

CR 14-006

ORDER OF THE DEPARTMENT OF REVENUE REPEALING, RENUMBERING AND AMENDING, AMENDING, REPEALING AND RECREATING, AND CREATING RULES

The Wisconsin Department of Revenue adopts an order to: **repeal** Tax 11.26 (3) (b) and (Example 1) to (Example 7); **renumber and amend** Tax 11.19 (2) (a); **amend** Tax 11.04 (1), 11.05 (4) (a), 11.08 (4) (a) and (6) (Note 2), 11.11 (2m) (b) (Note), 11.12 (2) (b) and (7) (d) (Note 1) and (Note 2), 11.19 (6) (Note 1) and (Note 2), 11.20 (1) (h), (2) (b), (Example 2), (Example 3), (c), (d) (Example 1) to (Example 5), and (e) 2. L. (Example), and (3) (a) 2. and (b), 11.26 (title), (1) (a) and (b), (2) (title), (intro.), (c), and (h), and (3) (title), (intro.), and (c) (Note 2), 11.33 (4) (f) (Example 1), 11.39 (1) (b), 11.45 (3) (a) and (6) (Note 2), 11.48 (3) (c) (Note 1) and (Note 2), 11.49 (2) (b), 11.52 (5) (a) and (7) (c) (Note 2), 11.56 (7) (bm) and (8) (Note 1) and (Note 2), 11.61 (2) (c) (Note 1), 11.66 (1) (x) and (6) (Note 3), 11.67 (3) (m) (Note 1) and (Note 2), 11.68 (13) (e) (Note 1) and (Note 2), and 11.70 (2) (e) and (7) (b) (Note 2) and (Note 3); **repeal and recreate** Tax 11.20 (2) (a), 11.66 (1) (u), and 11.68 (7) (b); and **create** Tax 11.19 (2) (a) 1. to 3., 11.20 (1) (cg) and (cr) and (4) (e) 2. (Note 1) and (Note 2), 11.26 (2) (i) to (s) and (3) (ac) to (ax) and (d) to (h), and 11.56 (9); **relating to** sales and use tax provisions.

The scope statement for this rule, SS 099-13, was approved by the Governor on August 2, 2013, published in Register No. 692 on August 31, 2013, and approved by the Secretary of Revenue on September 10, 2013.

Analysis by the Department of Revenue

Statutes interpreted: ss. 77.51 (2d), (10f), (11m), (12m), and (15b), 77.52 (2) (a) 6. and 11., 77.522 (4) (a) 9., and 77.54 (9a), (57), (57d), (59), (60), and (61), Stats.

Statutory authority: ss. 77.65 (3) and 227.11 (2) (a), Stats.

Explanation of agency authority: Section 77.65 (3), Stats., provides “[t]he department may promulgate rules to administer this section...”

Section 227.11 (2) (a), Stats., provides “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute...”

Related statute or rule: There are no other applicable statutes or rules.

Plain language analysis: The rule (1) reflects law changes in 2013 Wisconsin Act 20, (2) corrects two errors in current rule provisions, and (3) deletes an obsolete reference.

- a. **Custom farming services.** Reflects the creation of s. 77.51 (2d), Stats., to provide that "custom farming services" includes services performed by veterinarians to farm livestock or work stock used exclusively in the business of farming. This requires updates to the provisions of ss. Tax 11.12 and 11.61.
- b. **"Drugs."** In s. Tax 11.20 (3) (a) 2., reflects the amendment to s. 77.54 (57) (b) 4., Stats., to replace "medicines" with "drugs" so the rule correctly reflects the updated exemption.

- c. **Health Insurance Risk-Sharing Plan Authority.** Reflects the amendment to s. 77.54 (9a), Stats. Due to the dissolution of the Health Insurance Risk-Sharing Plan and Authority, the exemption for sales made to the authority is being rescinded. This requires updates to ss. Tax 11.04 (1), 11.05 (4) (a), and 11.49 (2) (b).
- d. **Lump sum contracts.** Reflects the creation of the exemption in s. 77.54 (60), Stats. This provision exempts certain property sold by a contractor as a part of a lump sum contract and deems the contractor the consumer of such property, with exception. Amendments are needed to s. Tax 11.68 (7) (b) and the examples following it.
- e. **"Place of primary use."** In s. Tax 11.66 (1) (u), reflects the amendments to s. 77.522 (4) (a) 9., Stats., so the definition of "place of primary use" in the rule is the same as current law. Removes s. Tax 11.66 (u) 1. and 2. as these are included in the amended definition.
- f. **"Prepaid wireless calling service."** In s. Tax 11.66 (1) (x), reflects the amendments to s. 77.51 (10f), Stats., so the definition of "prepaid wireless calling service" in the rule is the same as current law.
- g. **Printing exemptions.** Reflects the creation of s. 77.54 (61), Stats. This requires updates to the provisions of s. Tax 11.56.
- h. **Property transferred incidentally with a taxable service.** Amends the first note at the end of s. Tax 11.48 and the first note at the end of s. Tax 11.67 to reference s. 77.52 (21), Stats.
- i. **"Prosthetic device."** In ss. Tax 11.08 (4) (a) and 11.45 (3) (a), reflects the amendments to s. 77.51 (11m), Stats., so the definition of "prosthetic device" in the rule is the same as current law.
- j. **Qualified research and animal raising.** Reflects the repeal of s. 77.54 (57) (b) 1. and 2., Stats., the renumbering of s. 77.54 (57) (a) 1f., Stats., to s. 77.51 (1c), Stats., the renumbering of s. 77.54 (57) (a) 1m., Stats., to s. 77.51 (1d), Stats., the renumbering of s. 77.54 (57) (a) 4., Stats., to s. 77.51 (10rn), Stats., the amending of s. 77.54 (57) (a) 5. and (b) 4., Stats., and the creation of s. 77.54 (57d), Stats. This requires updates to the provisions of s. Tax 11.20.
- k. **Self-service laundry machines.** Reflects the amendment to s. 77.52 (2) (a) 6., Stats. Receipts from self-service laundry machines that are operated by tokens and magnetic cards are no longer subject to sales and use tax. This requires an update to s. Tax 11.52 (5) (a).
- l. **Services resulting in advertising and promotional direct mail.** Reflects the amendment to s. 77.52 (2) (a) 11., Stats. The sale of advertising and promotional direct mail became exempt from sales and use tax effective July 1, 2013, pursuant to 2011 Wis. Act 32. The amendment of s. 77.52 (2) (a) 11., Stats., provides that the services of producing, fabricating, processing, printing, or imprinting that result in advertising and promotional direct mail are also not taxable. This requires updates to ss. Tax 11.19 (2) (a), 11.56 (7) (bm), and 11.70 (2) (e).

m. "Sales price" and "purchase price."

- In s. Tax 11.26 (3), reflects the amendments to s. 77.51 (12m) (a) and (15b) (a), Stats., along with the creation of s. 77.51 (12m) (b) 3m. and (15b) (b) 3m., Stats., to exclude from "sales price" and "purchase price" taxes imposed on the seller that are separately stated that the seller may, but is not required to, pass on and collect from the user or consumer.
- Includes "fees and charges" as an addition to taxes in several parts of the rule to make it clear that taxes, fees and charges are covered under this rule.
- Amends s. Tax 11.26 (2) to include "regardless of whether they are separately stated on the invoice, bill of sale, or other similar document given by the seller to the purchaser," for taxes, fees and charges included in sales price and the purchase price.
- Amends s. Tax 11.26 (2) (c) to include "and ammunition" after firearms to the list of federal excise taxes.
- Amends the list of taxes, fees, and charges included and excluded from "sales price" and "purchase price" contained s. Tax 11.26 (2) and (3)

n. Correct error. Corrects an error in Example 1 under s. Tax 11.33 (4) (f).

o. Correct error. Amends s. Tax 11.39 (1) (b), to correct a typographical error. This provision quotes the law and is needed for accuracy.

p. Delete obsolete reference. Amends the note following s. Tax 11.11 (2m) (b) to delete a reference to s. Tax 12.40.

Summary of, and comparison with, existing or proposed federal regulation:

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states: The department is not aware of a similar rule in an adjacent state.

Summary of factual data and analytical methodologies: 2013 Wisconsin Act 20 made numerous changes to Wisconsin's sales and use tax laws. The department has created this proposed rule order to reflect these statutory changes. No other data was used in the preparation of this proposed rule order or this analysis.

Analysis and supporting documents used to determine effect on small business: This rule order makes changes to reflect current law and current department policy. It makes no policy or other changes having an effect on small business.

Anticipated costs incurred by private sector: This rule does not have a fiscal effect on the private sector.

Effect on small business: This rule does not affect small business.

Agency contact person: Please contact Dale Kleven at (608) 266-8253 or dale.kleven@revenue.wi.gov, if you have any questions regarding this rule.

Place where comments are to be submitted and deadline for submission:

The deadline for comments concerning this rule order was February 11, 2014.

SECTION 1. Tax 11.04 (1) is amended to read:

Tax 11.04 (1) DEFINITION. In this rule, "exempt entity" means a person qualifying for an exemption under s. 77.54 (9a) or 77.55 (1), Stats. Section 77.54 (9a), Stats., provides an exemption for sales to this state or any agency thereof, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin Economic Development Corporation, ~~the Health Insurance Risk-Sharing Plan Authority,~~ and the Fox River Navigational System Authority; any county, city, village, town or school district in this state; a county-city hospital established under s. 66.0927, Stats.; a sewerage commission organized under s. 281.43 (4), Stats., or a metropolitan sewerage district organized under ss. 200.01 to 200.15 or 200.21 to 200.65, Stats.; any other unit of government in this state or any agency or instrumentality of one or more units of government in this state; any federally recognized American Indian tribe or band in this state; any joint local water authority created under s. 66.0823, Stats.; any corporation, community chest fund, foundation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, except hospital service insurance corporations under s. 613.80 (2), Stats., no part of the net income of which inures to the benefit of any private stockholder, shareholder, member or corporation; a local exposition district under subch. II of ch. 229, Stats.; a local cultural arts district under subch. V of ch. 229, Stats.; a cemetery company or corporation described under section 501 (c) 13 of the Internal Revenue Code, if the tangible personal property or taxable services are used exclusively by the cemetery company or corporation for the purposes of the company or corporation. Section 77.55 (1), Stats., provides an exemption for sales to the United States, its unincorporated agencies and instrumentalities, and any unincorporated [incorporated] agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

SECTION 2. Tax 11.05 (4) (a) is amended to read:

Tax 11.05 (4) (a) Section 77.54 (9a), Stats., exempts sales to and the storage, use or other consumption of tangible personal property and items and property under s. 77.52 (1) (b) and (c), Stats., and services by Wisconsin or by any agency of Wisconsin, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin Economic Development Corporation, ~~the Health Insurance Risk-Sharing Plan Authority,~~ and the Fox River Navigational System Authority; any county, city, village, town or school district in this state; a county-city hospital established under s. 66.0927, Stats.; a sewerage commission organized under s. 281.43 (4), Stats., or a metropolitan sewerage district organized under ss. 200.01 to 200.15 or 200.21 to 200.65, Stats.; any other unit of government in this state or any agency or instrumentality of one or more units of government in this state; any federally recognized American Indian tribe or band in this state; any joint local water authority created under s. 66.0823, Stats.; any corporation, community chest fund, foundation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, except hospital service insurance corporations under s. 613.80 (2), Stats., no part of the net income of which inures to the benefit of any private stockholder, shareholder, member or corporation; a local exposition district under subch. II

of ch. 229, Stats.; a local cultural arts district under subch. V of ch. 229, Stats.; and a cemetery company or corporation described under section 501 (c) (13) of the Internal Revenue Code, if the tangible personal property or taxable services are used exclusively by the cemetery company or corporation for the purposes of the company or corporation.

SECTION 3. Tax 11.08 (4) (a) and (6) (Note 2) are amended to read:

Tax 11.08 (4) (a) "Prosthetic device" is defined in s. 77.51 (11m), Stats., to mean a replacement, corrective, or supportive device, including the repair parts and replacement parts for the device, that is placed in or worn on the body to artificially replace a missing portion of the body; to prevent or correct a physical deformity or malfunction; or to support a weak or deformed portion of the body.

(6) (Note 2) The interpretations in s. Tax 11.08 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) Charges for oxygen equipment became exempt September 1, 1983, pursuant to 1983 Wis. Act 27; (b) Charges for motorized wheelchairs and scooters became exempt September 1, 1985, pursuant to 1985 Wis. Act 29; (c) Charges for apparatus or equipment for the injection of insulin or the treatment of diabetes and supplies used to determine blood sugar levels became exempt March 1, 1989, pursuant to 1987 Wis. Act 399; (d) Charges for antiembolism elastic hose and stockings prescribed by a physician became exempt October 1, 1989, pursuant to 1989 Wis. Act 31; (e) The exemption for adaptive equipment for a handicapped person's vehicle became exempt effective June 1, 1990, pursuant to 1989 Wis. Act 238, renumbered by 1989 Wis. Act 359; (f) The exemption for parts and accessories became effective August 15, 1991, pursuant to 1991 Wis. Act 39; (g) The exemptions provided in s. 77.54 (14s) and (22), Stats., were repealed effective October 1, 2009, and replaced with the exemptions provided under s. 77.54 (22b), Stats., pursuant to 2009 Wis. Act 2; ~~and~~ (h) The exemption in s. 77.54 (28), Stats., was amended to remove the exemption for apparatus and equipment for the injection of insulin or the treatment of diabetes. These items will still qualify for exemption under s. 77.54 (22b), Stats., if they are for home use, pursuant to 2009 Wis. Act 2; and (i) The clarification that a "prosthetic device" must be a replacement, corrective, or supportive device became effective July 2, 2013, pursuant to 2013 Wis. Act 20.

SECTION 4. Tax 11.11 (2m) (b) (Note) is amended to read:

Tax 11.11 (2m) (b) (Note) ~~Refer to s. Tax 12.40 for information related to the property tax exemption for industrial waste treatment facilities.~~ For more information regarding the property tax exemption for industrial waste treatment facilities of manufacturers write or call the district office of the Wisconsin Department of Revenue, Bureau of Manufacturing and Telco Assessments. To locate the district office, write or call Wisconsin Department of Revenue, Bureau of Manufacturing and Telco Assessment, PO Box 8971, Madison WI 53708-8971; telephone (608) 266-1147. The web site is www.revenue.wi.gov/contact/slfbmta.html. To ascertain whether a non-manufacturing property would be exempt under s. 70.11(21), Stats., owners may refer to the Wisconsin Property Assessment Manual or contact the local property tax assessor.

SECTION 5. Tax 11.12 (2) (b) and (7) (d) (Note 1) and (Note 2) are amended to read:

Tax 11.12 (2) (b) "Custom farming services" means the performance of an activity, defined as farming in this section, for a farmer for a fee. The fee may include a cash payment, a share of the harvest or other valuable consideration. "Custom farming

services" also includes services performed by a veterinarian to animals that are farm livestock or farm work stock used exclusively in the business of farming.

(7) (d) (Note 1) Section Tax 11.12 interprets ss. 77.51 (2d), 77.52 (1) and (2) (a) 10., and 77.54 (3), (3m), (27), (30), and (33), Stats.

(Note 2) The interpretations in s. Tax 11.12 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) Semen became exempt effective July 22, 1971, pursuant to Chapter 64, Laws of 1971; (b) Baling wire and twine became exempt effective December 24, 1975, pursuant to Chapter 146, Laws of 1975; (c) The exemption for electricity for residential use and use in farming and for fuel oil, propane, coal, steam or wood for residential use became effective July 1, 1979, pursuant to Chapter 1, Laws of 1979; (d) The definition of "feed lot" became effective December 1, 1981; (e) Farm livestock medicine, milk house supplies and animal bedding became exempt effective July 1, 1986, pursuant to 1985 Wis. Act 29; (f) The definition of "exclusively used" became effective October 1, 1989, pursuant to 1989 Wis. Act 31; (g) The farm machinery exemption was revised effective October 1, 1989, pursuant to 1989 Wis. Act 31; (h) The exemption for farm fuel for items other than machines became effective October 1, 1991, pursuant to 1991 Wis. Act 39; (i) The exemption for electricity sold for use in farming was expanded to include sales of electricity during the entire year, effective for sales on or after May 1, 2000, pursuant to 1999 Wis. Act 9; (j) The expansion of the exemption for tangible personal property consumed in farming and the addition of "silviculture" to the definition of farming became effective July 1, 2007, pursuant to 2005 Wis. Act 366; and (k) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; and (L) The clarification that "custom farming services" includes services performed by veterinarians to farm livestock or work stock used exclusively in the business of farming became effective July 2, 2013, pursuant to 2013 Wis. Act 20.

SECTION 6. Tax 11.19 (2) (a) is renumbered Tax 11.19 (2) (a) (intro.) and amended to read:

Tax 11.19 (2) (a) (intro.) Section 77.52 (2) (a) 11., Stats., imposes the sales and use tax on certain services. However, an exemption is provided for the printing or imprinting of tangible personal property and items, property, and goods under s. 77.52 (1) (b), (c), and (d), Stats., furnished by customers, that results in ~~printed materials, catalogs, or envelopes that are exempt under s. 77.54 (25) or (25m), Stats.~~ any of the following:

SECTION 7. Tax 11.19 (2) (a) 1. to 3. are created to read:

- Tax 11.19 (2) (a) 1. Printed materials that are exempt under s. 77.54 (25), Stats.
2. Catalogs or their mailing envelopes that are exempt under s. 77.54 (25m), Stats.
3. Advertising and promotional direct mailing that is exempt under s. 77.54 (59), Stats.

SECTION 8. Tax 11.19 (6) (Note 1) and (Note 2) are amended to read:

Tax 11.19 (6) (Note 1) Section Tax 11.19 interprets ss. 77.51 (1fr), (8), and (13h), 77.52 (1), and (2) (a) 11., 77.54 (2m), (9a), (15), (25), (25m), ~~and (43), and (59),~~ and 77.55 (1), Stats.

(Note 2) The interpretations in s. Tax 11.19 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The exemption for printing or imprinting of tangible personal property furnished by customers and used out-of-state in sub. (2) (a) became effective March 1, 1970; (b) The exemption for advertising materials used out-of-state in sub. (4) (a) became effective May 21, 1972; (c) The second class mail standard described in sub. (3) became effective August 1, 1974; (d) The exemption for sales of shoppers guides became effective July 1, 1978; (e) The exemption for ingredients and components of shoppers guides, newspapers and periodicals described in sub. (2) (d) became effective July 2, 1983; (f) The definition of newspaper in sub. (3) (a) and the limitation of the periodical exemption to "periodicals sold by subscription" became effective July 2, 1983; (g) The exemption for controlled circulation publication reflected in subs. (2) (b) and (3) (b) became effective September 1, 1983, pursuant to 1985 Wis. Act 149; (h) The provision for foreign publishers described in sub. (2) (e) became effective January 1, 1980 for publishers of books or periodicals or both other than catalogs and January 1, 1990, for all other foreign publishers pursuant to 1989 Wis. Act 336; (i) The definition of storage and use for purposes of imposing use tax does not include storing or using raw materials becoming printed materials to be shipped outside Wisconsin effective October 1, 1993, pursuant to 1993 Wis. Act 16; (j) The sales and use tax exemption for raw materials becoming printed materials transported and used solely outside Wisconsin became effective December 1, 1997, pursuant to 1997 Wis. Act 27; (k) The exemption for periodicals sold by subscription by educational associations and corporations which are exempt under s. 77.54 (9a) (f), Stats., became effective December 1, 1997 pursuant to 1997 Wis. Act 27; (L) The exemption for catalogs became effective April 1, 2009 pursuant to 2007 Wis. Act 20; (m) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; (n) The definition of "direct mail" became effective October 1, 2009, pursuant to 2009 Wis. Act 2; (o) The definition of "advertising and promotional direct mail" became effective May 27, 2010, pursuant to 2009 Wis. Act 330; ~~and (p) The sales and use tax exemption for advertising and promotional direct mail became effective July 1, 2013, pursuant to 2011 Wis. Act 32; and (q) Services resulting in advertising and promotional direct mail were excluded from taxable services effective July 1, 2013, pursuant to 2013 Wis. Act 20.~~

SECTION 9. Tax 11.20 (1) (cg) and (cr) are created to read:

Tax 11.20 (1) (cg) "Building" has the meaning given in s. 70.111 (10) (a) 1., Stats.

(cr) "Combined group" has the meaning given in s. 71.255 (1) (a), Stats.

SECTION 10. Tax 11.20 (1) (h) is amended to read:

Tax 11.20 (1) (h) "Qualified research" means qualified research as defined under section 41 (d) (1) of the Internal Revenue Code, except that it includes qualified research that is funded by a member of a combined group for another member of a combined group.

SECTION 11. Tax 11.20 (2) (a) is repealed and recreated to read:

Tax 11.20 (2) (a) The sales price from the sale of and the storage, use, or other consumption of machinery and equipment, including attachments, parts, and accessories, and other tangible personal property or items or property under s. 77.52 (1) (b) or (c), Stats., that are sold to any of the following and that are consumed or destroyed or lose their identities while being used exclusively and directly in qualified research is exempt:

1. A person engaged in manufacturing in this state at a building assessed under s. 70.995, Stats.
2. A person engaged primarily in biotechnology in this state.
3. A combined group member who is conducting qualified research for another combined group member and that other combined group member is a person described under subd. 1. or 2.

SECTION 12. Tax 11.20 (2) (b), (Example 2), (Example 3), (c), (d) (Example 1) to (Example 5), and (e) 2. L. (Example) and (3) (a) 2. and (b) are amended to read:

Tax 11.20 (2) (b) For purposes of determining whether a person is engaged primarily in ~~manufacturing or~~ biotechnology in this state under par. (a), only activities in Wisconsin are considered. When a person conducts activities in Wisconsin in addition to ~~manufacturing or~~ biotechnology, the person must allocate its activities between its ~~manufacturing and~~ biotechnology activities and its other activities using a reasonable and consistent method. If a person's ~~manufacturing and~~ biotechnology activities in Wisconsin are more than 50% of its total activities in Wisconsin, the person is engaged primarily in ~~manufacturing or~~ biotechnology in this state.

(Example 2) Company B performs research and development services at locations outside of Wisconsin that constitute biotechnology. Company B also manufactures tangible personal property at a location building in Wisconsin, assessed under s. 70.995, Stats. The manufacturing activity does not constitute biotechnology. This is Company B's only activity in Wisconsin. The products manufactured in Wisconsin are used by Company B in performing its research and development services at locations outside of Wisconsin. Company B is not engaged primarily in manufacturing biotechnology in Wisconsin since but is engaged in manufacturing is its only activity in Wisconsin at a building assessed under s. 70.955, Stats.

(Example 3) Company X manufactures machinery at a plant outside of Wisconsin. Company X operates a facility in Wisconsin that is devoted solely to research and development relating to the products Company X manufactures. Although Company X's activities in Wisconsin are research and development activities that constitute qualified research, its activities in Wisconsin are not biotechnology. The research and development activities are Company X's only activities in Wisconsin. Therefore, Company X is not neither engaged primarily in manufacturing or in Wisconsin at a building assessed under s. 70.995, Stats., nor engaged primarily in biotechnology in Wisconsin.

(c) For purposes of determining whether an activity is qualified research under par. (a) ~~1. or 2.~~, the regulations under Treas. Reg. section 1.41-4 apply, except that qualified research that is funded by a member of a combined group for another member of a combined group shall remain qualified research for purposes of this subsection.

(d) (Example 1) Company A is engaged ~~primarily~~ in manufacturing in Wisconsin at a building assessed under s. 70.995, Stats. Company A purchases a machine that it will use directly in conducting qualified research at its manufacturing plant in Wisconsin and purchases it exempt from Wisconsin sales tax claiming the exemption in par. (a). After completing the qualified research and having made no use of the machine other than direct use in qualified research, Company A begins using the machine exclusively and directly in its manufacturing operation, which is another exempt use under s. 77.54 (6) (a), Stats. Company A does not owe Wisconsin sales or use tax on its purchase of the machine since it ~~only used~~ uses the machine only in an exempt manner.

(Example 2) Company B is engaged ~~primarily~~ in manufacturing in Wisconsin at a building assessed under s. 70.995, Stats. Company B purchases a machine that it will use directly in conducting qualified research at its manufacturing plant in Wisconsin. More than 5% of Company B's total use of this machine will be for conducting research and development projects that do not meet the definition of qualified research. Company B's purchase of the machine is taxable because it is not used exclusively in qualified research.

(Example 3) Company C is engaged ~~primarily~~ in manufacturing in Wisconsin at a building assessed under s. 70.995, Stats. Company C develops a new product in an activity that is qualified research. Company C purchases a variety of raw materials. Some of these materials are used exclusively and directly and destroyed in qualified research. Once the qualified research is completed, Company C consumes the remaining raw materials in activities that are not qualified research. Company C's purchases of the raw materials that it uses exclusively and directly and destroys in qualified research are exempt under par. (a) 2. Company C's purchases of the raw materials that it uses in activities that are not qualified research do not qualify for ~~this exemption~~ under par. (a).

(Example 4) Manufacturer P is engaged ~~primarily~~ in manufacturing in Wisconsin at a building assessed under s. 70.995, Stats. Manufacturer P contracts with Company D to produce a prototype that is tangible personal property. Manufacturer P's primary objective in this transaction is to obtain the prototype, rather than a research and development service. Company D may purchase the materials used to construct the prototype without tax for resale. Manufacturer P will use the prototype exclusively and directly in one of its research and development activities that constitutes qualified research and may claim the exemption under par. (a) on its purchase of the prototype.

(Example 5) Manufacturer F is engaged ~~primarily~~ in manufacturing in Wisconsin at a building assessed under s. 70.995, Stats. Manufacturer F contracts with Company E to perform research services. Manufacturer F and Company E are not members of the same combined group. Company E will provide a prototype that is tangible personal property to Manufacturer F along with these services. Manufacturer F's primary objective in this transaction is to obtain the research and development services. Company E's primary activity in Wisconsin is the provision of professional engineering services that do not involve biotechnology, and Company E is not a manufacturer. Company E may not claim the exemptions under par. (a), since Company E is ~~not~~ neither engaged ~~primarily~~ in manufacturing or in Wisconsin at a building assessed under s. 70.995, Stats., nor engaged primarily in biotechnology in Wisconsin. In addition, Company E cannot purchase the materials without tax for resale that it uses to construct the prototype, because Company E uses the prototype in performing its research services. The prototype is transferred to Manufacturer F incidental to the research services.

(e) 2. L. (Example) This example illustrates records that are generally acceptable as adequate to document the exemptions under par. (a).

Company A is ~~primarily~~ engaged in manufacturing in Wisconsin at a building assessed under s. 70.995, Stats. Company A attempts to make a new and improved widget. Upon approval of a project, Company A documents the scope and goals of the project, the uncertainties that exist in accomplishing these goals, and the processes by which Company A hopes to eliminate the uncertainties. In addition, contemporaneously with conducting the research project, Company A documents: (1) the location or locations at which the research is conducted, (2) the machinery and equipment used in the project and the manner used, (3) the various materials and supplies used in attempting to produce the improved widget, the purpose and manner in which such items were used, (4) the processes applied, (5) the results achieved throughout the research process, and (6) the point at which Company A either abandons the research project or achieves the goal of eliminating the uncertainties involved with the development of the new widget. Company A purchased various machinery and equipment, and supplies and materials used in conjunction with development of the new widget without tax claiming the purchases are exempt under par. (a). In general, contemporaneous records kept in the manner and detail described will be accepted and used by the department in making its determinations regarding whether the taxpayer is entitled to claim the exemptions under par. (a).

(3) (a) 2. Seeds for planting, plants, feed, fertilizer, soil conditioners, animal bedding, sprays, pesticides and fungicides, breeding and other livestock, poultry, farm work stock, baling twine and baling wire, containers for fruits, vegetables, grain, hay, silage and animal wastes, plastic bags, plastic sleeves and plastic sheeting used to store or cover hay or silage, ~~medicines~~ drugs, semen for artificial insemination, fuel, and electricity, that are used exclusively and directly in raising such animals.

(b) For purposes of determining whether an activity is qualified research under par. (a), the regulations under Treas. Reg. section 1.41-4 apply, except that qualified research that is funded by a member of a combined group for another member of a combined group shall remain qualified research for purposes of this subsection.

SECTION 13. Tax 11.20 (4) (e) 2. (Note 1) and (Note 2) are created to read:

Tax 11.20 (4) (e) 2. (Note 1) **Note:** Section Tax 11.20 interprets ss. 77.51 (1c), (1d), and (10rn) and 77.54 (57) and (57d), Stats.

(Note 2) **Note:** The interpretations in s. Tax 11.20 are effective beginning January 1, 2012, pursuant to 2009 Wis. Act 28, except for the following amendments effective July 2, 2013, pursuant to 2013 Wis. Act 20: (a) "Qualified research" was amended to include research funded by one member of a combined group for another member of a combined group; (b) The exemption for property used in qualified research by persons engaged primarily in manufacturing in Wisconsin was amended to apply to property used in qualified research by a person engaged in manufacturing in Wisconsin at a building assessed under s. 70.995, Stats.; (c) The exemption for property used in qualified research was amended to include use by one member of a combined group who is conducting qualified research for another combined group member who is either engaged in manufacturing in Wisconsin at a building assessed under s. 70.995, Stats., or is primarily engaged in biotechnology; and (d) The change of the term "medicines" to "drugs."

SECTION 14. Tax 11.26 (title), (1) (a) and (b), and (2) (title), (intro.), (c), and (h) are amended to read:

Tax 11.26 (title) **Other taxes, fees, and charges in taxable sales price and purchase price.**

(1) (a) Tangible personal property and items, property, and goods under s. 77.52 (1) (b), (c), and (d), Stats., sold at retail are subjected to many direct and indirect taxes, fees, and charges prior to reaching a retailer. The taxes, fees, and charges are commonly included in the price the retailer pays for the property and are not separately identifiable as taxes, fees, and charges. Occasionally, however, a tax, fee, or charge is either separately passed on to a retailer or is imposed at the retail level of activity, but is different from and in addition to the sales tax. The tax, fee, or charge may be imposed by Wisconsin, the federal government, or a municipality.

(b) In determining the sales price or purchase price used to compute Wisconsin sales or use taxes, the treatment of a tax, fee, or charge for sales tax purposes is identical to the treatment that applies for use tax purposes. The same taxes, fees, and charges that are included or excluded from the sales price are also included or excluded from the purchase price.

(2) (title) TAXES, FEES, AND CHARGES INCLUDED AS PART OF SALES PRICE AND PURCHASE PRICE.

(intro.) The following taxes, fees, and charges are included in the sales price and the purchase price, regardless of whether they are separately stated on the invoice, bill of sale, or other similar document given by the seller to the purchaser, except as provided in sub. (3):

(c) Any federal stamp tax and manufacturer's or importer's excise tax not imposed directly on the purchaser. Federal excise taxes include excise taxes on alcohol, tobacco, motor and aviation fuel except motor fuel taxes refunded, tires, firearms and ammunition, sporting goods, and air or ship transportation.

(h) The federal gas guzzler tax imposed under s. 4064 of the ~~internal revenue code~~ Internal Revenue Code.

SECTION 15. Tax 11.26 (2) (i) to (s) are created to read:

Tax 11.26 (i) The federal excise tax imposed on the first retail sale of heavy trucks and trailers under s. 4051 of the Internal Revenue Code.

(j) The federal medical device excise tax imposed under s. 4191 of the Internal Revenue Code.

(k) The federal universal service fund fee.

(L) The dry cleaning fee imposed under s. 77.9961, Stats.

(m) The dry cleaning products fee imposed under s. 77.9962, Stats.

(n) The fees imposed by the public service commission under s. 196.85, Stats.

(o) The telephone relay service surcharge imposed under s. 196.858, Stats.

(p) The telecommunications utility trade practices surcharge imposed under s. 196.859, Stats.

(q) The state-issued video service franchise fee imposed under s. 66.0420 (7), Stats.

(r) The petroleum inspection fee imposed under s. 168.12, Stats.

(s) The motor fuel taxes imposed under s. 78.01, Stats.

SECTION 16. Tax 11.26 (3) (title) and (intro.) are amended to read:

Tax 11.26 (3) (title) TAXES, FEES, AND CHARGES EXCLUDED FROM SALES PRICE OR PURCHASE PRICE.

(intro.) Section 77.51 (12m) (b) 3. and (15b) (b) 3., Stats., exclude from the sales price and purchase price any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document that the seller gives to the purchaser. Section 77.51 (12m) (b) 3m. and (15b) (b) 3m., Stats., exclude from the sales price and purchase price taxes imposed on the seller that are separately stated on the invoice, bill of sale, or similar document that the seller gives to the purchaser if the law imposing or authorizing the tax provides that the seller may, but is not required to, pass on to and collect the tax from the user or consumer. Therefore, the following taxes, fees, and charges are excluded from the sales price or the purchase price if they are separately stated on the invoice, bill of sale, or similar document given to the purchaser:

SECTION 17. Tax 11.26 (3) (ac) to (ax) are created to read:

Tax 11.26 (3) (ac) The room taxes imposed under s. 66.0615, Stats., which municipalities or local exposition districts impose on persons furnishing lodging to transients.

(ag) The county and stadium sales and use taxes imposed under s. 77.71, Stats.

(al) The local exposition district food and beverage and rental car taxes imposed under ss. 77.98 and 77.99, Stats.

(ap) The premier resort area taxes imposed under s. 77.994, Stats.

(at) The state rental vehicle fee imposed under s. 77.995, Stats.

(ax) The federal luxury tax imposed under ss. 4001 to 4007 of the Internal Revenue Code.

SECTION 18. Tax 11.26 (3) (b) and (Example 1) to (Example 7) are repealed.

SECTION 19. Tax 11.26 (3) (c) (Note 2) is amended to read:

The interpretations in s. Tax 11.26 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The exclusion for federal and Wisconsin motor vehicle excise taxes refunded became effective December 1, 1997, pursuant to 1997 Wis. Act 27; (b) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; ~~and~~ (c) the regional transit authority taxes were authorized by 2009 Wis. Act 28 and repealed by 2011 Wis. Act 32; and (d) The definitions of "purchase price" and "sales price" were amended to provide when taxes are not included in the "purchase price" or "sales price," pursuant to 2013 Wis. Act 20.

SECTION 20. Tax 11.26 (3) (d) to (h) are created to read:

Tax 11.26 (3) (d) The police and fire protection fee imposed under s. 196.025 (6), Stats.

(e) The low-income assistance fees imposed under s. 16.957 (4) and (5), Stats.

(f) The landline 911 charge imposed under s. 256.35 (3), Stats.

(g) The wireless 911 charge imposed under s. 256.35 (3m), Stats.

(h) The state universal service fund fee imposed under s. 196.218, Stats.

SECTION 21. Tax 11.33 (4) (f) (Example 1) is amended to read:

Tax 11.33 (4) (f) (Example 1) If the sales price from a person's garage and rummage sales, lawn maintenance services, bait sales to fishermen, sales of books, charges for parking and other normally taxable receipts are less than \$1,000 during the calendar year, that person's receipts are deemed exempt occasional sales under par. ~~(g)~~ (f). However, purchases by the seller of the tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., which are sold are taxable.

SECTION 22. Tax 11.39 (1) (b) is amended to read:

Tax 11.39 (1) (b) "Plant" as defined in s. 77.51 (10b), Stats., means a parcel of property or adjoining parcels of property, including parcels that are ~~separate~~ separated only by a public road, and the buildings, machinery, and equipment that are located on the parcel, that are owned by or leased to the manufacturer. Plant inventory does not include unsevered mineral deposits as provided in s. 77.51 (10c), Stats.

SECTION 23. Tax 11.45 (3) (a) and (6) (Note 2) are amended to read:

Tax 11.45 (3) (a) "Prosthetic device" is defined in s. 77.51 (11m), Stats., to mean a replacement, corrective, or supportive device, including the repair parts and replacement parts for the device, that is placed in or worn on the body to artificially replace a missing portion of the body; to prevent or correct a physical deformity or malfunction; or to support a weak or deformed portion of the body.

(6) (Note 2) The interpretations in s. Tax 11.45 are effective under the general sales and use tax law, on and after September 1, 1969, except: (a) Charges for oxygen equipment became exempt September 1, 1983, pursuant to 1983 Wis. Act 27; (b) Charges for motorized wheelchairs and scooters became exempt September 1, 1985, pursuant to 1985 Wis. Act 29; (c) Charges for apparatus or equipment for the injection of insulin or the treatment of diabetes and supplies used to determine blood sugar level became exempt March 1, 1989, pursuant to 1987 Wis. Act 399; (d) Charges for antiembolism elastic hose and stockings prescribed by a physician became exempt October 1, 1989, pursuant to 1989 Wis. Act 31; (e) Sales of parts and accessories for certain medical items became exempt effective August 15, 1991, pursuant to 1991 Wis. Act 39; (f) The definitions of "drug," "durable medical equipment," "mobility-enhancing equipment," and "prosthetic devices" and the exemptions for these items became effective October 1, 2009, pursuant to 2009 Wis. Act 2; ~~and~~ (g) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; and (h) The clarification that a "prosthetic device" must be a replacement, corrective, or supportive device became effective July 2, 2013, pursuant to 2013 Wis. Act 20.

SECTION 24. Tax 11.48 (3) (c) (Note 1) and (Note 2) are amended to read:

Tax 11.48 (3) (c) (Note 1) Section Tax 11.48 interprets ss. 77.51 (13) (n), 77.52 (1), (2) (a) 1., 2., and 9., ~~and (2m), and (21),~~ and 77.54 (36), Stats.

(Note 2) The interpretations in s. Tax 11.48 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The provisions of sub. (1) (c) 1. are effective on or after August 9, 1989, pursuant to 1989 Wis. Act 31; ~~and~~ (b) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; and (c) The clarification that a service provider who transfers tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., incidentally with a taxable service is the consumer of such property, items, or goods became effective July 2, 2013, pursuant to 2013 Wis. Act 20.

SECTION 25. Tax 11.49 (2) (b) is amended to read:

Tax 11.49 (2) (b) Sales made directly to this state or any agency thereof, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin Economic Development Corporation, ~~the Health Insurance Risk-Sharing Plan Authority,~~ and the Fox River Navigational System Authority; any county, city, village, town, or school district in this state; a county-city hospital established under s. 66.0927, Stats.; a sewerage commission organized under s. 281.43 (4), Stats., or a metropolitan sewerage district organized under ss. 200.01 to 200.15 or 200.21 to 200.65, Stats.; any other unit of government in this state or any agency or instrumentality of one or more units of government in this state; any federally recognized American Indian tribe or band in this state; any joint local water authority created under s. 66.0823, Stats.; any corporation, community chest fund, foundation, or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, except hospital service insurance corporations under s. 613.80 (2), Stats., no part of the net income of which inures to the benefit of any private stockholder, shareholder, member, or corporation; a local exposition district under subch. II of ch. 229, Stats.; a local cultural arts district under subch. V of ch. 229, Stats. Sales to a cemetery company or corporation described under section 501 (c) (13) of the Internal Revenue Code, are exempt from sales and use tax if the cemetery company or corporation uses the items exclusively for the purposes of the company or corporation. Section 77.55 (1), Stats., provides an exemption for sales to the United States, its unincorporated agencies and instrumentalities, and any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States. Sales to employees of these entities are not exempt, even though the entity may reimburse the employee for the expenditure.

SECTION 26. Tax 11.52 (5) (a) and (7) (c) (Note 2) are amended to read:

Tax 11.52 (5) (a) Laundry, dry cleaning and pressing machines when the service is performed by the customer through the use of ~~coin-operated,~~ self-service machines.

(7) (c) (Note 2) The interpretations in s. Tax 11.52 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) ~~the~~ The definitions of "candy," "dietary supplement," "food and food ingredient," and "soft drink," the exemption for food and food ingredients, the change of the term "gross receipts" to "sales price," and

the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; and (b) Receipts from all self-service laundry, dry cleaning, pressing, and dyeing machines, including those that are not coin-operated, are not taxable effective October 1, 2013, pursuant to 2013 Wis. Act 20.

SECTION 27. Tax 11.56 (7) (bm) and (8) (Note 1) and (Note 2) are amended to read:

Tax 11.56 (7) (bm) Section 77.52 (2) (a) 11., Stats., provides that the tax does not apply to the service of printing or imprinting tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., that results in printed material, catalogs, or envelopes that are exempt under s. 77.54 (25), ~~or (25m), or (59),~~ Stats.

(8) (Note 1) Section Tax 11.56 interprets ss. 77.51 (7h), (8), (11), and (14) (h), 77.52 (1) and (2) (a) 11., and 77.54 (2), (2m), (6) (a) and (b), (25), (25m), (30) (a) 6., ~~and (43), (59), and (61),~~ Stats.

(Note 2) The interpretations in s. Tax 11.56 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) Sales of typeset material shall first be considered sales of tangible personal property on April 1, 1983; (b) The exemption in sub. (3) (b) 2. for ingredients of publications became effective July 2, 1983, pursuant to 1983 Wis. Act 27; (c) The definition of storage and use for purposes of imposing use tax does not include storing or using raw materials becoming printed materials to be shipped outside Wisconsin effective October 1, 1993, pursuant to 1993 Wis. Act 16; (d) The sales and use tax exemption for raw materials transported and used solely outside Wisconsin became effective December 1, 1997, pursuant to 1997 Wis. Act 27; (e) The exemption for fuel and electricity consumed in manufacturing became effective January 1, 2006, pursuant to 2003 Wis. Act 99; (f) The exemption for catalogs and the envelopes in which they are mailed became effective April 1, 2009 pursuant to 2007 Wis. Act 20; (g) The requirement that property and items which qualify for exemption under s. 77.54 (2) and (2m), Stats., be consumed exclusively and directly by a manufacturer in manufacturing property and items destined for sale became effective August 1, 2009 pursuant to 2009 Wis. Act 28; (h) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; ~~and~~ (i) The sales and use tax exemption for advertising and promotional direct mail became effective July 1, 2013, pursuant to 2011 Wis. Act 32; (j) Services resulting in advertising and promotional direct mail were excluded from taxable services effective July 1, 2013, pursuant to 2013 Wis. Act 20; and (k) The additional printing exemptions under s. 77.54 (61), Stats., became effective October 1, 2013, pursuant to 2013 Wis. Act 20.

SECTION 28. Tax 11.56 (9) is created to read:

Tax 11.56 (9) ADDITIONAL EXEMPTIONS FOR PRINTING INDUSTRY. (a) *Definitions.* In s. 77.54 (61), Stats., and this subsection:

1. "Commercial printing, except screen printing and book printing, without publishing, except grey goods printing" means activities described in 2012 North American Industry Classification 323111.

2. "Copies of the product" means finished artwork in a digital form that is generated, furnished, and used for the purpose of printing; represents the object, such as a book, catalog, pamphlet, or magazine, as it is to appear in a printed form; and includes files containing instructions or other information required by the printer for printing the product, such as instructions for plate-making or setting ink-levels at the printing press, whether these instructions or other information are furnished to the printer or derived by the printer from the finished art files.

3. "Finished artwork" has the meaning given in s. 77.51 (3rm), Stats.

4. "Prepress and postpress services in support of printing activities" means activities described in 2012 North American Industry Classification 323120.

5. "Primarily" means more than 50 percent.

6. "Printing or printing and binding of books and pamphlets without publishing" means activities described in 2012 North American Industry Classification 323117.

7. "Sent to a printing press" includes transferring a copy of the product, either electronically or through the use of a tangible storage media, to printing presses, ink-jet printers, plate-making machines, and similar machines or to storage devices devoting to serving such machines.

8. "Stored" has the meaning of the term "storage" as defined in s. 77.51 (18), Stats.

9. "Used" has the meaning of the term "use" as defined in s. 77.51 (22), Stats.

(b) *Exemptions.* Section 77.54 (61), Stats., provides exemptions for purchases of computers and servers that are used to store copies of the product that is sent to a printing press and for purchases from out-of-state sellers of items that are temporarily stored, remain idle, and are not used in this state for not more than 180 days and that are then delivered and used outside this state, provided the purchaser is primarily engaged in any of the following:

1. Commercial printing, except screen printing and book printing, without publishing, except gray goods printing.

2. Printing or printing and binding books and pamphlets without publishing.

3. Performing prepress and postpress services in support of printing activities.

Examples: (1) Newspaper publishes a daily edition of a newspaper. Newspaper operates its own printing plant. The printing plant prints Newspaper's publications as well as printing under contract for third parties. More than 50 percent of Newspaper's sales are from sales of its newspaper and advertising revenues associated with sales of its newspaper. Newspaper's primary activity is described by NAICS code 511110: *Newspaper Publishers*. Newspaper does not qualify for the exemption under s. 77.54 (61), Stats.

(2) Insurance Company operates its own printing plant. Insurance Company's primary source of revenues is insurance premiums. Insurance Company's primary NAICS code is described within NAICS subsector code 524: *Insurance Carriers and Related Activities*. Insurance Company does not qualify for the exemption under s. 77.54 (61), Stats.

(3) Business is engaged in screen printing of T-shirts, caps, and jackets. This is Business' only activity and source of revenue. Business' primary activity is described by NAICS code 323113: *Commercial Screen Printing*. Business does not qualify for the exemption under s. 77.54 (61), Stats.

(4) Company is primarily engaged in the business of printing on fabric grey goods. Company's primary activity is described by NAICS code 313310: *Textile and Finishing Mills*. As such, Company does not qualify for the exemption under s. 77.54 (61), Stats.

SECTION 29. Tax 11.61 (2) (c) (Note 1) is amended to read:

Tax 11.61 (2) (c) (Note 1) Section Tax 11.61 interprets ss. 77.51 (2d), (3pj), and (13) (m) and (o), 77.52 (2) (a) 10., and 77.54 (3), (33), and (42), Stats.

SECTION 30. Tax 11.66 (1) (u) is repealed and recreated to read:

Tax 11.66 (1) (u) "Place of primary use" means the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" means a street address within the licensed service area of the home service provider.

SECTION 31. Tax 11.66 (1) (x) and (6) (Note 3) are amended to read:

Tax 11.66 (1) (x) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content, and ancillary services, and that is paid for prior to use and sold in predetermined dollar-units ~~whereby the number of units declines~~ or dollars that decrease with use in a known amount.

(6) (Note 3) The interpretations in s. Tax 11.66 are effective under the general sales and use tax law on or after September 1, 1969, except: (a) Chapter 39, Laws of 1975, effective July 31, 1975, expanded the telephone services subject to the tax to include "telephone services of whatever nature"; (b) Chapter 317, Laws of 1981, imposed the tax on interstate telegraph and telephone service, effective May 1, 1982; (c) "911" service became exempt on August 1, 1987, pursuant to 1987 Wis. Act 27; (d) Telecommunications services originating in Wisconsin and charged to a subscriber in Wisconsin became taxable October 1, 1989, pursuant to 1989 Wis. Act 31; (e) Telecommunications services originating in Wisconsin and charged to a service address in Wisconsin became taxable October 1, 1991, pursuant to 1991 Wis. Act 31; (f) The repeal of the exemption for equipment in central offices of telephone companies became effective September 1, 1995, pursuant to 1995 Wis. Act 27; (g) Telecommunications services paid for by the insertion of coins in a coin-operated telephone became taxable August, 1, 1996, pursuant to 1995 Wis. Act 351; (h) Certain telecommunications message services became taxable December 1, 1997, pursuant to 1997 Wis. Act 27; (i) Telecommunications services originating outside Wisconsin, terminating in Wisconsin and charged to a service address in Wisconsin, except certain services obtained by means of a toll-free number, became taxable December 1, 1997, pursuant to 1997 Wis. Act 27; (j) Credit for sales tax properly paid to another state on interstate telecommunications services became effective October 14, 1997, pursuant to 1997 Wis. Act 27; (k) Sales of rights to purchase telecommunications services became taxable August 1, 1998, pursuant to 1997 Wis. Act 237; (L) The exemption for interstate private line services no longer applies, effective December 1, 2002; (m) The definitions of air-to-ground radio telephone service, ancillary

services, call-by-call basis, communications channel, conference bridging service, customer, customer channel termination point, detailed telecommunications billing services, directory assistance, eight hundred service, end user, fixed wireless service, home service provider, international telecommunications services, internet access services, interstate telecommunications services, intrastate telecommunications services, mobile telecommunications service, nine hundred service, paging service, place of primary use, postpaid calling service, prepaid calling service, prepaid wireless calling service, private communications service, radio service, radiotelegraph service, radiotelephone service, service address, telecommunications service, value-added nonvoice data service, vertical service, and voice mail service became effective October 1, 2009, pursuant to 2009 Wis. Act 2; (n) The specific imposition of tax on ancillary services and interstate, intrastate, and international telecommunications services became effective October 1, 2009, pursuant to 2009 Wis. Act 2; (o) The sourcing provisions related to telecommunications services became effective October 1, 2009, pursuant to 2009 Wis. Act 2; ~~and~~ (p) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; and (q) The definition of "primary place of use" was amended to replace the reference to federal law with specific language, and the definition of "prepaid wireless calling service" was amended, pursuant to 2013 Wis. Act 20.

SECTION 32. Tax 11.67 (3) (m) (Note 1) and (Note 2) are amended to read:

Tax 11.67 (3) (m) (Note 1) Section Tax 11.67 interprets ss. 77.51 (1f), (12), (12m), (13), (14) (intro.) and (h), (15a), (15b), (20), and (22) (a) and (b) and 77.52 (1), (2) (a), (2m) (a) and (b), ~~and (20), and (21)~~, Stats.

(Note 2) The interpretations in s. Tax 11.67 are effective under the general sales and use tax law on and after September 1, 1969, except that (a) The fees paid to architects performing landscaping planning became taxable effective May 1, 1982, pursuant to Chapter 317, Laws of 1981; (b) The definition of bundled transactions became effective October 1, 2009, pursuant to 2009 Wis. Act 2; ~~and~~ (c) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; and (d) The clarification that a service provider who transfers tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., incidentally with a taxable service is the consumer of such property, items, or goods became effective July 2, 2013, pursuant to 2013 Wis. Act 20.

SECTION 33. Tax 11.68 (7) (b) is repealed and recreated to read:

Tax 11.68 (7) (b) 1. In this paragraph, "lump sum contract" means a contract to perform real property construction activities and to provide tangible personal property, items or property under s. 77.52 (1) (b) or (c), Stats., or taxable services and for which the contractor quotes the charge for labor, services of subcontractors, tangible personal property, items and property under s. 77.52 (1) (b) and (c), Stats., and taxable services as one price, including a contract for which the contractor itemizes the charges for labor, services of subcontractors, tangible personal property, items and property under s. 77.52 (1) (b) and (c), Stats., and taxable services as part of a schedule of values or similar document.

2. A contractor's sales price of a lump sum contract is exempt from tax if the total sales price of all taxable products and services sold by the contractor as a part of the lump sum contract is less than 10 percent of the total amount of the lump sum contract. Except as provided in subd. 3., the contractor is the consumer of such taxable products and must pay tax on its purchase of the taxable products.

3. If the lump sum contract is entered into with an entity that is exempt from taxation under s. 77.54 (9a), Stats., the contractor is the consumer of all taxable products used by the contractor in real property construction activities, but the contractor may purchase without tax, for resale, tangible personal property, items and property under s. 77.52 (1) (b) and (c), Stats., and taxable services that are sold by the contractor as part of the lump sum contract with the entity and that are not consumed by the contractor in real property construction activities.

SECTION 34. Tax 11.68 (13) (e) (Note 1) and (Note 2) are amended to read:

Tax 11.68 (13) (e) (Note 1) Section Tax 11.68 interprets ss. 77.51 (2), (12m) (b) 7., (14) (intro.), (15a) (b) 1. and 4., (15b) (b) 7., 77.52 (2) (a) 10., 11., and 20., 77.53 (1), 77.54 (5) (d), (6) (a), (26), (26m), (31), ~~and (41)~~, and (60), 77.71 (3), and 77.77 (3), Stats.

(Note 2) The interpretations in s. Tax 11.68 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) Vault doors were not considered personal property until August 1, 1975; (b) Service station equipment such as underground tanks, gasoline pumps and hoists installed in or securely attached to their owner's land was real property, but the property was personal property if the personal property and land were owned by different persons prior to August 1, 1975; (c) Advertising signs were real property if erected on and securely attached to the owner's land prior to August 1, 1975; (d) Landscaping services became taxable effective May 1, 1982, pursuant to Chapter 317, Laws of 1981; (e) The exemption for waste reduction and recycling machinery and equipment became effective July 1, 1984, pursuant to 1983 Wis. Act 426; (f) The exemption for mobile units used for mixing and processing became effective July 20, 1985, pursuant to 1985 Wis. Act 29; (g) The credit for local sales taxes paid to other states became effective April 1, 1986, pursuant to 1987 Wis. Act 27; (h) The exemption for safety attachments for manufacturing machines became effective June 1, 1986, pursuant to 1985 Wis. Act 149; (i) The exemption of 35% of the selling price of new mobile homes and 100% of the selling price of used mobile homes became effective January 1, 1987, pursuant to 1985 Wis. Act 29; (j) The exemption for property used in constructing professional sports and home entertainment stadiums became effective October 1, 1991, pursuant to 1991 Wis. Act 37; (k) The 35% reduction in gross receipts for new mobile homes transported in 2 unattached sections became effective October 1, 1991, pursuant to 1991 Wis. Act 39; (L) Tangible personal property purchased outside Wisconsin, stored in Wisconsin and subsequently used outside Wisconsin became taxable October 1, 1991, pursuant to 1991 Wis. Act 39; (m) Raw materials purchased outside Wisconsin, manufactured, fabricated or otherwise altered by the contractor outside Wisconsin and used in real property construction by the contractor in Wisconsin became subject to use tax effective August 12, 1993, pursuant to 1993 Wis. Act 16; (n) In *Tom Kuehne Landscape Contractor, Inc. vs. Wisconsin Department of Revenue*, Wisconsin Court of Appeals, District IV, No. 86-1813, October 29, 1987 (CCH 202-919), highway signs, sign bridges, delineator posts and guardrails were found to remain tangible personal property after installation; (o) The stadium tax on building materials became effective January 1, 1996, pursuant to 1995 Wis. Act 56; (p) The change to the definition of "real property construction activities" to include only those activities that take place at a site where tangible personal property is affixed to real property became effective for sales of property

pursuant to contracts entered into on or after December 1, 1997, pursuant to 1997 Wis. Act 27; (q) The clarification of the tax treatment of the original installation or complete replacement of certain deemed items became effective on October 1, 2001, pursuant to 2001 Wis. Act 16; (r) The changes in the use of the terms mobile homes and manufactured homes became effective January 1, 2008, pursuant to 2007 Wis. Act 11; (s) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; ~~and~~ (t) The exemption for modular homes and manufactured homes used in real property construction activities outside Wisconsin became effective September 1, 2011 pursuant to 2011 Wis. Act 32; and (u) The exemption for lump sum contracts first applied to contracts entered into on or after October 1, 2013, pursuant to 2013 Wis. Act 20.

SECTION 35. Tax 11.70 (2) (e) and (7) (b) (Note 2) and (Note 3) are amended to read:

Tax 11.70 (2) (e) Producing, fabricating, processing, printing, or imprinting tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., for clients for a consideration, even though the client may furnish the materials used in producing, fabricating, processing, printing, or imprinting the property, items, or goods. However, the tax does not apply to the printing or imprinting of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., that results in printed material, catalogs, or envelopes that are exempt under s. 77.54 (25), ~~or (25m), or (59),~~ Stats.

(7) (b) (Note 2) Section Tax 11.70 interprets ss. 77.51 (1f), (1fr), (3rm), (14) (intro.) and (h), 77.52 (1) and (2), 77.522, 77.54 (2), (2m), (6) (b), (25), (25m), ~~and (43), and (59),~~ and 77.585 (8), Stats.

(Note 3) The interpretations in s. Tax 11.70 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The exemption for printing or imprinting of tangible personal property furnished by customers and used out-of-state for advertising became effective March 1, 1970; (b) The exemption for printed advertising material used out-of-state became effective May 21, 1972; (c) The exemption for ingredients or components of shoppers guides, newspapers, and periodicals became effective July 7, 1983; (d) The sales and use tax exemption for raw materials for printed materials transported and used solely outside Wisconsin became effective December 1, 1997, pursuant to 1997 Wis. Act 27; (e) The exemption for catalogs and their mailing envelopes became effective April 1, 2009, pursuant to 2007 Wis. Act 20; (f) The provision that items must be consumed exclusively and directly by a manufacturer in manufacturing property or items destined for sale became effective August 1, 2009, pursuant to 2009 Wis. Act 28; (g) The definitions of bundled transaction and finished artwork became effective October 1, 2009, pursuant to 2009 Wis. Act 2; (h) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; (i) The definition of "direct mail" became effective October 1, 2009 pursuant to 2009 Wis. Act 2; (j) The definition of "advertising and promotional direct mail" became effective May 27, 2010, pursuant to 2009 Wis. Act 330; ~~and~~ (k) The sales and use tax exemption for advertising and promotional direct mail became effective July 1, 2013, pursuant to 2011 Wis. Act 32; and (L) Services resulting in advertising and promotional direct mail were excluded from taxable services effective July 1, 2013, pursuant to 2013 Wis. Act 20.

SECTION 36. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

DEPARTMENT OF REVENUE

Dated: _____

By: _____

Richard G. Chandler
Secretary of Revenue

E:Rules/Chapter 11 (2013 Revisions) Final Order