



REQUEST FOR COMPUTER SOFTWARE DETERMINATION (For Software Other Than SAP R/3 System Software)

The Wisconsin Supreme Court decided, in *Wisconsin Department of Revenue vs. Menasha Corporation*, (July 11, 2008), that certain computer software was “custom” computer software for Wisconsin sales and use tax purposes and, thus, not subject to tax. For software other than SAP R/3 System software, the Department of Revenue must evaluate software on a case-by-case basis to determine whether computer software is custom computer software. Following is the information and documentation required for the Department of Revenue to make this determination.

Note: The information and documentation below is not required for SAP R/3 System software, which has been determined by the Wisconsin Supreme Court to be custom computer software.

1. Name, address, federal identification number (or social security number), Wisconsin tax account number, and contact information (including name, telephone number, and e-mail address, if applicable) of the buyer or vendor requesting the determination.
2. Name of software vendor and software manufacturer (if different than the vendor), specific product title (either specific title or group or class description), and version number of software.
3. Copy of the licensing agreement and invoice showing the selling price of the software. Also, indicate whether there is an annual license fee and the amount of such fee, if applicable.
4. Describe general nature or use of the software (e.g., basic operational, utility, accounting, etc.).
5. Describe all pre-sale consultation and analysis of the user's/purchaser's requirements and system that was provided by the vendor or independent consultant. Include how many hours were spent on pre-sale consultation and analysis and the price of the pre-sale consultation and analysis (if billed separately).
6. Explain whether the exact programs or modules existed at the time the buyer placed the order. If the exact programs or modules did not exist at the time the order was placed, please describe the extent to which pre-existing programs or modules were used to construct the final program or module sold. Include information about (a) changes to pre-existing programs or modules necessary to make the programs function with your data, and (b) changes to pre-existing programs or modules necessary to make the programs function in your specific hardware and software environment.
7. Explain whether the program was usable by the buyer without further modification after set-up and installation. If not usable, describe (other than the pre-sale consultation and analysis described in #5, above) what the buyer or a vendor hired by the buyer did to make the programs or modules usable, how many hours were invested in the process, and how much the buyer paid to make the programs or modules usable. If a vendor was used, include a copy of the service agreement and invoice for such services.
8. Name of person that installed the program and the location of the computer or server on which the program was installed.

9. Explain when, and to what extent, the installed program was tested against the program's specifications. Describe the testing, including who performed such testing and how many hours were spent testing.
10. Explain whether the vendor offered software maintenance, further upgrades and enhancements, version changes, and user support for a fee in addition to the license fee. If so, indicate the amount of the fee and the frequency of payment. Be sure to differentiate between enhancements (adding new features) and maintenance (making the software work the way it was represented to work).
11. If the buyer purchased a right to technical support, describe the technical support requested, price paid for the support, and the frequency of requests.
12. If training was provided by the vendor or a third-party, indicate (a) whether there was a separate charge for such training, (b) how many days or hours of training were provided to the buyer's information technology (IT) employees on the software (if applicable), and (c) how many days or hours of training were provided to the buyer's user-employees on the software. If the training was provided by a third-party, provide the name and contact information (including a telephone number) for the third-party trainer.
13. Indicate whether written user-documentation, such as written instructions or manuals, was provided to the buyer by the vendor or any third-party persons performing modifications to the software. Include information about whether the user documentation was written specifically for the buyer of this software program or whether the user documentation could be used by other users/buyers.

Contact the Department of Revenue to submit information or if you have questions.

If you have not filed a claim for refund, and have general questions about taxability:	To file a claim for refund or if you previously filed a protective claim for refund, send additional information to:
<p>Write: Wisconsin Department of Revenue Mail Stop 5-77 P.O. Box 8949 Madison, WI 53708-8949</p> <p>Telephone: (608) 266-2776 FAX: (608) 267-1030 E-mail: sales10@revenue.wi.gov Web site: www.revenue.wi.gov</p>	<p>Wisconsin Department of Revenue STOA - Mail Stop 5-144 P.O. Box 8906 Madison, WI 53708-8906</p> <p>Do not FAX or e-mail refund claim or additional information.</p>