

STATEMENT OF SCOPE

Department of Revenue

Rule No.: Chapter Tax 11

Relating to: Sales and use tax provisions

Rule Type: Permanent

This scope statement was approved by the Governor on August 27, 2018.

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

The objectives of the rule are (1) reflect law changes and (2) correct technical issues.

- a. Bundled Transactions.** Amend s. Tax 11.985 (3) (b) to correct a technical error.
- b. Butcher Shops Listed as Nonmanufacturers.** Repeals s. Tax 11.39 (4) (b) which states that butcher shops are nonmanufacturers, since the processes performed by some butcher shops may qualify as manufacturing.
- c. Contractor's Exemption for Building Materials for Certain Exempt Entities.** Amend ss. Tax 11.04 and 11.68 (9) to reflect 2015 Wis. Act 126 and the subsequent amendments in 2017 Wis. Acts 59, 190, and 231.
- d. Custom Farming.** Amend s. Tax 11.57 (2) (i) to include a missing reference to custom farming.
- e. Electronics and Information Technology Manufacturing Zone Facilities.** Create sec. Tax 11.68 (4) (j) to explain the new exemption provided in 2017 Wis. Act 59 for building materials, supplies, and equipment used in the construction or development of facilities located in an electronics and information technology manufacturing zone.
- f. Exemption Expanded for Construction Contracts.** Amend s. Tax 11.68 (7) (b) to reflect the changes in 2017 Wis. Act 59 expanding exemption for construction contracts.
- g. Exemption for Holding Companies.** Amend ss. Tax 11.05 (4), 11.14, 11.17 (2), 11.19 (6), 11.49 (2) (b), and 11.92 to reflect the exemption created in 2017 Wis. Act 231 for certain holding companies that are exempt under s. 501 (c) (2) of the Internal Revenue Code.
- h. Exemptions for Beekeeping.** Amend ss. Tax 11.12 and 11.57 (2) (i), to reflect the changes in 2017 Wis. Act 59 expanding the definition of farming to include beekeeping.
- i. Exemptions Requiring an Exemption Certificate.** Amend s. Tax 11.14 (16) to add s. 77.54 (66) to the list of exemptions that do not require an exemption certificate to be consistent with the list provided in s. 77.52 (13), pursuant to 2017 Wis. Act 59. A technical correction is also needed to add s. 77.54 (5) (a) 3. to the list, for consistency.
- j. Exemption for Services Performed During a Disaster Period.** Create ss. Tax 11.56 (2) (r) and 11.86 (5) (d) to reflect the exemption created in 2017 Wis. Act 290 for services performed during a disaster period by electric cooperatives or telecommunications utilities.
- k. Expand List of Qualifying Exempt Entities for Building Materials Exemption.** Amend s. Tax 11.68 (4) (i) to reflect the changes in 2017 Wis. Acts 59, 190, and 231 to expand the list of

qualifying exempt entities to include technical colleges and the UW System, state veterans organizations, and certain title holding companies.

l. Hotels, Motels, and Other Lodging Providers Deemed to be Consumers. Create s. Tax 11.48 (2) (f) to state that hotels, motels, and other lodging providers are deemed to be the consumers of telecommunications, ancillary, Internet access and cable TV services used in providing lodging services, pursuant to 2017 Wis. Act 17.

m. Increase in Occasional Sale Exemption Threshold. Amend ss. Tax 11.16 (1) (h), 11.17 (4) (b) 6., 11.33 (4) (f) and Examples 1 and 2, 11.53 (3), and 11.62 (2) (b) to reflect the threshold provided in 2017 Wis. Act 59.

n. Internet Access Services. Amend s. Tax 11.66 (2) (c), to create a note that reflects the repeal of the Internet access services provision effective June 30, 2020, as provided in 2017 Wis. Act 59.

o. Medical Records. Create s. Tax 11.17(4) (a) 4., to reflect the exemption for medical records, as created by 2017 Wis. Act 17.

p. Off-Highway Motorcycles. Amend s. Tax 11.83 (4) (c) to reflect 2017 Wis. Act 59, which relates to provisions previously overlooked in 2015 Wis. Act 170 for the registration and operation of off-highway motorcycles.

q. Prepared Food. Amend s. Tax 11.87 (2) (c), to state that prepared foods are taxable unless the exemption created in 2017 Wis. Act 59 applies.

r. Prizes Awarded Through Amusement Devices. Create s. Tax 11.52 (5m), to explain the exemption for prizes purchased by an amusement device operation, as created in 2017 Wis. Act 59, and clarify property that does not qualify for the exemption.

s. Exemption for Public Service Surcharge Repealed. Amend ss. Tax 11.05 (3) (u) and 11.66 (4) (b) and repeal s. Tax 11.26 (3) (g) to reflect 2017 Wis. Act 59, which repealed the surcharge established by the Public Service Commission under s. 256.35 (3m) (f), Stats.

t. Repeal Obsolete Notes. Repeals s. Tax 11.28 (1) (a) (Note) and (b) (Note), since they are unnecessary.

u. State Veterans Association Exemption. Amend ss. Tax 11.05 (4), 11.14, 11.17 (2), 11.49 (2) (b), and 11.92 to include information about the exemption created in 2017 Wis. Act 190 for certain purchases made by a state veterans organization.

v. Tournament and League Entry Fees. Amend s. Tax 11.65 (3), to reflect the exemption for tournament and league entry fees used as prize money, as created in 2017 Wis. Act 59.

w. Undisclosed and Disclosed Principals. Amend s. Tax 11.55 (1) and (2) to clarify that provisions relating to principals apply to services as well as property.

x. Video and Electronic Games Sold to Amusement Device Operators. Create s. Tax 11.52 (7) (e), to reflect the exemption for a video or electronic game sold to a person who provides a taxable service through an amusement device, as created by 2017 Wis. Act 59.

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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