

# STATEMENT OF SCOPE

## Department of Revenue

Rule No.: Chapter Tax 11

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Relating to: Sales and use tax provisions

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Rule Type: Permanent

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### 1. Detailed description of the objective of the proposed rule:

The objectives of the rule are (1) reflect law changes, and (2) clarify multiple rules.

- a. **Building Materials for Local Government or Nonprofit Facility.** Create sec. Tax 11.68 (4) (i) to explain the new exemption provided in 2015 Wis. Act 126 for building materials that become a part of a facility for a local unit of government or nonprofit organization.
- b. **Coin-Operated Laundry.** Amend s. Tax 11.72 (1) (b) 2., to state that all receipts from self-service laundry machines are exempt, not just coin-operated, pursuant to 2013 Wis. Act 20.
- c. **Digital Goods.** Amend s. Tax 11.67 (3) (b) to exclude sheet music from taxable digital goods, if the sheet music is not a digital book.
- d. **Distribution Facilities.** Amend s. Tax 11.55 to reflect 2015 Wis. Act 55, which amends the definition of "retailer" to, under certain conditions, allow a person to operate a distribution facility and make sales of taxable property on behalf of third-party sellers without becoming liable for the tax on such sales.
- e. **Diplomatic Exemption.** Amend sec. Tax 11.05 (4) (f) to state that purchases by diplomats from American Institute in Taiwan are now exempt from tax.
- f. **Exemption Certificate Requirements.** Amend s. Tax 11.14 (2) (b) to remove the phrase "the name and address of the seller" from the required list of data elements needed on an exemption certificate, to be consistent with the provision of the Streamlined Sales and Use Tax Agreement.
- g. **Exemptions Requiring an Exemption Certificate.** Add s. 77.54 (5) (a) 3. to the list of exemptions that do not require an exemption certificate in s. Tax 11.14 (16), to be consistent with the list provided in s. 77.52 (13), pursuant to 2013 Wis. Act 185
- h. **Federal Excise Tax on Heavy Trucks.** Amend sec. Tax 11.26 to provide that the taxable sales price and purchase price does not include the federal excise tax imposed on the first retail sale of heavy trucks and trailers under s. 4051 of the Internal Revenue Code, pursuant to 2015 Wis. Act 361.
- i. **Fuel and Electricity Used in Manufacturing.** Amend sec. Tax 11.41 (4) to define the phrase "consumed in manufacturing" consistent with the definition in s. Tax 2.11, which explains that fuel and electricity used in providing plant heating, cooling, etc. is not considered to be used in manufacturing. The income tax credit was replaced with a sales tax exemption in 2003 Wis. Act 99.

- j. Insulin Injection Equipment.** Amend second note following s. Tax 11.08 to state that apparatus and equipment for the injection of insulin or the treatment of diabetes qualify for exemption under s. 77.54 (22b), Stats., if they meet the definition of "durable medical equipment" in s. 77.51 (3pm), Stats., and are for use in a person's home, pursuant to 2009 Wis. Act 2.
- k. Music Sold for Jukeboxes.** Create s. Tax 11.52 (7) (d), to reflect the exemption for music sold for use in jukeboxes, as created by 2015 Wis. Act 251.
- l. Nexus Provisions.** Amend s. Tax 11.97 to reflect 2015 Wis. Act 55, relating to nexus provisions.
- m. Occasional Sale Exemption for Nonprofits.** Amend s. Tax 11.35 to reflect changes to the occasional sale exemption, as provided in 2015 Wis. Act 364.
- n. Off-Road Motorcycles.** Update Chapter Tax 11 to reflect 2015 Wis. Act 170, which relates to the registration and operation of off-road motorcycles..
- o. Sports and Entertainment Arena Facilities.** Create sec. Tax 11.68 (4) (h) to explain the new exemption provided in 2015 Wis. Act 60 for building materials, supplies, and equipment used in the construction or development of sports and entertainment arena facilities.
- p. Video Service Franchise Fees.** Amend s. Tax 11.26 to state that the annual video service provider fee imposed under s. 66.0420 (3) (k), Stats., is included in sales price and purchase price and that the percentage-based state-issued video service provider fee imposed under s. 66.0420 (7), Stats., is not included in sales price and purchase price.

**2. Description of existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Existing policies are as set forth in Chapter Tax 11. Additional language is needed to reflect the law changes described above. If the rules are not changed, they will not correctly and clearly reflect current law or current department policy.

**3. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

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..."

**4. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

The department estimates it will take approximately 100 hours to develop the rule.

**5. List with description of all entities that may be affected by the proposed rule:**

Purchasers and sellers of the products described above.

**6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

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

**7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

No economic impact is anticipated.

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