1975. The prior exemption for pollution abatement plant and equipment (industrial or municipal) applies to tangible personal property installed in fulfillment of written construction contracts entered into, or formal written bids made, prior to July 31, 1975, even though the construction project is completed sometime after that date. The new exemption language applies only to waste treatment facilities installed in fulfillment of written construction contracts entered into or formal written bids made on or after July 31, 1975.

The exemption extends to and includes the purchases of tangible personal property by a contractor-installer who incorporates his purchases into an approved waste treatment facility. The contractor-installer must certify his intended exempt use of the item to his supplier in order to relieve the supplier of the duty of collecting and reporting the tax on such sales.

The Department of Natural Resources generally issued the order or approval before July 31, 1975. However, effective July 31, 1975 the Department of Revenue must approve the facility for it to qualify for the property tax exemption which is a prerequisite to the sales tax exemption.

Under the new law an approval of a waste treatment facility means an approval by the Department of Revenue before purchases are made or construction begins, or contemporaneously with the purchase or construction.

Municipal storm sewers and municipal water supply systems and private domestic waste water facilities do not qualify for a sales tax exemption either before or after July 31, 1975. Prior to July 31, 1975 an entire municipal sanitary sewer, including its collection system, could qualify for the sales tax exemption. After July 31, 1975 only the central waste treatment plant which actually treats the sewage qualifies for the exemption.

## **FARMERS' PURCHASES**

Sales of certain items to persons engaged in farming as a business enterprise are exempt, provided the farmer furnishes his supplier with a signed Farmer's Exemption Certificate. Items which qualify as exempt, if used in this restricted way, are tractors and farm machinery, including the fuel therefor. Natural gas, LP gas and fuel oil qualify as "fuels" under this exemption. However, electricity does not qualify as a fuel and may not be purchased without tax by farmers.

## **NEW SALES TAX RETURN**

Lines 5 and 7 on the sales and use tax return (Form St-12) have changed places. The 1% discount that was on line 5 is now on line 7, since the discount applies to the sales tax and also to the use tax which is added in on line 5.