

**Wisconsin  
Sales and Use Tax  
Information for**

**Wisconsin  
Municipalities**

**May 11, 2007**

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## I. GENERAL INFORMATION

### A. Nature of the Sales and Use Tax

1. **Sales tax** is imposed upon the gross receipts of sellers (such as governmental units, department stores, restaurants, etc.) who sell or lease tangible personal property or taxable services at retail in Wisconsin. The seller is responsible for collection and payment of the sales tax.
2. **Use tax** is imposed upon the storage, use, or other consumption in Wisconsin of tangible personal property or taxable services that were not subject to the Wisconsin sales tax when originally purchased from a seller. Use tax is also imposed upon a purchaser when property is purchased without tax for resale or other exempt purposes or from an out-of-state company and is used by the purchaser in a taxable manner.

**Note:** Wisconsin governmental units are not subject to use tax. The reason for this is that all purchases by Wisconsin governmental units are exempt from use tax.

### B. Gross Receipts

The 5% sales tax is imposed on a governmental unit's taxable "gross receipts." "Gross receipts" is the total amount of the sale or rental price from retail sales of tangible personal property or taxable services, whether received in money or something other than money.

1. "Gross receipts" include:

- Charges for transportation.

**Example:** A county sells used equipment for \$950 and also charges \$50 for delivering the equipment to the customer. "Gross receipts" subject to sales tax are \$1,000 (\$950 + \$50).

- Separately stated costs associated with the sale of property or services such as:

- Cost of the property.
- Labor.
- Service costs and other expenses such as charges for handling, small orders, inventory restocking, returned merchandise, split shipment, etc.
- Travel reimbursement.
- Tips and gratuities charged by the seller

2. "Gross receipts" do not include:

- Charges for interest, financing, or insurance, if such charges are separately stated on the invoice.
- Cash or term discounts taken on sales.
- Trade-ins

If tangible personal property is traded in, "gross receipts" is the difference between the price of the property purchased and the amount allowed for the property traded in.

**Example:** A city sells to a resident for \$3,000 a tractor that was previously used by the city for mowing grass. The resident trades in his lawn and garden tractor to the city as part of the transaction. The trade allowance is \$1,000. The gross receipts subject to tax are \$2,000 (\$3,000 less \$1,000 trade-in).

### C. Seller's Permit

The seller's permit shows that a seller (such as a governmental unit) is properly registered with the Department of Revenue, as required by law.

If a governmental unit does not have a seller's permit but engages in the business of selling taxable property or services at retail in Wisconsin, it must file. Application for a seller's permit may be made using one of the following methods:

- Complete Form BTR-101, *Application for Business Tax Registration*, and mail it to the Department of Revenue. Form BTR-101 may be obtained from any Department of Revenue office or online at [www.dor.state.wi.us/forms/sales/index.html](http://www.dor.state.wi.us/forms/sales/index.html). Keep a copy of the completed application for your records.
- Use the Department of Revenue's online registration system and submit the application electronically. Go to <https://ww2.revenue.wi.gov/GenericFile/application?interview=1086489>.

## II. SALES BY GOVERNMENTAL UNITS

All sales of tangible personal property are subject to the sales tax, unless an exemption applies. However, sales of only certain selected services are taxable.

### A. Taxable Sales by Governmental Units

Following are examples of taxable sales by governmental units (this list is not all-inclusive).

**Note:** Information about taxable and exempt sales of meals, food, food products, and beverages and admissions to amusement, recreational, entertainment, and athletic events and places is in Part III.

#### 1. Tangible Personal Property

Sales, leases, or rentals of tangible personal property are subject to Wisconsin sales tax, including:

##### **Clothing**

- T-shirts, sweatshirts, pants, jackets, and hats.
- Employee uniforms.

##### **Equipment**

- Recreational equipment and supplies (e.g., volleyballs, baseballs, bats, golf clubs, golf carts).

**Note:** More information about sales by golf courses can be found in Wisconsin Publication 226, Golf Courses — How Do Wisconsin Sales and Use Taxes Affect Your Operations.

- Portable stages, portable basketball floors, portable public address systems, chairs, tables, stage risers, pianos, forklift trucks, music racks, spotlights, and projectors that are optional in connection with the rental of a facility. The rental of such items is taxable, regardless of how the lessee uses the facility (e.g., educational, entertainment, amusement).

**Example 1:** City A allows residents to use the community center for various purposes. Individual I rents the community center for her wedding dance for \$500. For an additional charge of \$100, the City will provide chairs, tables, portable stage, and public address system, if requested by Individual I.

The charge for the rental of the chairs, tables, portable stage, and address system is subject to Wisconsin sales tax. **Note:** The charge for use of the facility for the wedding dance is also taxable because the facility is used for amusement, recreational, or entertainment purposes.

**Example 2:** County A allows residents to use buildings on its fairgrounds for various purposes. An auctioneer rents a building to hold an auction for \$1,000. Included in the price is the use of chairs, tables, portable stage, and public address system, if needed by the auctioneer. If the auctioneer uses his own equipment, the charge for the building is reduced by \$200. The auctioneer chooses to use the county's chairs, tables, portable stage, and public address system.

The \$200 charge for use of the equipment is subject to Wisconsin sales tax, even though the charge for use of the building is not taxable.

**Example 3:** County B allows residents to use buildings on its fairgrounds for various purposes. An auctioneer rents a building to hold an auction for \$1,000. County B also charges \$200 for use of chairs, tables, portable stage, and address system whether or not needed by the auctioneer. The auctioneer cannot use the facility without paying the \$200 charge for the equipment.

The equipment is considered to be provided incidentally with the rental of the building. The \$200 charge is part of the gross receipts from the rental of the building. Since the \$1,000 charge for rental of the facility is not subject to tax, the charge for the equipment is also not taxable.

**Example 4:** City B allows residents to use the community center for various purposes. Individual I rents the community center for her wedding dance for \$600, which includes the use of the center's chairs, tables, portable stage, and public address system, whether or not requested by Individual I. City B bills Individual I \$500 for the facility and \$100 for the equipment.

The equipment is considered to be provided incidentally with the rental of the community center. The \$100 charge is part of the gross receipts from the rental of the facility. Since the \$500 charge for use of the facility is subject to Wisconsin sales tax, the \$100 charge for the equipment is also taxable.

See Part III.B. for more information on the sales tax treatment of charges for use of facilities.

- Office equipment and furniture.
- Computers and computer software, except custom computer software.

**Note:** Data processing services are not taxable.

### **Landscaping Materials**

- Trees, shrubs, flowers, plants, woodchips, and mulch.
- Gravel and topsoil when the gravel or topsoil is dumped in a pile or other arrangement and someone (other than the governmental unit) arranges it in its final resting place. See Part I.B. on page 1 for information on transportation charges.

### **Motor Vehicles and Similar Property**

- Leases or rentals of motor vehicles, boats, snowmobiles, all-terrain vehicles, and aircraft.

**Note:** A governmental unit is not subject to sales tax on sales of motor vehicles, boats, snowmobiles, all-terrain vehicles and aircraft, if the governmental unit is not a registered or licensed dealer of the that property. The purchaser will pay the tax to the registering agency when the property is registered or titled.

- Parts and labor for repairing motor vehicles or other tangible personal property. These charges are taxable, even though the customer is only charged for parts at the governmental unit's cost.

### **Printed Material**

- Maps, plat books, or other printed material.
- Magazines sold over the counter (but not newspapers) and sales or rentals of books, directories, and bulletins.
- Photocopies, microfilm and videotape copies, except copies of records under sec. 19.35(1)(a), Wis. Stats., by a governmental unit that is an "authority" under sec. 19.32(1) Wis. Stats.

"Record" means any materials on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed, or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts, and optical disks.

"Record" does not include:

- Drafts, notes, preliminary computations, and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working.
- Materials which are purely the personal property of the custodian and have no relation to his or her office.

- Materials by which access is limited by copyright, patent, or bequest.
- Published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

“Authority means any of the following having custody of a record:

- A state or local office, elected official, agency, board, commission, committee, council, department, or public body corporate and politic created by constitution, law, ordinance, rule, or order.
  - A governmental or quasi governmental corporation except for the Bradley Center Sports and Entertainment Corporation.
  - A local exposition district under subch II of ch. 229, Wis. Stats.
  - A family care district under sec. 46.2895, Wis. Stats.
  - Any court of law.
  - The Assembly or Senate.
  - A nonprofit corporation which receives more than 50% of its funds from a county or a municipality, as defined in sec. 59.001(3), Wis. Stats., and which provides services related to public health or safety to the county or municipality.
  - A nonprofit corporation operating the Olympic ice training center under sec. 42.11(3), Wis. Stats.
  - A formally constituted subunit of any of the foregoing.
- Bid documents that are not returned to the governmental unit.

**Note:** Bid document deposits that are subsequently refunded to the customer when the documents are returned to the governmental unit are not subject to tax.

**Example:** City A requires that contractors deposit \$100 for bid documents the contractors may use for bidding for a city construction project. When the bid documents are returned, the \$100 deposit is refunded to the contractor.

If the city does not report the \$100 deposit as income on its books, the \$100 deposit is not subject to Wisconsin sales tax when the bid documents are transferred to the contractor. However, if the bid documents are not returned by the contractor and the deposit is forfeited by the contractor, the city is subject to sales tax on the \$100 deposit.

If the city reports the \$100 deposit as income on its books, the \$100 deposit is subject to Wisconsin sales tax on the sales tax return for the reporting period in which the bid documents are transferred to the contractor. When the bid documents are returned by the contractor, the city may take a \$100 deduction on its sales and use tax return for the reporting period in which the \$100 was returned to the contractor.

## Utilities

- Electricity, natural gas, and steam, except sales of electricity and gas for residential use during the months of November through April and electricity and fuel for farm use.
- Bags or receptacles for garbage or trash, if separate from the charge for garbage and trash removal.

## Other

- Impounded animals, even though the amount received may be designated as a placement fee.
- Supplies for playground arts and craft programs when the supplies are not provided incidentally with the sale of lessons or classes.

**Example 1:** Village A has a playground program during the summer months. There is no charge for attending the program. Periodically time is set aside for arts and crafts. Children who wish to participate may purchase the supplies to make arts and crafts.

The charges for supplies are subject to Wisconsin sales tax. The supplies are not transferred incidentally with the sale of a service.

**Example 2:** City B sponsors a three-week summer day camp each year. City B charges \$100 for each child attending the recreational camp. Planned activities include swimming, fishing, organized games, and arts and crafts. There is no separate charge for the supplies.

The supplies provided to children attending the summer camp are transferred incidentally with the access to the recreational camp. **Note:** The \$100 charge for attending the camp is subject to Wisconsin sales tax.

**Example 3:** Town C offers enrichment classes to resident children during the summer months. Various classes are provided, including preparation for being home alone, babysitting, arts and crafts, jewelry making, foreign languages, etc. The town charges a \$20 supply fee per class in an attempt to cover its costs.

The supplies provided to students attending the classes are considered to be transferred incidentally with the sale of lessons and classes. No part of the \$20 charge is subject to Wisconsin sales tax.

- Buildings or timber (including standing timber) when a purchaser acquires such property for removal.
- Auction receipts. See Wisconsin Publication 217, Auctioneers, for more information.

## 2. Services

### CableTV and Telecommunications

- Cable television services, including installation or hookup charges.
- Telecommunications services that originate or terminate in Wisconsin and are charged to a service address in Wisconsin (including FAX transmissions).
- Telecommunications message services that consist of recording telecommunications messages and transmitting them to the purchaser or at that purchaser's direction, unless those services are an incidental element of a nontaxable service sold to that purchaser.

### Landscaping

- Landscaping and lawn maintenance services, including weed cutting.

- Planting or removing trees, including the planting of trees on terraces between sidewalks and roadways.

### **Laundry**

- Laundry, dry cleaning, and pressing services.

**Caution:** Receipts from coin-operated laundry machines are not taxable, except when they are activated by tokens, magnetic cards, or some other means other than a coin.

### **Lodging**

- Lodging facilities available to the public furnished to any person residing for a continuous period of less than one month.

**Note:** The tax does not apply to lodging furnished by hospitals, sanitariums, or nursing homes operated by governmental units or lodging at Huber law facilities.

### **Parking, Storage, and Docking**

- Parking (including parking meters) or providing parking space for motor vehicles and aircraft.

Parking includes the temporary storage of a motor vehicle or aircraft that is available for immediate use.

**Note:** Parking fines are not subject to sales tax.

- Docking or providing storage space for boats.

### **Towing**

- Towing a motor vehicle or other tangible personal property.

Other taxable servicing of a motor vehicle includes: (a) returning a truck or other motor vehicle to an upright position after it has tipped over, (b) winching a motor vehicle back on a highway, and (c) freeing a truck from a “Low Clearance” overhead structure.

**Note:** Charges for towing motor vehicles from “No Parking” areas to a municipal lot in connection with a parking violation are not subject to Wisconsin sales tax.

## **B. Nontaxable Sales by Governmental Units**

Following are examples of nontaxable sales by governmental units (this list is not all-inclusive).

### **1. Exemption Certificate Not Required**

#### **Fees and Licenses**

- Filing, entering, docketing, recording, or furnishing certified or uncertified copies of records by a registrar of deeds, health officers, and clerk of courts and fees charged by a registrar in probate.
- Service of legal papers, including summons, complaints, and civil process.
- Notary public fees.

- Library fines, charges for books not returned, and charges for library cards.
- Licenses and permits, including tavern, cigarette, hunting, fishing, marriage, building, septic tank, and certain ID cards.
- Police escort and ambulance service charges.
- Security services provided by police officers, ushers, and door guards at social and other gatherings.
- Claims assessed against persons for damaging government property, including a governmental unit's billings to persons who caused lawn, tree, or shrub damage on a governmental unit's property.
- Snow removal and snowplowing.

### **Out-of-State**

- Tangible personal property or taxable services sold outside Wisconsin.

**Note:** A sale of tangible personal property takes place where the governmental unit or its agent transfers possession of the tangible personal property to the purchaser or the purchaser's agent. A common carrier or the U.S Postal Service is always an agent of the governmental unit seller, regardless of f.o.b. point or the method by which freight is paid.

A service is considered sold where the service is furnished. Services to tangible personal property are furnished outside Wisconsin if the property serviced is transferred by the governmental unit or governmental unit's agent to the purchaser or the purchaser's agent outside Wisconsin.

### **Printing**

- Photocopies, microfilm and videotape copies, of records under sec. 19.35(1)(a), Wis. Stats., by a governmental unit that is an "authority" under sec. 19.32(1), Wis. Stats.  
"Record" and "authority" are defined in Part A.

### **Storage**

- Rental of buildings or space in buildings, such as offices, warehouses, and meeting rooms for purposes of other than recreational, amusement, entertainment or athletic. See Part III.B. for more information.
- Storage (except for boats).  
**Caution:** The temporary storage of a motor vehicle that is available for immediate use is parking that is subject to sales tax.
- Locker rentals, including coin-operated units.

### **Utilities**

- Special assessments and fees for garbage or trash removal.  
**Note:** Separate sales of bags or receptacles for garbage or trash are taxable.)
- Water delivered through mains.

- Coal, fuel oil, propane, steam, and wood used for fuel for residential use.
  - Electricity sold for residential use during the months of November through April.
  - Natural gas sold for residential use during the months of November through April.
  - Electricity for farm use.
  - Fuel and electricity consumed in manufacturing tangible personal property in this state (effective January 1, 2006).
2. Exemption Certificate or Other Documentation Required
- Sales for resale.
 

**Example:** A landscaping contractor purchases wood chips from a city that it will resell to customers. The charge by the city is not subject to Wisconsin sales or use tax, provided the landscaping contractor gives the city a properly completed exemption certificate.
  - Fuel sold for use in farming.
  - Tangible personal property (including office equipment, recreational equipment, furniture, etc.) sold, leased, or rented to schools and other nonprofit organizations which hold a Certificate of Exempt Status issued by the Wisconsin Department of Revenue.
  - Tangible personal property or taxable services sold to another Wisconsin governmental unit, including a Wisconsin school district, or the federal government.

### III. SPECIAL SITUATIONS

#### A. Meals, Food, Food Products, and Beverages

##### 1. Taxable Sales

The following sales of meals, food, food products, and beverages are subject to Wisconsin sales tax (this list is not all-inclusive):

##### a. On-premises consumption

Meals, food, food products, and beverages, sold for human consumption on the premises of the governmental unit are subject to Wisconsin sales tax.

**Example 1:** Sales of sandwiches, pizza, beverages, candy, and ice cream from concession stands at a baseball tournament are subject to sales tax.

**Example 2:** Meals, food, food products, and beverages sold to “Huber” law prisoners and other persons at correctional facilities are subject to Wisconsin sales tax.

**Exception:** The following are exempt from sales tax:

- Meals, food, food products, and beverages (except soda water beverages, soft drinks, beer, and liquor) sold by governmental unit hospitals, sanitariums, and nursing homes to patients, employees, or guests on their premises

**Example:** Soda water beverages, beer and liquor sold by governmental unit hospitals, sanitariums, and nursing homes to patients, employees, or guests are subject to Wisconsin sales tax.

- Meals, food, food products, and beverages sold to the elderly or handicapped by persons providing “mobile meals on wheels.”

b. Off-premises consumption

The following food, food products, and beverages sold for human consumption off the premises of the governmental unit are subject to Wisconsin sales tax, including sales from vending machines:

- Medicines, tonics, vitamins, and medicinal preparations in any form.

**Exception:** Medicines prescribed by a licensed physician, surgeon, podiatrist, or dentist and dispensed on prescription filled by registered pharmacist are not subject to Wisconsin sales tax.

- Beer and liquor.
- Soda water beverages, soft drinks, fruit drinks, and ades that are not fruit juices.
- Meals and sandwiches.
- Heated food and heated beverages.
- Soda fountain items such as sundaes, milk shakes, malts, ice cream cones, and sodas.
- Candy, chewing gum, lozenges, popcorn, and confections.

Refer to Publication 220, *Grocers - How Do Wisconsin Sales and Use Taxes Affect Your Operations?*, for more information.

c. Other

- With respect to donations and fund-raising events, when a charge to a customer for a meal bears little or no relation to the actual value of a meal provided, the tax is based on the actual value of the meal provided.

**Example:** Persons donate \$100 and receive a \$10 meal. The \$10 value of the meal is subject to the sales tax. The \$90 donation is not subject to sales tax.

2. Nontaxable Sales

The following sales of meals, food, food products, and beverages are not subject to Wisconsin sales tax (this list is not all-inclusive):

- Meals, food, food products, and beverages (except soda water beverages, soft drinks, beer, and liquor) sold by governmental unit hospitals, sanitariums, and nursing homes to patients, employees, or guests on their premises
- Meals, food, food products, and beverages sold to the elderly or handicapped by persons providing “mobile meals on wheels.”
- Food, food products, and beverages sold for human consumption off the premises of the seller, including sales from vending machines, except as provided in Part A.1.b.

**Note:** Food for pets and food used in research and experimentation that is not consumed by humans is taxable.

- Commissions received by governmental units for vending machines or amusement devices placed on their premises when the governmental unit does not own the machines or does not have control over the machine's income or contents.

## **B. Admissions**

### 1. Taxable Sales

#### **Access to Events and Places**

- Admissions to amusement, athletic, entertainment, or recreational events or places and the dues, fees, or other considerations received for having access to, or the use of, amusement, entertainment, athletic, or recreational facilities. This includes:
  - Admissions where there is a presentation of some item or activity which is intended to entertain or amuse the persons paying the admission. The person attending does not participate in the activity, but is amused or entertained by the efforts of others. Examples of these admissions would be admission to movies, plays, operas, concerts, ballet, football, hockey, baseball, and basketball games, boxing and wrestling matches, golf matches, ice shows, circuses, carnivals, and track meets.
  - Amounts paid for the use of amusement, entertainment, athletic, or recreational facilities, where the person involved participates in the amusement, entertainment, athletic, or recreational activity. In this situation the facility is made available by the seller and it is up to purchasers to amuse or entertain themselves. Examples of these facilities would be skating rinks, tennis courts, swimming pools, gymnasiums, golf courses, hunting facilities, dance halls, bowling alleys, and athletic fields.

**Note:** More information about sales by golf courses can be found in Wisconsin Publication 226, Golf Courses — How Does Wisconsin Sales and Use Taxes Affect Your Operations.
  - A multipurpose facility rented to amateurs who use the facility in providing entertainment to themselves and also possibly to the public without charge for admission. For example, an amateur theatrical group may perform a play as a form of self-entertainment. If the play is open to the public and no charge is made for admission to attend the play, the rental is taxable.
  - Amusement device (pinball machine, video game, pool table, etc.) receipts if the governmental unit owns the machines or has control over the income from the machines and their contents.
- Season tickets for athletic, entertainment, or recreational events.
- Entry fees for individuals and teams for participation in governmental unit administered leagues for sports activities such as baseball, basketball, volleyball, tennis, etc.
- Camping permits or identification (ID) cards permitting admission to amusement, athletic, entertainment, or recreational facilities.

### 2. Nontaxable Sales

- Fees for instruction (e.g., swimming, golf, tennis, etc.).

- Admissions to museums of history, art, or science, including zoos.
- Admissions to county fairs.
- Rental of auditoriums, gymnasiums, park shelters, and other multipurpose facilities (including associated charges for heat, light, and janitor fees) are not taxable admissions to recreational facilities when:
  - The facility is rented to a promoter, professional group, or other persons who will (1) convert it to a place of recreation, amusement, or entertainment and (2) sell admissions to the public. Examples of this situation where the rental receipts of the governmental unit are not taxable are as follows (assuming conditions (1) and (2) are both met):
    - A county coliseum is rented on an annual basis to a professional basketball team and professional hockey team.
    - A movie theater is owned by a city that leases it to “Y” (a theater operator) under a lease.
    - A city’s arena is rented on a daily basis to a professional basketball team or the operator of an ice show.
    - A portion of the city’s civic center is rented to a professional theatrical group for a two-week period.
    - A dance hall or ballroom is rented to a popular band for the night.
    - A field is rented by a promoter of a rock fest.
  - The multipurpose facility is rented to another person or persons who will conduct an event that is not recreational in nature. The group may or may not charge admission to the general public to enter the facility. Examples of this situation when the governmental unit’s rental charges are not taxable are:
    - A county rents a coliseum to a religious group that conducts a one-week religious revival.
    - A city rents an arena to the auto dealers who put on an auto show in the facility for one week.
    - A city rents a large hall or motel’s banquet room to a political group that puts on a 3-day antique show.
    - A city rents a large facility to a person for a graduation ceremony.
- Admission to facilities that are used primarily for fitness or health.
 

An admission to a facility is primarily for fitness and health if users spend more than 50% of their overall time using the following nontaxable facilities:

  - Aerobics classes
  - All lessons (swimming, tennis, golf, etc.)
  - Free weights and machines
  - Whirlpool, sauna
  - Running track (other than for races)
  - Exercycles, lifecycles
  - Rowing machines

- Stepping machines
- X-country ski machines
- Treadmills
- Tanning booths and beds
- Massage table/room

A reasonable method of determining nontaxable use is a representative survey of participants and their time spent in each facility. Governmental units must keep adequate records to substantiate how they determine the primary purpose of the participants was use of nontaxable facilities.

**Note:** Even in situations where the primary purpose of the members is to use the facilities for nontaxable activities and, therefore, the organization's fee has been determined to be nontaxable, any separate charges for taxable activities, services, or property are subject to sales tax.

**Caution:** If the facilities are designed, promoted and used primarily for recreation, rather than physical fitness, the access charges are taxable.

#### **IV. OCCASIONAL SALE EXEMPTION**

A governmental unit's sales of tangible personal property and services, including admissions or tickets to an event conducted by the organization, are exempt from sales tax if all of the following three conditions are met:

##### **A. Not Engaged in a Trade or Business**

A governmental unit is engaged in a trade or business if it **exceeds both** of the following:

1. Sales of tangible personal property or services (not including sales of tickets to events), or its events, occur on more than 20 days during the year.
2. Sales of taxable tangible personal property or taxable services exceed \$25,000\* for the year.

\* The \$25,000 receipts standard was increased from \$15,000 to \$25,000 effective January 1, 2006.

##### **B. No Entertainment at Admission Event**

The occasional sale exemption does not apply to sales of tangible personal property or taxable services at an admission event where all persons or groups (such as bands or singers) are paid in the aggregate \$500\* or more per event for performing, as prize money or for reimbursement of expenses.

\* The \$500 entertainment standard was increased from \$300 to \$500 effective January 1, 2006.

"Admissions" are deemed to be involved if access to the event involving entertainment is generally restricted to only those who pay a required fee, make a required "donation," or who must make a purchase of some kind (such as a meal, raffle ticket, etc.).

### **C. Does Not Hold or Not Required to Hold Wisconsin Seller's Permit.**

If a governmental unit holds or is required to hold a seller's permit, its sales of tangible personal property or taxable services may not qualify for the occasional sale exemption. A governmental unit may surrender its seller's permit if it meets the requirements in A and B.

For more information, refer to Publication 206, *Occasional Sales Exemption for Nonprofit Organizations*.

## **V. PURCHASES BY GOVERNMENTAL UNITS**

### **A. Purchases Are Exempt**

A governmental unit may purchase all tangible personal property and services exempt from the sales and use tax. To claim the exemption, the governmental unit must give the seller one of the following:

- A completed purchase order or similar document clearly identifying the governmental unit as the purchaser.
- An exemption certificate (Form S-211)
- Its Certificate of Exempt Status (CES) number.

### **B. Purchases for Welfare Recipients**

A welfare recipient's purchase of tangible personal property or taxable services, otherwise subject to Wisconsin sales tax, is exempt from sales and use tax if it is made directly by the governmental unit and the following two conditions are met:

1. The governmental unit gives the seller one of the items listed in Part A. above.
2. The seller issues the billing or invoice for the purchase in the name of the governmental unit.

**Example:** A city intends to purchase clothing for a welfare recipient. The city gives a purchase order to the seller and the seller makes the invoice in the name of the city. This sale is not subject to sales tax if the welfare recipient pays with funds given to him or her by the city or if the city pays the seller directly.

### **C. Employee Purchases of Meals and Lodging**

Restaurants, motels, and others sell meals and lodging to governmental units or to their employees under various situations. For sales of meals or lodging to a governmental unit to be exempt from Wisconsin sales and use tax, the following two conditions must occur:

1. The governmental unit gives the seller one of the items listed in Part A above and indicates that the employee is traveling on governmental unit business and funds are being provided to the employee to pay any expenses).
2. The seller (such as a motel or restaurant) issues the billing or invoice for the meal or lodging in the name of the governmental unit.

If these two conditions are met, the purchases by the governmental unit are exempt from Wisconsin sales and use tax, regardless of whether the governmental unit or its employee pays the seller for the purchase of the meal or lodging.

**Example 1:** A county employee purchased lodging at a motel. The billing is made in the employee's name and the employee pays the bill with his or her own funds. The employee is subsequently reimbursed by the employer (county) for the lodging.

This sale is taxable because it is a sale to the employee, rather than to the county. (**Note:** The two conditions listed above were not met.)

**Example 2:** A town employee traveling on town business purchases lodging at a motel. The motel's billing is made in the name of the town and the town directly pays the motel for the lodging.

This sale of the lodging is exempt from sales tax because the sale is made to the town, rather than to the employee.

**Example 3:** A city employee, when purchasing a meal, submits a letter to the restaurant from the city indicating that the employee is on city business and the city authorizes the employee to purchase meals relating to city business. This letter is placed in the restaurant owners' files. A bill is made in the name of the city. The employee pays the bill with his or her own funds and is subsequently reimbursed by the city.

This is an exempt sale to the city.

## **VI. CONSTRUCTION FOR A GOVERNMENTAL UNIT**

### **A. General**

#### 1. Tangible Personal Property

Sales of tangible personal property and services to tangible personal property by a contractor to a Wisconsin governmental unit are exempt from Wisconsin sales or use tax. The contractor may purchase the tangible personal property physically transferred to the governmental unit without tax because it is for resale.

#### 2. Real Property

Even though a contractor is constructing a building for governmental units, the sales of building materials to the contractor used in real property construction are taxable.

The reason for this treatment is that the contractor is the consumer of the building materials used in constructing the building. Therefore, the sale to the contractor is a retail sale and is subject to tax.

An exception to this rule is when building materials are purchased to alter, repair, or improve a waste treatment facility as described in Part C.

### **B. Governmental Unit Buying Materials Tax Free**

To avoid Wisconsin sales or use tax on materials used in real property construction by a contractor, a Wisconsin governmental unit may purchase the materials directly from a supplier that does not install

the materials in real property construction. The governmental unit must provide the supplier with one of the following:

1. An exemption certificate (Form S-211).
2. The federal or Wisconsin governmental unit's Certificate of Exempt Status (CES) number that the supplier should record on the invoice it keeps.
3. A purchase order or similar written document identifying the governmental unit as the purchaser.

The governmental unit must also pay the supplier of the materials directly.

A governmental unit's transfer to its construction contractor of materials the governmental unit purchases directly from suppliers is not considered a taxable transaction, regardless of whether:

1. The contract specifies that the contractor is to provide all materials and the governmental unit subsequently obtains a reduction in the contract price for the direct purchased materials (e.g., change order), or
2. The contract excludes those materials governmental unit will purchase directly from suppliers, resulting in no need for a reduction in the contract price (e.g., change order).

**Caution:** A contractor is subject to Wisconsin sales or use tax on materials it uses in real property construction for a governmental unit if it also supplied the materials to the exempt entity, regardless of whether the exempt entity paid for the materials.

### **C. Waste Treatment Facilities**

Construction materials that become a component part of a governmental unit waste treatment facility may be purchased without Wisconsin sales or use tax. Governmental waste treatment facilities include:

1. Wastewater treatment facilities. In general terms, this is everything within the fence, except storm sewers, water supply systems, private domestic wastewater treatment facilities, and collection and discharge systems.
2. Sanitary landfills. This includes collection and burner systems, laboratory equipment, maintenance buildings, garages, office buildings, fences, and gates.
3. Ground water facilities. These are facilities constructed to treat hazardous or contaminated ground water and include oil and water separators, air strippers, aerators, blowers, filters, carbon units, controls, thermal oxidizers, and pumps. Not included within the exemption are the collection and discharge systems.

It is not necessary for a governmental unit or contractors engaged in constructing a waste treatment facility for a Wisconsin governmental unit to obtain Department of Revenue approval of the governmental unit's waste treatment facility to qualify for the waste treatment facility exemption.

For more information on waste treatment facilities, refer to sec. Tax 11.11, Wis. Adm. Code, entitled "Waste treatment facilities."

## **VII. RECORD KEEPING**

### **A. General Records to Keep**

If a governmental unit is required to file sales and use tax returns, it must keep adequate records of business transactions to enable the governmental unit and the Department of Revenue to determine the correct tax due. The required records include complete and accurate records of beginning and ending inventories, purchases, sales, canceled checks, receipts, invoices, bills of lading, and all other documents and books of account pertaining to the business.

### **B. Records to Keep – Exempt Sales, Exemption and Resale Certificates**

If a governmental unit claims that part or all of its retail sales of tangible personal property or taxable services are exempt from sales and use tax, it is required to keep a record of the name and address of the person to whom the exempt sale was made, the date of sale, the article sold, the amount of exemption, and the reason that the sale was exempt from tax. This record must be signed by the purchaser.

The reason for keeping such records is that the sales and use tax law provides that all gross receipts are taxable until the contrary is established. The seller has the burden of proving that a sale of tangible personal property or taxable services is exempt, unless the seller takes a certificate (or other information as described in number 3 below) in an approved form in “good faith” from the purchaser which indicates that the property or service being purchased is for resale or is otherwise exempt.

A seller who accepts in “good faith” an exemption certificate that discloses a proper basis for exemption is relieved of any liability for payment of tax upon transactions covered by the certificate. The seller should be familiar with the instructions contained in the certificate.

In order for “good faith” to be established, the following conditions must be met:

- The certificate must contain no statement or entry which the seller knows, or has reason to believe, is false or misleading.
- The certificate must be properly executed and contain all the necessary information.

If a seller regularly sells the same kind of item to the same customer, a certificate known as a “continuous certificate,” which is good indefinitely, may also be used for future transactions.

Four common reasons that sales of tangible personal property or taxable services may be exempt are as follows:

1. The purchaser furnishes the seller an exemption certificate claiming resale that the seller accepts in good faith. The resale certificate is given to the seller because the purchaser declares that he or she is going to resell the item.
2. The use to be made of the item purchased is exempt. For example, the machine is going to be used exclusively and directly in manufacturing or the tractor is going to be used exclusively and directly in farming and is, therefore, exempt.

The seller should obtain a completed exemption certificate (Form S-211) from the purchaser.

3. The purchasing organization is exempt (e.g., Wisconsin public schools and municipalities, federal government).

Sales to the federal and Wisconsin governments, municipalities, and public schools should be supported by one of the following:

- A purchase order or similar written document identifying the governmental unit as the purchaser.
- An exemption certificate (Form S-211).
- Recording the federal or Wisconsin governmental unit's certificate of exempt status (CES) number on the invoice.

Exempt sales to nonprofit organizations holding a "certificate of exempt status" (e.g., church) can be supported by an exemption certificate (Form S-211) or by recording the certificate of exempt status (CES) number on the invoice.

4. The purchaser furnishes the seller (a) a copy of its direct pay permit or (b) a statement that the buyer holds a direct pay permit, the permit number, and the date the permit was issued.

**Note:** If exemptions are claimed for any of the above 4 reasons, a governmental unit must keep as part of its records the completed certificates, purchase orders, or invoices to prove that the sales are exempt. If the Department of Revenue conducts an audit and the governmental unit does not have the required exemption certificates or other required documents to prove that the sales are exempt, the sales will be presumed to be taxable and subject to the sales tax.

## VIII. LOCAL SALES AND USE TAXES

### A. Introduction

#### 1. County Sales and Use Taxes

As of May 1, 2007, there is a 0.5% county sales and use tax in 60 counties. Listed below are the 60 counties and the effective date for each county's tax. (**Note:** The county code assigned by the department for each county is in parenthesis following the county name. This may be helpful to retailers for computer programming purposes.)

County	Effective Date	County	Effective Date
Adams (01)	1/1/94	Forest (21)	4/1/95
Ashland (02)	4/1/88	Grant (22)	4/1/02
Barron (03)	4/1/86	Green (23)	1/1/03
Bayfield (04)	4/1/91	Green Lake (24)	7/1/99
Buffalo (06)	4/1/87	Iowa (25)	4/1/87
Burnett (07)	4/1/89	Iron (26)	4/1/91
Chippewa (09)	4/1/91	Jackson (27)	4/1/87
Columbia (11)	4/1/89	Jefferson (28)	4/1/91
Crawford (12)	4/1/91	Juneau (29)	4/1/92
Dane (13)	4/1/91	Kenosha (30)	4/1/91
Dodge (14)	4/1/94	LaCrosse (32)	4/1/90
Door (15)	4/1/88	Lafayette (33)	4/1/01
Douglas (16)	4/1/91	Langlade (34)	4/1/88
Dunn (17)	4/1/86	Lincoln (35)	4/1/87
Eau Claire (18)	1/1/99	Marathon (37)	4/1/87
Florence (19)	7/1/06	Marinette (38)	10/1/01

<b>County</b>	<b>Effective Date</b>	<b>County</b>	<b>Effective Date</b>
Marquette (39)	4/1/89	St. Croix (55)	4/1/87
Milwaukee (40)	4/1/91	Sauk (56)	4/1/92
Monroe (41)	4/1/90	Sawyer (57)	4/1/87
Oconto (42)	7/1/94	Shawano (58)	4/1/90
Oneida (43)	4/1/87	Taylor (60)	7/1/99
Ozaukee (45)	4/1/91	Trempealeau (61)	10/1/95
Pepin (46)	4/1/91	Vernon (62)	1/1/97
Pierce (47)	4/1/88	Vilas (63)	4/1/88
Polk (48)	4/1/88	Walworth (64)	4/1/87
Portage (49)	4/1/89	Washburn (65)	4/1/91
Price (50)	1/1/93	Washington (66)	1/1/99
Richland (52)	4/1/89	Waupaca (68)	4/1/89
Rock (53)	4/1/07	Waushara (69)	4/1/90
Rusk (54)	4/1/87	Wood (71)	1/1/04

As of May 1, 2003, there is **no** county sales and use tax in the following 15 Wisconsin counties.

#### **Counties Without County Tax**

Brown (05)	Fond du Lac (20)	Menominee (72)	Sheboygan (59)
Calumet (08)	Kewaunee (31)	Outagamie (44)	Waukesha (67)
Clark (10)	Manitowoc (36)	Racine (51)	Winnebago (70)

The Wisconsin Department of Revenue administers the county tax. Retailers who make sales subject to the 0.5% county tax must collect 5.5% sales tax on their retail sales — 5% state sales tax and 0.5% county sales tax.

Both the state tax and county tax are reported by retailers on their sales and use tax return (Form ST-12) filed with the Department of Revenue.

**Caution:** Retailers who are not located in a county with a tax may still be subject to the county tax and are required to collect and remit it, if they (1) deliver property or taxable services, into such a county with their own vehicles or are in some other way engaged in business in such a county as described in Part C, or (2) sell items registered with the state which are customarily kept in a county which has adopted the county tax.

## 2. Stadium Sales and Use Taxes

### a. Baseball Stadium Tax

A 0.1% baseball stadium tax is imposed on the sale of and the storage, use, or consumption of tangible personal property and taxable services in the following five Wisconsin counties which make up the “baseball stadium district.”

Milwaukee	Racine	Waukesha
Ozaukee	Washington	

Retailers who make sales subject to the baseball stadium tax in Milwaukee, Ozaukee, and Washington counties will collect 5.6% sales tax on such retail sales — 5% state sales tax, 0.5% county sales tax, and 0.1% baseball stadium sales tax.

Retailers who make sales subject to the baseball stadium tax in Racine and Waukesha counties will collect 5.1% sales tax on such retail sales — 5% state sales tax and 0.1% baseball stadium sales tax.

b. Football Stadium Tax

A 0.5% football stadium tax is imposed on the sale of and the storage, use, or consumption of tangible personal property and taxable services in Brown County.

The football stadium tax was created for the purpose of assisting the development of professional football stadium facilities in Wisconsin.

Retailers who make sales subject to the football stadium tax in Brown County will collect 5.5% sales tax on such retail sales — 5% state sales tax and 0.5% football stadium sales tax.

Stadium taxes are reported with state and county sales and use taxes on Form ST-12.

**Caution:** Retailers who are not located in Brown, Milwaukee, Ozaukee, Racine, Washington, or Waukesha counties may still be subject to the stadium taxes if they deliver property into any of these six counties or are in some other way “engaged in business” in the baseball or football stadium district, as described in Part C.

**Note:** The Department of Revenue currently has no list available that accurately gives the county for a particular municipality or five digit zip code.

To accurately determine the county in which a sale takes place, a seller should ask the customer for the name of the county where the customer will take possession of the property or where the service will be furnished.

**B. What Types of Tangible Personal Property and Services Are Taxable?**

The types of tangible personal property and services that are subject to the 5% state sales and use tax are also subject to the 0.5% county and 0.1% or 0.5% stadium sales and use taxes.

The county and stadium taxes may not be imposed on any types of property or services that are not subject to the 5% state tax. If property or services are exempt from the 5% state tax, they are also exempt from the 0.5% county and 0.1% or 0.5% stadium taxes.

**C. What Sales Are Subject to the County and Stadium Sales Tax?**

The 0.5% county, 0.1% baseball stadium, and 0.5% football stadium sales taxes are imposed on the gross receipts from retail sales or rentals of tangible personal property or taxable services in a county with a county tax or a stadium district, with the following exception. Sales of motor vehicles, boats, snowmobiles, mobile homes 45 feet or less in length, trailers, semitrailers, all-terrain vehicles, and aircraft are subject to the county and stadium use taxes (rather than county and stadium sales taxes) The purchaser will pay the tax when registering the item.

For a retail sale or rental to be subject to the county or stadium sales tax, the following two conditions must exist: (1) the retailer who makes the retail sale or rental must be “engaged in business” in a county with a county tax or a stadium district and (2) the sale or rental must have a “situs” in a county with a county tax or a stadium district.

### **When is a retailer “engaged in business” in a county or a stadium district?**

- A retailer is “engaged in business” in a county or a stadium district if one or more of the following conditions exist in the county or stadium district.
- The retailer has a store in the county or stadium district.
- The retailer owns any business real property in the county or stadium district.
- The retailer leases or rents out any tangible personal property located in the county or a stadium district.
- The retailer maintains, occupies, or uses, permanently or temporarily, directly or indirectly, or through a subsidiary, agent, or other person, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business in the county or stadium district.
- The retailer has any representative, agent, salesperson, canvasser, or solicitor operating in the county or stadium district under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or taking orders for any tangible personal property or taxable services.
- The retailer services, repairs, or installs products in the county or stadium district.
- The retailer delivers goods into the county or stadium district in company-operated vehicles.
- The retailer performs construction activities in the county or stadium district.

Out-of-state retailers who are not “engaged in business” in a county with a tax or a stadium district, but who desire to collect county or stadium use tax for the convenience of their customers, may collect county or stadium use tax from their customers and pay the county and stadium taxes in the same manner as other retailers engaged in business in such counties or stadium districts.

### **Where is the “*situs*” of a sale or rental?**

#### *Situs of Sales of Property*

All retail sales of tangible personal property are completed at the time when and the place (“*situs*”) where the seller or the seller’s agent transfers possession to the buyer or the buyer’s agent. A common carrier or the U.S. Postal Service is the agent of the seller, regardless of any f.o.b. point and regardless of the method by which freight or postage is paid.

**Example 1:** A person buys a radio for \$200 from a seller in a county with a county tax. The buyer takes possession of the radio at the seller’s business location in such county and then travels in his car to his home in a county which has no county tax. Since the sale had a “*situs*” in a county with a county tax (the place where possession transferred to the buyer), it is subject to the 0.5% county sales tax of \$1.

**Example 2:** A person buys a piano for \$1,500 at a store in Sheboygan County; however, it is delivered to the buyer in Milwaukee County (in the baseball stadium district) by the seller’s company-operated vehicle. The seller is “engaged in business” in the baseball stadium district when delivering the piano into Milwaukee County. The sale of the piano is subject to the baseball stadium sales tax of \$1.50.

#### *Situs of Rentals of Property*

Rentals of Property Other Than Moving Property: The “*situs*” of the rental is at the location of the property.

Rentals of Moving Property Used On Highways: Rented motor vehicles and other equipment used principally on the highway at normal highway speeds have a “*situs*” where they are customarily kept, with one exception; Drive-it-yourself motor vehicles and equipment used principally on the highway at normal highway speeds and used for one-way trips or leased for less than one month, have a “*situs*” where they come into the lessee’s possession.

Rentals of Other Moving Property: Except for moving property used on highways as described above, rentals of property that characteristically is moving property, including aircraft and boats, have a “*situs*” where the rental property is used primarily or usually kept when it is not used.

#### *Situs of Services*

Services have a “*situs*” at the location where they are furnished to the customer, with the following exceptions:

- Communication services have a “*situs*” where the customer is billed for the service if the customer calls collect or pays by credit card. The “*situs*” of mobile telecommunication service involving multiple locations is where the call originated, provided it is not a collect or credit card call.
- Towing services have a “*situs*” at the location to which the vehicle is delivered.
- Services performed on tangible personal property have a “*situs*” at the location where the property is delivered to the buyer.

**Example:** An electrician repairs wiring on equipment located in a county that has a county tax. This repair service was furnished in a county with a tax and is subject to the 0.5% county sales tax, regardless of the electrician’s business location.

#### **D. Sales and Use Tax Return Will Require County and Stadium Tax Data**

Retailers engaged in business in a county with a county tax or a stadium district will have to keep records showing the amount of their taxable receipts subject to sales tax and purchases subject to use tax for a stadium district and each county that has a county tax.

### **IX. DO YOU HAVE QUESTIONS OR NEED ASSISTANCE?**

If you have a question about sales and use taxes, write to the department in Madison or call or visit any department office.

**Write . . .**           Wisconsin Department of Revenue  
                          P.O. Box 8902  
                          Madison, WI 53708-8902

**Fax . . .** (608) 267-1030

**E-Mail . . .**       [sales10@dor.state.wi.us](mailto:sales10@dor.state.wi.us)

**Visit our website . . .**   [www.revenue.wi.gov](http://www.revenue.wi.gov)

You may also contact Department of Revenue offices at the following locations: Appleton, Baraboo, Beaver Dam, Eau Claire, Elkhorn, Fond du Lac, Grafton, Green Bay, Hayward, Hudson, Janesville,

Kenosha, La Crosse, Lancaster, Marinette, Milwaukee, Oshkosh, Racine, Rhinelander, Sheboygan, Superior, Tomah, Waukesha, Wausau, Wisconsin Rapids.

**CAUTION**

- The information in this publication reflects interpretations by the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of May 1, 2007. Laws enacted after this date, administrative rules, and court decisions may change the interpretations in this publication.
- The examples and lists of taxable and nontaxable sales and purchases provided in this publication are not all-inclusive. They merely set forth common examples.