

Wisconsin Sales and Use Tax Information

(Reflects the law on September 30, 2009)

Includes information regarding —

- **5% state sales and use tax**
- **0.5% county sales and use tax**
- **0.1% baseball stadium sales and use tax**
- **0.5% football stadium sales and use tax**

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IMPORTANT CHANGES

This publication includes changes to Wisconsin sales and use tax law through September 30, 2009. A revised publication reflecting law changes that are effective October 1, 2009, and thereafter, will also be available.

- **Disregarded entities now disregarded for sales and use taxes.** Single-owner entities that are disregarded for income and franchise tax purposes are now disregarded for sales and use tax purposes, effective July 1, 2009. Page 4.
- **Affiliated nexus.** The definition of “retailer engaged in business in this state” was expanded to include certain persons with affiliates in Wisconsin, effective July 1, 2009. Page 8.
- **Credit for tax paid to a tribe.** A credit is allowed against Wisconsin use tax for certain taxes paid to a Wisconsin tribe or band, effective July 1, 2009. Page 12.
- **Disregarded entities may file separate returns.** An option is allowed for certain disregarded entities to file separate sales and use tax returns from their owners, effective September 1, 2009. Page 14.
- **Penalties for failing to provide records.** A person who fails to produce records or documents is subject to penalties, effective July 1, 2009. Page 19.
- **Admissions to youth sports activities.** Admissions to certain youth sports activities are not taxable admissions, effective July 1, 2009. Page 22.
- **Police and fire protection fee exemption.** Police and fire protection fees are not subject to sales or use tax, effective July 1, 2009. Page 26.
- **Towing and hauling motor vehicles.** Tax is imposed on the towing and hauling of motor vehicles by a tow truck, effective July 1, 2009. Page 26.
- **Property may only be taxed once.** The law was clarified to state that the sale, license, lease, or rental of a product may be taxed only once, effective July 1, 2009. Page 27.
- **Exemption for fuel for charter fishing boats.** Exemption created for fuel sold for use in certain charter fishing boats effective July 1, 2009. Page 36.
- **Manufacturing definition and exemption for consumables amended.** Changes were made to the definition of manufacturing and the exemptions for tangible personal property consumed in manufacturing, effective August 1, 2009. Pages 37, 48, and 50.
- **Delay in effective date for wind, solar, and gas from agricultural waste exemption.** The effective date of the exemption was delayed from July 1, 2009 to July 1, 2011. Page 41.
- **Exemption for sales to regional transit authorities, the Wisconsin Quality Home Care Authority, and Wisconsin Indian bands and tribes.** New exemptions, effective July 1, 2009; July 1, 2009; and August 1, 2009, respectively. Pages 41 and 42.
- **Fond du Lac County to impose county tax.** Effective April 1, 2010, the 0.5% county tax will be imposed in Fond du Lac County. Page 54.
- **Money received from the baseball stadium district license plates.** Any money by the baseball stadium district from license plate sales must be used to reduce the district’s debt, effective July 1, 2009. Page 55.
- **Police and fire protection fee.** The new police and fire protection fee, effective September 1, 2009, will be reported and remitted to the Department of Revenue. Page 62.
- **Increase in premier resort area tax.** The premier resort area tax in the City of Wisconsin Dells and the Village of Lake Delton will be increased from 0.5% to 1%, effective January 1, 2010. Page 62.
- **Regional transit authorities and fees.** The law authorizes the creation of new regional transit authorities and new fees, effective July 1, 2009. Page 63.

I. INTRODUCTION

This publication provides information about Wisconsin sales and use taxes. It explains who must have a seller's permit or use tax certificate, how sales tax is charged to customers and use tax is paid by purchasers. It also includes information on how to file returns, compute the amount of tax owed and the importance of keeping proper records, including exemption certificates.

Part II describes common situations involving sales and use tax. Parts X and XI explain what types of tangible personal property and services are taxable or exempt.

The tax treatment of contractors, lessors, and manufacturers is described in Parts XII, XIII, and XIV. Information about the 0.5% county and 0.1% and 0.5% stadium sales and use taxes is found in Part XVIII.

Each of the sales and use tax publications and forms that are referred to within this publication are listed in Part XXI, Parts B. and C. Links to the publications on the Department of Revenue's web site are provided in Part XXI and throughout the publication. The publications and forms may also be obtained from any Department of Revenue office.

The Department of Revenue has offices located throughout Wisconsin to help you. If you have questions, you may write to the Department of Revenue in Madison or call or visit any department. See Part XXII.

CAUTION

The information in this publication reflects interpretations by the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of September 30, 2009. Laws enacted after that date, new administrative rules, and court decisions may change the interpretations in this publication.

The examples and lists of taxable and nontaxable sales and purchases are not all-inclusive. They merely set forth common examples.

Effective October 1, 2009 (as part of 2009 Wis. Acts 2 and 28), a number of changes were made to Wisconsin's sales and use tax laws which affect Wisconsin retailers. These changes include (1) the legislation necessary to conform Wisconsin's sales and use tax laws to the requirements of the Streamlined Sales and Use Tax Agreement (SSUTA); and

(2) the imposition of Wisconsin sales and use taxes on digital goods.

A revised Publication 201 will be available to reflect the law as of October 1, 2009.

II. DIFFERENCE BETWEEN WISCONSIN SALES TAX AND USE TAX

A. Sales Tax: The Wisconsin sales tax is a 5% tax imposed on the gross receipts of retailers who sell or lease tangible personal property or taxable services at retail in Wisconsin. The sales tax applies to retail sales. All sales are generally considered retail sales unless the buyer purchases the tangible personal property or taxable service for the purpose of reselling it.

Common examples of retail sales include the following:

- A Wisconsin clothing store sells a dress to a customer in Wisconsin. (The sale of the dress by the clothing manufacturer to the retail clothing store is not a retail sale because the clothing store is going to resell the dress.)
- A Wisconsin car dealer sells a car to a customer in Wisconsin for his or her use.
- A Wisconsin lumber yard sells lumber to a carpenter in Wisconsin who uses the lumber to construct a house or other real estate.

B. Use Tax: The Wisconsin use tax is a 5% tax imposed on the sales price of tangible personal property or taxable services that are stored, used, or consumed within Wisconsin, and upon which a Wisconsin sales or use tax has not previously been paid. An exception to computing use tax based on the sales price of tangible personal property applies to motor vehicles used by licensed motor vehicle dealers for any purpose in addition to retention, demonstration, or display (refer to Wisconsin [Publication 202](#), *Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs*).

If Wisconsin did not have a use tax, persons could buy items in another state and avoid paying Wisconsin sales tax on such purchases.

Common use tax situations include the following:

- Property to be used in Wisconsin is purchased outside the state and the property would have been subject to sales tax if purchased in Wisconsin.

Example: A Wisconsin company purchases an office machine for \$10,000 from an Illinois seller who has not charged the Wisconsin 5% sales or use tax on the transaction. The machine is used in Wisconsin. The buyer (Wisconsin company) is liable for Wisconsin use tax of \$500 ($\$10,000 \times 5\% = \500) less any Illinois sales tax the buyer properly paid to the seller.

- Building materials are purchased by a nonresident contractor from a seller located in another state and the seller either does not charge sales tax or charges a tax at a rate less than 5%. The nonresident contractor uses the materials on a real property job in Wisconsin. The nonresident contractor owes the 5% Wisconsin use tax on its cost of the materials at either the full 5% rate or the difference between 5% and any lesser rate of sales tax properly paid to its supplier.
- Property is purchased for resale (to sell to others) or for a nontaxable use and then is used by the purchaser in a taxable manner. Sales tax was not paid when purchasing the property.

A common situation is a Wisconsin contractor who constructs buildings and also makes retail sales of construction materials. The contractor does not know how the materials will be used (in buildings or resold to others). The contractor may purchase such materials without payment of sales tax by giving an exemption certificate to the seller claiming resale. However, if the materials are used by the contractor for purposes other than for resale, the contractor must report the "sales price" (that is, the price at which the contractor purchased the material) of such materials as subject to use tax.

Example: A contractor constructs buildings and also makes retail sales of construction materials. He purchases lumber costing \$12,000 without payment of the sales tax by giving a resale certificate to the seller. However, the contractor then uses \$10,000 of the lumber in constructing a building. The contractor owes

\$500 use tax ($\$10,000 \times 5\% = \500) on the lumber which is used in constructing a building. The remaining lumber which cost \$2,000 is sold to a customer for \$3,000 (a retail sale). Sales tax of \$150 ($\$3,000 \times 5\% = \150) should be collected from the customer on this retail sale of \$3,000.

- Property is purchased outside Wisconsin without payment of the Wisconsin sales tax and is then brought into Wisconsin and given away free.

Examples of such items which may have been acquired without sales tax are:

- a. A bank's or savings and loan's purchase of coin savings banks, calendars, or other items to be given free to the customer. Checking account or savings account forms furnished to customers free of charge are also subject to use tax.

Example: A bank or savings and loan company purchases clocks and blankets for \$10,000 which it gives to its customers if they deposit a specified amount in an account. The bank or savings and loan owes \$500 use tax ($\$10,000 \times 5\% = \500) on such items.

- b. A retailer's purchase of advertising materials which the retailer distributes free of charge to Wisconsin customers.
- c. A retailer's purchase of grand opening gifts which are distributed free to customers.
- d. A paint retailer's purchase of color cards which are distributed free to customers.

- Property is purchased from a supplier outside Wisconsin without payment of the Wisconsin sales tax and the supplier ships the property to the purchaser's Wisconsin locations at the direction of the purchaser.
- Property (other than printed advertising material and raw materials incorporated into printed materials) is purchased from a supplier outside Wisconsin without payment of the Wisconsin tax. The supplier ships the property to Wisconsin where it is stored by the purchaser until

subsequently shipped outside Wisconsin for use solely outside Wisconsin.

Important: Failure to report Wisconsin use tax is the most common error discovered in audits by the Department of Revenue. Be sure to keep proper records of purchases made which are subject to use tax and report this information on your sales and use tax return. Filing incorrect returns can result in very costly penalties which are described in Part VIII.

III. OBTAINING A SELLER'S PERMIT

A. Who Must Obtain a Seller's Permit? Every individual, partnership, corporation, or other organization making retail sales or rentals of tangible personal property or retail sales of taxable services in Wisconsin, regardless of whether its sales are mercantile in nature, is required to have a seller's permit, unless all sales by the seller are exempt from sales or use tax.

B. Disregarded Entities (effective July 1, 2009): A single-owner entity that is disregarded as a separate entity (i.e., the single-owner entity and its owner are treated as a single entity) for Wisconsin income and franchise tax purposes under Chapter 71 of the Wisconsin Statutes ("disregarded entity") is disregarded as a separate entity for purposes of Wisconsin sales and use taxes. Therefore, the owner and the disregarded entity are treated as a single entity. For Wisconsin sales and use tax purposes, there cannot be transactions between the owner and the disregarded entity, because they are treated as a single entity.

Prior to July 1, 2009, a single-owner entity that was disregarded as a separate entity for Wisconsin income and franchise tax purposes was treated as an entity separate from its owner for Wisconsin sales and use tax purposes, except for reporting purposes.

Transitional Provisions: The law includes the following transitional provisions to ensure that, solely due to the July 1, 2009 law change, the owner of a single-owner entity that is disregarded as a separate entity under Chapter 71, will not incur a use tax liability on purchases made prior to the effective date of the law change or on real property contracts en-

tered into prior to the effective date of the law change:

- A single-owner entity that is disregarded as a separate entity for Wisconsin income and franchise tax purposes on July 1, 2009 shall be treated for Wisconsin sales and use tax purposes as an entity separate from its owner for purposes of the sale, lease, or rental of and the storage, use, or other consumption of tangible personal property purchased by the single-owner entity or its owner prior to July 1, 2009.
- A single-owner entity that is disregarded as a separate entity for Wisconsin income and franchise tax purposes on July 1, 2009 shall be treated for Wisconsin sales and use tax purposes as an entity separate from its owner for purchases of building materials, if the materials are affixed and made a structural part of real estate, and the amount payable to the contractor is fixed without regard to the costs incurred in performing a written contract that was irrevocably entered into prior to July 1, 2009 or that resulted from the acceptance of a formal written bid accompanied by a bond or other performance guaranty that was irrevocably submitted before July 1, 2009.

Filing Provisions: An owner that chooses to file electronic returns for its disregarded entities separate from the owner's return must separately register each disregarded entity that makes taxable sales in Wisconsin. See Part VIII.D. for additional information.

For additional information, see the article on pages 38-39 of Wisconsin Tax Bulletin #162 (July 2009), which can be accessed at www.revenue.wi.gov/ise/wtb/162law.pdf.

C. Multi-Level Marketing Companies and Their Distributors: The Wisconsin Department of Revenue regards each multi-level marketing company as a retailer required to remit Wisconsin sales tax on sales to its distributors. In the absence of data showing the exact selling price, the retailer must assume that their distributors will make the sale to the ultimate consumers at the suggested retail price and collect the sales tax accordingly. Since the multi-level marketing company must register with the de-

partment, as well as collect and remit the tax, the individual distributors are relieved of these responsibilities.

Note: If the multi-level marketing company does not collect the tax from its distributor, the distributor is liable for Wisconsin sales or use tax on its selling price of items sold and its purchase price of items that it uses or gives away in Wisconsin (rather than resells).

D. Caution: Buying a Business – Successor’s Liability: The purchaser of a business (the successor) is liable for any unpaid sales and use taxes of the seller for that business. The purchaser should withhold a sufficient amount from the purchase price to cover any unpaid sales and use taxes of the seller. The purchaser may write to the Department of Revenue to request a *Sales and Use Tax Clearance Certificate* indicating that all Wisconsin sales and use tax liabilities of the seller for that business are satisfied.

Requests for a clearance certificate must include the following:

- Name of the seller
- Seller’s tax account number
- Seller’s current mailing address
- Name of the purchaser
- Purchaser’s tax account number
- Purchaser’s mailing address
- Date of sale
- Sale price

Requests for clearance certificates may be mailed, e-mailed, or faxed by the purchaser. The mailing address is as follows:

Special Procedures Unit
Wisconsin Department of Revenue
P.O. Box 8901
Madison, WI 53708-8901
E-Mail: delnqtax@revenue.wi.gov
FAX: (608) 267-1037

The clearance certificate request must be made AFTER the sale has taken place.

E. When Should You Apply For a Seller’s Permit? Apply for a seller’s permit at least three weeks be-

fore you open your business. If you buy an existing business, the seller’s permit cannot be transferred to you. You must apply for a new permit. If you applied for a seller’s permit before you opened your business but did not receive the permit at the time of opening the business, you are allowed to make retail sales of tangible personal property and taxable services. However, you are liable for the sales and use taxes and for keeping proper records from the date of opening the business.

F. How Do You Apply for a Seller’s Permit? 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. 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=1232807>.

Note: It is important that you fill in all the requested information on [Form BTR-101](#) or the online application.

If two or more activities are conducted by you at the same business location, only one permit is required. For example, if you have a service station and a restaurant at the same location, but in different buildings, only one seller’s permit is required for both businesses.

If you have more than one business location where you make retail sales, a separate seller’s permit is needed for each location. You should, however, file only one application for all locations.

"Location" is determined by the address. A different street address means a separate location.

A seller’s permit is not transferable and is not valid at any other location.

- If you are applying on a [Form BTR-101](#), complete a [Schedule 1](#) of [Form BT-101](#) for each separate business location.

- If you are applying using the online registration system, you will be directed to enter the information for each business location.

A business tax registration fee of \$20 may be required. For more information, see Part V on page 8.

G. Security May Be Required: Before or after the Department of Revenue issues you a seller's permit, it may require you to make a security deposit of up to \$15,000. If you do not make a security deposit as requested, the department may refuse to issue you a seller's permit or may revoke your permit.

In determining whether or not security will be required and the amount of security, the department may consider the applicant's payment of all taxes administered by the department and any other relevant facts. Security is most commonly required when there has been a history of delinquent taxes associated with the applicant.

If security is required, the department will send a notice of the requirement and additional information about the calculation of the amount. Included will be information about the types of security that can be deposited.

Return of Security Deposit: Any security deposit will be returned to you if for 24 consecutive months you complied with the sales and use tax law.

Refer to sec. Tax 11.925, Wis. Adm. Code, "Sales and use tax security deposits," for more information.

H. Issuance of the Seller's Permit: After receiving the application for business tax registration, and the security deposit (if required), a seller's permit will be issued to you by the Department of Revenue. You must display the seller's permit in a prominent location at your place of business. If that is not a fixed location, it should be displayed at or carried to the various events. A personal wallet copy will be sent with your Business Tax Registration Certificate to provide you with easy access to your permit number.

I. Notifying Department of Changes to Your Account: You should notify the Department of Revenue of changes in your address and/or owner-

ship, or if you cease operating your business, in one of the following ways:

1. Write to the department indicating the address or ownership changes, or if you cease operating your business. Be sure to include in the correspondence the following information:

- Tax account number. Include the business name and address if you have more than one location.
- Federal employer identification number (FEIN).
- Effective date of changes.
- Explanation of changes to your legal name, if applicable.

E-mail this information to sales10@revenue.wi.gov or send to the Madison address given in Part XXII.

If you change your form of ownership, such as from a sole proprietorship to a partnership or to a corporation, you must apply for a new seller's permit. Partnerships that add or drop partners must notify the department in writing of the change in partners involved.

If you change the legal form of your business and a new FEIN is assigned, you must apply for a new Wisconsin seller's permit.

If you change the legal form of your business entity (for example, C corporation to limited liability company) and the Internal Revenue Service does not require a new FEIN, you must still notify the Department of Revenue of the change in the legal form of your business. As a new legal entity, your business will be assigned a new tax account number and the old account number will be inactivated, with one exception.

Exception: A change from a sole proprietorship to a single member limited liability company (LLC) that is disregarded for Wisconsin income tax purposes will result in no change in the tax account number. However, the LLC will be added to the account of the sole proprietor for purposes of issuing a seller's permit or use tax registration certificate if the LLC makes

sales of tangible personal property or services subject to Wisconsin sales tax.

Be sure to include the information listed in 2., above, in your correspondence to the Department of Revenue.

2. If you sell your business, your seller's permit is not transferable to the buyer. You should return your seller's permit to the department.

Refer to Part XV for additional information on the sale of a business.

3. You may use the online registration system when (1) adding an additional location(s) to your existing seller's tax account; (2) changing an account mailing address; or (3) changing a contact person for an account. You may not use the online registration system when changing a business location, changing a legal name or business name, or closing or re-opening an existing account.
4. If you have been granted a waiver which allows you to file paper returns (see Part VIII.A.), your [Form ST-12](#), *Wisconsin Sales and Use Tax Return*, may be used to make changes to your account. Check the box on page 1 of Form ST-12 at the upper right and make changes to your name or mailing address. If your business is discontinued, check the box on page 2 of Form ST-12 and enter the date the business ceased making sales of tangible personal property and taxable services. For other changes, check the "correspondence included" box on page 2 of Form ST-12 and enclose a letter of explanation with the Form ST-12.

- J. Your Seller's Permit Can Be Revoked:** Wisconsin law gives the Department of Revenue authority to revoke your seller's permit if you fail to file returns or pay taxes when due or if you do not deposit security as required. In such a case, the department will notify you of a hearing to show cause why your seller's permit should not be revoked.

If you make retail sales after your seller's permit has been revoked, you may be subject to criminal prosecution.

- K. Temporary Events:** You are required to have a seller's permit if you conduct business as a retailer at a "temporary event." A "temporary event" is an activity at one place of operation (for example, fair, carnival, festival, portable roadside stand) for a brief duration where taxable sales are made.

For additional information, see Publication 228, *Temporary Events*, which can be downloaded from the department's web site at www.revenue.wi.gov/pubs/pb228.pdf or from the department's "Temporary Events" web page at www.revenue.wi.gov/html/temevent.html.

- L. Reporting Requirement for Operators of Swap Meets, Flea Markets, Craft Fairs, or Similar Events:** An operator of a swap meet, flea market, craft fair, or similar event must report to the Department of Revenue the name, address, and seller's permit number (social security number is required if no Wisconsin seller's permit number is listed) of each vendor selling merchandise at the swap meet, flea market, craft fair, or similar event. [Form S-240](#), *Wisconsin Temporary Event Operator and Seller Information*, may be used to obtain the required information and forwarded to the department. Form S-240 may be obtained from any Department of Revenue office or online.

For additional information, see [Publication 228](#), *Temporary Events*, and the department's "Temporary Events" web page at www.revenue.wi.gov/html/temevent.html.

IV. REGISTERING FOR USE TAX

- A. Out-of-State Retailers – Use Tax Registration:** Although a retailer may have no location in Wisconsin from which sales of tangible personal property or taxable services are made, the retailer is engaged in business in Wisconsin, for purposes of the sales and use tax law, if one or more of the following conditions exist:

- The retailer owns any real property in Wisconsin.
- The retailer leases or rents out any tangible personal property located in Wisconsin.
- 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 Wisconsin. (See exception below for foreign corporation publishers.)

- The retailer has any representative, agent, salesperson, canvasser, or solicitor operating in Wisconsin 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 Wisconsin.
- The retailer delivers goods into Wisconsin in company operated vehicles.
- The retailer performs construction activities in Wisconsin.

An out-of-state retailer with no Wisconsin location from which sales are made, but who is engaged in business in Wisconsin based on any of the above conditions, must apply to the Department of Revenue for a use tax certificate. The retailer must report Wisconsin use tax on sales in Wisconsin or sales that the retailer knows are for storage, use, or consumption in Wisconsin.

The definition of “retailer engaged in business in this state” was expanded, effective July 1, 2009, to specifically include any person who has an affiliate in Wisconsin, if the person is related to the affiliate and if the affiliate uses facilities or employees in Wisconsin to advertise, promote, or facilitate the establishment of or market for sales of items by the related person to purchasers in Wisconsin or for providing services to the related person’s purchasers in Wisconsin, including accepting returns of purchases or resolving customer complaints. Two persons are “related” if any of the following apply:

1. One person, or each person, is a corporation and one person and any person related to that person in a manner that would require a stock attribution from the corporation to the person or from the person to the corporation under section 318 of the Internal Revenue Code owns directly, indirectly, beneficially, or construc-

tively at least 50% of the corporation’s outstanding stock value.

2. One person, or each person, is a partnership, estate, or trust and any partner or beneficiary; and the partnership, estate, or trust and its partners or beneficiaries; own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or value of the other person or both persons.
3. An individual stockholder and the members of the stockholder’s family, as defined in section 318 of the Internal Revenue Code, owns directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of both persons’ outstanding stock value.

Refer to sec. Tax 11.97, Wis. Adm. Code, “ ‘Engaged in business’ in Wisconsin,” for more information about use tax obligations of out-of-state retailers.

Exception: A publisher that is a foreign corporation (that is, a corporation that is not organized under Wisconsin law) is not considered to be a retailer engaged in business in Wisconsin if its activities in Wisconsin do not exceed:

1. The storage of the publisher’s raw materials for any length of time in Wisconsin in or on property owned by a person other than the publisher and the delivery of the publisher’s raw materials to another person in Wisconsin if that storage and delivery are for printing by that other person.
2. The purchase from a printer of a printing service or of printed materials in Wisconsin for the publisher.
3. The storage of the printed materials for any length of time in Wisconsin in or on property owned by a person other than the publisher.
4. Maintaining, occupying, and using, directly or by means of another person, a place that is in Wisconsin, that is not owned by the publisher, and that is used for the distribution of printed materials.

Therefore, a publisher that is a foreign corporation is not required to collect Wisconsin use tax on its sales or delivery of tangible personal property or taxable services in Wisconsin if no more than the above activities occur in Wisconsin.

- B. Voluntary Registration:** Out-of-state retailers who are not engaged in business in Wisconsin, but who desire to collect use tax for the convenience of their Wisconsin customers, may also register for use tax to relieve their customers from filing returns and paying the taxes directly to the Department of Revenue. Such out-of-state retailers, if they voluntarily register for use tax, must then collect use tax from purchasers and pay the tax in the same manner as other retailers engaged in business in Wisconsin.

The Department of Revenue may enter into agreements with such retailers to negotiate payment schedules and audit procedures. The out-of-state retailer entering into such an agreement is entitled to retain a greater portion of use tax collected in lieu of the retailer's discount discussed in Part VIII.I.

For more information on such agreements, write to Wisconsin Department of Revenue, Mail Stop 5-144 P.O. Box 8906, Madison, WI 53708-8906, call (608) 266-3969, or e-mail witaxlink@revenue.wi.gov.

- C. Consumer Use Tax Registration:** Every person who *regularly* has use tax obligations because purchases are made without sales or use tax being charged by the seller, should apply for a consumer's use tax certificate, unless the person is required to have a seller's permit or use tax certificate. Persons who have a consumer's use tax certificate are sent a [Form ST-12, Wisconsin Sales and Use Tax Return](#), near the end of each reporting period.

Any person (whether in business or not) who does not regularly purchase or lease taxable property or services for storage, use, or other consumption in Wisconsin without sales or use tax being charged by the seller is not required to apply for a consumer's use tax certificate. However, the person must pay use tax to the Department of Revenue on those purchases. The person, if not required to be registered for sales and use tax purposes, may report the use tax on either 1) the individual Wisconsin income tax return on the line titled

"Sales and use tax due on out-of-state purchases," or 2) a [Form UT-5, Consumer's Use Tax Return](#).

If the sale was also subject to sales or use tax in another state in which the purchase was made, the amount of sales or use tax paid to the other state, not to exceed the amount of Wisconsin tax, may be credited against the Wisconsin use tax due.

- D. Application:** Application for a use tax certificate or a consumer's use tax certificate is made on [Form BTR-101, Application for Business Tax Registration](#) or online. See Part III.E.

A business tax registration (BTR) fee of \$20 may be required from persons applying for a use tax certificate. Persons applying for a consumer's use tax certificate are not required to pay a business tax registration fee. For more information on business tax registration, see Part V below.

V. BUSINESS TAX REGISTRATION

Persons applying for certain permits or certificates issued by the Department of Revenue may be required to pay a business tax registration (BTR) fee of \$20, as explained below.

The \$20 BTR fee applies only to the first permit or certificate a person applies for. Subsequent registrations for other permits or certificates issued by the Department of Revenue do not require additional BTR fees.

All types of entities, including state and local governmental agencies, are subject to the BTR fee. However, United States governmental agencies are not subject to the BTR fee.

- A. Permits/Certificates Covered by BTR:** The BTR fee applies to most permits or certificates issued by the Department of Revenue, including seller's permits and use tax certificates. The \$20 BTR fee is not required for a Certificate of Exempt Status (CES), consumer's use tax certificate, or local exposition district tax registration.

The BTR fee is \$20, regardless of the number of locations for which you need seller's permits.

- B. Renewals:** The initial \$20 BTR fee covers a period of two years. At the end of that period, a \$10 BTR

renewal fee applies. The renewal fee applies to all persons holding permits or certificates subject to BTR provisions.

The BTR renewal fee is \$10 regardless of the number of locations for which you hold seller's permits.

- C. Expedited Fee:** Persons may receive expedited service on their application for a seller's permit or use tax certificate (not a consumer's use tax certificate). This service is available only at the department office located at 2135 Rimrock Road, Madison or may be done by faxing [Form BTR-101](#), *Application for Business Tax Registration*, as explained below or by applying through the online registration system (as explained in Part III).

A \$10 "expedited fee" is charged for this service. The fee is charged for each entity applying.

- D. Faxing the Application:** [Form BTR-101](#) may be faxed to the department at (608) 264-6884. The following steps should be taken when faxing the application:

- Include a cover sheet with the contact person's name and fax and telephone numbers.
- Use black ink.
- Indicate estimates in Part E, line 1 of the application.
- Complete all pages of the application.
- If you want the processing of your application expedited as described above, write "Expedited" in the upper left-hand corner of the application (there is an additional fee for this service).

VI. COMPUTING THE AMOUNT OF SALES AND USE TAX

- A. Sales Tax Imposed on "Total Sales":** The 5% sales tax is imposed on a retailer's taxable "gross receipts" ("Total sales" on the sales and use tax return). "Total sales" 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. If the purchaser is charged by the seller for the delivery of

the property or the service, the transportation charges must be included in "total sales." "Total sales" also includes a charges made by a retailer which the retailer separately states as fuel surcharges, energy surcharges, service calls, and mileage charges, rather than increasing its selling price of the property or services sold.

Example: You sell furniture for \$950 and also charge \$50 for delivering the furniture to the customer. Your "total sales" subject to sales tax are \$1,000 (\$950 + \$50). The 5% sales tax on these total sales is \$50 ($\$1,000 \times 5\% = \50 tax). See Part X.B.13. for more information on transportation charges.

The 5% sales tax is imposed on taxable "total sales," regardless of whether the tax is collected from the customer.

Note: If the total sales are subject to the 0.5% county sales tax, the total tax rate is 5.5%. If the total sales are subject to the 0.1% baseball stadium tax, the total tax rate is 5.1% (5.6% if the county tax also applies). If the total sales are subject to the 0.5% football stadium tax, the total tax rate is 5.5%. See Part XVII for information on the county and stadium taxes.

"Total sales" 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.

Example: You sell a refrigerator for \$500 but gave the customer a 2% discount of \$10 because payment was made within ten days. The "total sales" subject to tax are \$490 (\$500 less \$10 discount) on which the 5% sales tax is \$24.50 ($\$490 \times 5\% = \24.50 tax).

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

Example: If a customer receives a \$4,000 trade-in allowance for an old car when purchasing a new car selling for \$20,000, the "total sales" subject to tax

are \$16,000 (\$20,000 less \$4,000 trade-in) and the 5% sales tax on this sale is \$800 (\$16,000 x 5% = \$800).

For additional information on trade-ins, see the tax release titled "Trade-ins," which was published on pages 30-33 of *Wisconsin Tax Bulletin* #124 (April 2001), which can be accessed at www.revenue.wi.gov/ise/wtb/124tr.pdf.

In cases where the tax has been collected from customers and they have been notified of that fact, the amount of the tax so collected should not be included in the base to which the 5% applies in computing the tax due to the state. (See Part VI.D.).

- B. Use Tax Imposed on "Sales Price":** The 5% use tax is imposed on the "sales price" of the property or taxable services purchased from any retailer. "Sales price" has the same meaning as "total sales," that is, it 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.

Example: If you buy equipment with a sales price of \$10,000 from an out-of-state retailer who does not charge the Wisconsin 5% sales or use tax on the transaction, you are liable for a 5% use tax of \$500 on the "sales price" of \$10,000.

Exceptions:

1. Wisconsin licensed motor vehicle dealers who use motor vehicles for a purpose in addition to retention, demonstration, or display while holding them for sale report use tax on a certain dollar amount or lease value per month. For more information, refer to Wisconsin [Publication 202](#), *Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs*.
2. If tangible personal property was purchased without sales or use tax using a valid exemption certificate, and the buyer first uses the property in taxable manner taxable more than six months after the purchase, the amount subject to tax is the "sales price" or the fair market value of the property at the time the taxable use first occurs.

- C. Collecting Tax From Customers:** Although Wisconsin sales tax is imposed on the retailer's sale, Wisconsin law allows the retailer to pass the tax along to consumer (buyer). To separately state the tax and pass the tax on to its customers, a retailer may use the "bracket system" or a mathematical computation.

The bracket system is a method of collecting taxes designed so that the total amount of tax collected from customers equals approximately 5% of your taxable gross receipts (5.5% if county tax applies, 5.5% if football stadium tax applies, 5.1% if baseball stadium tax applies, 5.6% if both county and baseball stadium taxes apply, and 6.0% if both county and premier resort area taxes apply), if a retailer's sales fall equally throughout all the brackets. However, the gross sales tax payable by the retailer to the Department of Revenue is 5% of your taxable gross receipts (5.5% if county tax applies, 5.5% if football stadium tax applies, 5.1% if baseball stadium tax applies, and 5.6% if both county and baseball stadium taxes apply), regardless of the amount of tax collected from customers by using the "bracket system."

The bracket systems to be used to determine the tax that may be collected from customers can be found in Appendix F. Tables of the rate combinations are in [Publication 229](#), *Brackets for Collecting Wisconsin Sales or Use Tax on Retail Sales*.

A bracket system chart (Form S-213 or S-218) or similar document should be posted in a conspicuous place in your establishment, unless a receipt is issued by you which separately itemizes the tax.

[Form S-213](#) (5% or 5.5% rate), [Form S-218](#) (5.6% and 5.1% rate), and [Publication 229](#) may be obtained from any Department of Revenue office or online.

If you do not use the bracket system, you are required to determine the amount of tax due on a transaction by multiplying the applicable tax rate by the aggregate sales price of all taxable items sold in a single transaction. The tax rate may not be multiplied by the sales price of each item separately and then summed. The tax collectible from the customer should be rounded to the nearest cent by using the following procedures:

- a. For amounts less than \$0.005, the amount should be rounded down to the next lowest penny.
- b. For amounts equal to or greater than \$0.005, the amount should be rounded up to the next highest penny.

It is illegal for a retailer to state or advertise that the sales tax or any part of the tax will be assumed or absorbed by the retailer. (See Part VI.D.).

Refer to sec. Tax 11.32, Wis. Adm. Code, “‘Gross receipts’ and ‘Sales price’,” for more information.

D. Including Tax in the Price

When the tax is collected from customers who are notified of that fact, the amount of the tax collected is not included in the base to which the tax applies. The notification may be by any one of the following methods:

1. Providing the customer a receipt which separately itemizes the tax or states "Prices Include Sales Tax."
2. Conspicuously posting the bracket system card, form S-213 or S-218, issued by the department.
3. Conspicuously posting a sign which states "Prices Include Sales Tax."

CAUTION: It is illegal for retailers to advertise that they will absorb or pay the sales tax for their customers. A retailer also may not advertise or hold out that the tax will not be added to the selling price of the property sold or that if added, the tax will be refunded. Any person who violates this practice is guilty of a misdemeanor.

Some of these illegal advertising phrases may state the following:

“Pay no sales tax!”

“We’ll pay your sales tax.”

“Receive a discount equal to the sales tax.”

Even if the retailer pays the correct amount of sales tax to the Department of Revenue, this practice violates Wisconsin sales and use tax law.

E. Credit for Taxes Paid to Another State

Wisconsin sales and use tax law provides a credit for sales or use taxes that are properly due and paid to another state and/or local unit of government on property or services purchased outside Wisconsin and subsequently stored, used, or consumed in Wisconsin. The credit is allowed against (but not in excess of) the total of Wisconsin state, county, and special district (baseball stadium and football stadium) use taxes imposed on the same property or services purchased in the other state.

Examples of the credit are provided in the tax release titled “Credit for Sales and Use Taxes Paid to Other States and Their Local Units of Government,” which was published on pages 28-49 of *Wisconsin Tax Bulletin #157* (July 2008). This tax release can be accessed at www.revenue.wi.gov/ise/wtb/157tr.pdf.

F. Credit for Taxes Paid to a Tribe

A credit against Wisconsin use tax is provided for sales tax paid to a federally recognized American Indian tribe or band in Wisconsin for purchases of property and services that occurred on tribal lands.

If the purchase, rental, or lease of tangible personal property or service subject to Wisconsin sales and use taxes occurred on tribal lands and, prior to imposing the tax under this subchapter, was subject to a sales tax by a federally recognized American Indian tribe or band in Wisconsin, the amount of sales tax paid to the tribe or band may, as determined by an agreement between the Department of Revenue and the tribal council under sec. 73.03 (65), Wis. Stats., be applied as a credit against and deducted from the sales and use tax. For purposes of this credit, “sales tax” includes a use or excise tax imposed on the use of tangible personal property or taxable service by the tribe or band.

At the date of publication, no Wisconsin American Indian tribe or band imposed a sales tax.

VII. ACCOUNTING METHODS

The accrual method of accounting must be used by all retailers to determine and report their total sales with one exception. The Department of Revenue may, if it is

satisfied that an undue hardship would result from using the accrual method, permit some other method such as the cash method of accounting. Before using some other method, written approval must be obtained from the department. Written approval is not required to use the accrual method.

Under the accrual method of accounting, all cash, credit, installment, and conditional sales are included in total sales on the return for the reporting period in which the sale “occurs,” even though all or part of the payments for such sales are not received until a later reporting period. A sale involving the transfer of property is considered to “occur” when possession is transferred by the seller to the purchaser, regardless of when payment is made. A sale of a taxable service is considered to “occur” when the service is sold, furnished, or performed by the seller.

Example: If you are on a monthly reporting basis (file monthly returns) and a sale occurs in January, the gross receipts from the sale must be reported on the January return, even though payment is not received until February or a later month.

If a retailer cannot reasonably separate and account for individual sales of taxable property, the Department of Revenue may authorize the use of a formula method for determining taxable and exempt sales. The retailer must request and receive written approval from the Department of Revenue before using a formula method. The formula must be designed to approximate the correct tax liability. In addition, the use of the formula is subject to review and redetermination by the Department of Revenue at a later date.

VIII. FILING RETURNS AND PAYING THE TAX

A. How Often Must a Return Be Filed? If you have a seller’s permit, use tax registration certificate, or consumer use tax registration certificate, you must file a return for each “reporting period,” even if no tax is due for that period. Your “reporting period” will be either monthly, quarterly, or annually. For example, if your reporting period is monthly, you must file a return for each month of the year, regardless of whether any tax is due for the month.

Generally, your reporting period will be quarterly unless the Department of Revenue notifies you in writing that your returns must be filed monthly or annually.

Wisconsin sales and use tax returns must be filed using one of the electronic filing methods listed in Part VIII.B. A seller that is unable to file electronically may request a waiver from the Department of Revenue. A waiver will be granted if the requirement to file electronically causes an *undue hardship*. An example of an undue hardship is the onset of a disabling illness or injury.

Your request for a waiver must be **in writing**. The request should indicate the business name, tax account number, and the reason why your sales and use tax returns cannot be electronically filed. Requests can be made by e-mail at DORWaiverRequest@revenue.wi.gov; faxed to (608) 267-1030; or mailed to Wisconsin Department of Revenue, Mandate Waiver Request, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949.

Additional information is available at www.revenue.wi.gov/eserv/rule.html#sales or you may contact the department by mail or e-mail at sales10@revenue.wi.gov or by telephone at (608) 261-6261.

If you have been granted a waiver, a return will be mailed to you shortly before the end of each reporting period. If you do not receive your return within 15 days after the end of the reporting period, phone the Department of Revenue at (608) 266-2776.

B. Electronic Filing and Payment Options Available for Sales and Use Tax Return Filing

1. *My Tax Account*

Beginning in February 2009, a new online service called “My Tax Account” became available to business taxpayers. *My Tax Account* is a free Internet-based taxpayer service that allows you to file and pay your sales and use taxes electronically. It performs the necessary computations of tax based on information that you enter and allows you to make your tax payment via electronic funds transfer, credit

card or paper check. *My Tax Account* allows you to view the filing and payment history of your account and identify any tax periods that need attention. You can also direct requests to the Department of Revenue to change your address, obtain an extension to file a return or inactivate your account.

To use *My Tax Account*, you will need to apply for and obtain a logon ID and password from the Department of Revenue. Please watch the Department of Revenue's web site at www.revenue.wi.gov for more details on the transition to this new service, including information about how to obtain your logon ID and password.

2. Sales TeleFile

You can file your Wisconsin sales and use tax return with any touch-tone telephone. This program accepts four payment types: Direct withdrawal (only available during the call in which you file your return), credit card, check, or money order. To use TeleFile, obtain a Sales TeleFile worksheet and payment voucher from the Department of Revenue's web site at www.salestax.revenue.wi.gov. When you have completed the worksheet, call (608) 261-5340 to actually file your return.

3. eFile Transmission

This program is a service for taxpayers using approved private vendors' software or who have the technical expertise to create a file in XML format. eFile transmission places return data into a file format that can be directly processed into the Department of Revenue system. Using secure transmission over the Internet you can submit a payment at the same time that you file your return using ACH debit or ACH credit. You will receive an e-mail acknowledgement to confirm receipt of a successful file transmission. Information about file transmission can be found on the Department of Revenue's web site at www.revenue.wi.gov/eserv/eftgen.html.

IMPORTANT CHANGE: Electronic Funds Transfer (EFT) Payment and Registration Sys-

tem will no longer be available for the tax programs covered by *My Tax Account* after January 5, 2010. No new registrations for the taxes covered by *My Tax Account* are being accepted by the EFT Registration and Payment System.

4. Questions?

More information on all of the above services can be found under the "Business" or "E-Services" sections of the Department of Revenue web site www.revenue.wi.gov. If you have questions about electronic filing or payments, contact the department by writing to Wisconsin Department of Revenue, Electronic Funds Transfer Assistance, Mail Stop 3-80, P.O. Box 8902, Madison, WI 53708-8902; calling (608) 266-2776; or e-mailing at sales10@revenue.wi.gov.

C. Business at More Than One Location: If you are one legal entity engaged in business at more than one location, even though you hold a separate seller's permit for each location, you must file one consolidated return which includes the information and figures for all of your business locations.

Example: If you operate ten restaurants at ten different locations in Wisconsin, only one return should be filed for each reporting period. That return should include the total sales, deductions, use tax, etc., for all ten restaurants.

D. Single-Owner Entity Disregarded as Separate Entity: Effective September 1, 2009, the owner of a single-owner entity that is disregarded as a separate entity for purposes of Chapter 71 ("disregarded entity"), has the option to (1) include the information from the disregarded entity on the owner's return, or (2) file a separate electronic sales and use tax return for the disregarded entity. If an owner that owns more than one disregarded entity elects to file a separate return for one of its disregarded entities, the owner is required to file separate returns for all of its disregarded entities. Such returns shall be signed by the person required to file the return or by a duly authorized agent but need not be verified by oath.

Prior to September 1, 2009, if a single-owner entity was disregarded as a separate entity under sec. 7701

of the Internal Revenue Code, the owner was required to include the information from the entity on the owner's sales and use tax returns.

E. Seasonal Retailers: If you are open for business only part of the year, you may be allowed to file returns on a seasonal basis. If you are in this situation and have not yet registered for a seller's permit, the Form BTR-101, *Application for Business Tax Registration*, you file with the Department of Revenue should indicate the beginning and ending months of your business season. If you are already registered for a seller's permit, you may submit a written request to the Department of Revenue, Mail Stop 3-80, P.O. Box 8902, Madison, WI 53708-8902, to file on a seasonal basis. This written request should include your Wisconsin tax account number, the beginning month of operation, and the closing month of operation. After a review of your account, a letter will be sent to you verifying your filing responsibility.

Note: Seasonal retailers are required to file returns monthly. If you receive approval to file on a seasonal basis, monthly returns will be mailed to you for a full year at the end of the month your season begins. During the months you are open for business, returns must be filed by the due date shown on the returns. If there is no change in your season, you are not required to file returns covering the periods in which you will not operate. You must notify the department of any change in your months of business operations.

F. Due Date for Filing: Each return you receive from the Department of Revenue will have printed on it the due date by which the return must be filed. Returns must be filed by the last day of the month following the end of the reporting period. However, if the sales and use tax liability is more than \$3,600 per quarter, returns may be due by the 20th day of the month following the end of the reporting period. Persons required to file by the 20th of the month will receive a written notice from the Department of Revenue indicating their due date for filing returns.

Example: You file returns on a monthly basis and the returns are due by the last day of the month following the end of the reporting period. Your return for the month of January must be filed by February 28. However, if you were notified by the

Department of Revenue to file by the 20th of the month because your tax liability is more than \$3,600 per quarter, the January return must be filed by February 20.

Note: When the due date falls on a weekend or legal holiday, the due date is extended to the next business day immediately following the weekend or holiday.

To be considered timely, a return filed electronically with ACH Debit method of payment, must be filed prior to 4:00 pm (CST) one business day before the due date in order for the payment to transfer on the due date. A return filed electronically is considered timely if e-filed on or before the due date.

If mailed, a return is considered filed by the due date if (1) the return is mailed in a properly addressed envelope with the postage duly prepaid, (2) the envelope containing the return is postmarked on or before the due date, and (3) the return is received by the department within five days of the due date.

"Mailed" includes delivery by a delivery service designated under sec. 7502(f) of the Internal Revenue Code.

G. Obtaining an Extension of Time to File: If you cannot file your return by the due date, you should write to the Department of Revenue, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949, before the due date of the return and request an extension of time to file. The department may grant you an additional month from the due date of the original return to file the return. However, if the tax is not paid by the original due date, the tax will be subject to 1% interest per month during the extension period. You will not lose the retailer's discount or be subject to a late filing fee if you pay the total tax due within the extension period.

H. Payment of Tax: The tax may be paid by check, money order, or electronically. Do not use cash or postage stamps.

If you choose to pay electronically, the payment options available are the Automated Clearing House (ACH) debit and ACH credit.

- ACH Debit - The ACH debit method allows you to transfer funds by instructing the state to

electronically debit a bank account you control by making a payment request at the time of filing your return electronically. If you choose to file your return electronically using My Tax Account, Sales Telefile or XML File Transmission you are given an option to instruct the state to debit your bank account for the amount owed on the return. You instruct the state (grant the state permission) to debit your bank account by supplying your Routing Transit Number (RTN), bank account number, requested payment date and payment amount at the time of filing the return. There is no cost for this type of payment transaction. This option is recommended because of the simplicity and cost savings to you.

- **ACH Credit** - The ACH credit method allows you to transfer funds by instructing your financial institution to debit your account and credit the state's bank account. Financial institutions may charge a fee for making ACH credit payments.

I. Retailer's Discount: As partial compensation for collecting, accounting for, and reporting the tax, retailers may take a credit, which is called the "retailer's discount." The discount is not allowed on any tax paid after the due date (or extended due date) of the sales and use tax return.

The retailer's discount is 0.5% of your sales and use tax payable, with the following exception.

Exception: If multiplying the sales and use tax payable by 0.5% results in \$10 or less, the retailer's discount is the lesser of (1) \$10 or (2) the sales and use tax payable.

"Sales and use tax payable" includes the following amounts:

1. The amount of the 5% state (Wisconsin) sales and use tax payable on retail sales.
2. The amount of the 0.5% county sales and use tax payable on retail sales.
3. The amount of the 0.1% or 0.5% stadium sales and use tax payable on retail sales.

Note: The retailer's discount does not apply to use tax payable on purchases of tangible personal property and taxable services.

J. Correcting an Error – Underpayments: If you file your return and then later become aware that you made an error on the return by underreporting the tax due, you should file an amended return with the Department of Revenue to correct the error. [Form ST-12, Wisconsin Sales and Use Tax Return](#), should be used as an amended return. Refer to the instructions for Form ST-12 for more information.

K. Overpayments – Filing Claims for Refund: If you determine that you overpaid Wisconsin sales or use tax to the Department of Revenue or a seller, a claim for refund of the overpaid tax may be filed as explained below. Who may file the claim for refund depends on whether you are a seller or a buyer.

Sellers:

If you overpaid Wisconsin sales or use tax on the sale of tangible personal property or taxable services to a buyer, you may file a claim for refund. It is suggested that you file the refund claim using Form ST-12 as an amended return. Form ST-12 is available from any Department of Revenue office or online. In lieu of Form ST-12, you may file a claim for refund in letter form, including your tax account number, the reporting period, and a statement giving the specific reasons for claiming the refund, as well as the amount requested.

Refer to the instructions for Form ST-12 for more information on how to use Form ST-12 as an amended return.

Claims for refund should be sent to Wisconsin Department of Revenue, Mail Stop 5-144, P.O. Box 8906, Madison, WI 53708-8906.

Caution: If you collected sales or use tax from buyers, you must return to the buyer the tax and interest refunded to you by the Department of Revenue as a result of your claim for refund. If you are unable to return the tax and interest to the buyer, you must return the refund to the Department of Revenue. Failure to return the refund may result in a penalty being imposed.

Buyers:

A buyer may file a claim for refund with the Department of Revenue for sales or use tax paid in error to a seller if the claim for refund is \$50 or more of tax.

If the tax paid in error is less than \$50, a buyer may still file a claim for refund with the department for tax paid in error to a seller if (1) the seller is out-of-business, (2) the buyer is being field audited, or (3) the period covered in the claim for refund is within the statute of limitations for the buyer, but is closed to the seller. If none of these conditions are met by the buyer and the claim for refund is under \$50, the buyer may not file a claim for refund with the department, but may request the seller who paid the tax to the department to file a claim for refund.

A buyer filing a claim for refund with the department for tax paid in error to a seller must use [Form BCR](#), *Buyer's Claim for Refund of Wisconsin State, County and Stadium Sales Taxes*.

Whether you are a seller or a buyer, a claim for refund may generally be filed within four years after the unextended due date of your Wisconsin income or franchise tax return. If you are not required to file a Wisconsin income or franchise tax return, a claim for refund may be filed within four years of the 15th day of the 4th month of the year following the close of the taxable year. However, if you have been audited by the Department of Revenue, different time limits may apply.

For more information on claims for refund, including when a claim must be filed, obtain [Publication 216](#), *Filing Claims for Refund of Sales or Use Tax*.

L. Refund of Tax From Seller to Buyer: A seller is required to refund taxes and related interest to the buyers from whom the taxes were collected, in the following situations:

Situation 1: The seller files a claim for refund with the Wisconsin Department of Revenue, for taxes that the seller has collected from buyers, and receives such refund.

Situation 2: The seller files a claim for refund with the Wisconsin Department of Revenue, for taxes that the seller has collected from buyers, and the seller is entitled to a refund of such taxes, but the refund is offset against deficiencies of the seller due and owing on the books of the Wisconsin Department of Revenue.

Situation 3: The seller collects amounts as taxes erroneously from buyers, but the seller does not remit such amounts to the state.

For *Situations 2* and *3*, the requirement to refund the tax to buyers first applies to notices of refunds or notices of amounts due dated, offsets taken, and the discovery of amounts collected erroneously as taxes on October 28, 2005, even if the notices, offsets, and amounts relating to sales that occurred as far back as September 1, 1994.

If the seller cannot locate the buyers, the seller must return the taxes and related interest to the Wisconsin Department of Revenue within 90 days after the date of the refund, within 90 days after the date of the offset, or within 90 days after discovering that the seller has collected taxes erroneously from the buyers.

A person who collects amounts as taxes erroneously from buyers for a real property construction activity or nontaxable service may reduce the taxes and interest that he or she is required to submit to the buyer or to the Department of Revenue under this provision for that activity or service by the amount of tax and interest subsequently due and paid on the sale of or the storage, use, or other consumption of tangible personal property that is used by the person in that activity or service and transferred to the buyer.

The department may offset the amount of any refund for a period, together with interest on the refund, against deficiencies for another period, and against penalties and interest on the deficiencies, or against any amount of whatever kind, due and owing on the books of the department from the person who is entitled to the refund.

M. Failing to File or Pay or Filing Incorrect Returns Is Costly: If you do not file returns or pay the tax by the due date or file incorrect returns, you can be

assessed late filing fees, penalties, and interest. In addition, a lien can be filed against your property, your seller's permit can be revoked, and criminal charges can be filed against you. Listed below are some of the penalties, interest, and other actions that can take place if you fail to file or pay by the due date or file incorrect returns.

Failure to File or Pay By the Due Date:

- Negligence penalty of 5% of the tax due for each month (or part of a month) the return is filed after the due date. The maximum negligence penalty for late filing is 25% of the tax due.
- \$20 late filing fee for not filing a return by the due date because of neglect, unless the return was filed late because of the death of the person required to file the return.
- Interest of 18% per year on any unpaid taxes that are delinquent.
- Retailer's discount is not allowed if taxes are paid after the due date or extended due date.
- A lien is filed against your property. This lien is filed with the county clerk of court and is a public record. After the lien is filed, your property cannot be sold without the delinquent taxes, interest, penalties, and fees being paid to the Department of Revenue.
- Seller's permit may be revoked if you fail to file returns or pay taxes by the due date. Criminal charges may be brought against a person who operates without a seller's permit or after a permit is revoked.
- Estimated assessment may be issued which includes penalty of 25% of estimated tax.

Filing Incorrect Returns or Claims For Refund:

- Negligence penalty of 25% of the additional taxes due if there is negligence in filing the return.
- Negligence penalty of 25% of the difference between the amount of a refund claimed and the amount that should have been claimed if there is negligence in filing a claim for refund.

- Fraud penalty of 100% of the difference between the amount of a refund claimed and the amount that should have been claimed if there is fraud in filing a claim for refund.
- Fraud penalty of 50% of the additional taxes due if there was intent to defeat or evade the taxes in filing the return.
- Negligence penalty of 50% of tax finally determined if, due to neglect, an incorrect return is filed to report the purchase of a motor vehicle, boat, snowmobile, mobile home not exceeding 45 feet in length, trailer, semitrailer, all-terrain vehicle, or aircraft.

Criminal Charges:

In addition to the civil penalties and other actions described above, criminal charges may be brought against a person for the following violations:

- Failing or refusing to furnish a sales and use tax return or data required by the Department of Revenue.
- Filing a false or fraudulent sales and use tax return or failing to file by the due date with the intent to defeat or evade the tax.
- Aiding, abetting, or assisting another person in filing or making a false or fraudulent sales and use tax return with intent to defeat or evade the tax.
- Refusing or failing to keep records, receipts, invoices, or other documents in such form as the Department of Revenue requires.
- Giving a resale certificate or other exemption certificate to the seller when the purchaser knows at the time of purchase that the item is not to be resold or the property is not exempt and such resale certificate or exemption certificate is given for the purpose of evading payment of the tax to the seller.
- Operating as a seller of taxable property or services without a permit or after a permit has been suspended or revoked.
- Advertising or holding out to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by

the retailer, or that it will not be added to the selling price or, if added, will be refunded.

- Intentionally failing or refusing to pay state and county sales and use tax money collected from a consumer, user, or purchaser to the Department of Revenue by the due date for payment, or fraudulently withholding, appropriating, or using these tax moneys, regardless of the person's interest in the tax moneys. Payments to creditors in preference to payment of the tax moneys to the Department of Revenue by any person is prima facie evidence of an intent to fraudulently use these tax moneys.

Penalties for Failing to Provide Records:

Effective July 1, 2009, a person who fails to produce records or documents, as provided by law, that support amounts or other information required to be shown on a return may be subject to any of the following penalties, as determined by the Department of Revenue, except that the Department of Revenue may not impose a penalty under this subsection if the person shows that under all facts and circumstances the person's response, or failure to respond, to the Department of Revenue's request was reasonable or justified by factors beyond the person's control:

- (a) The disallowance of deductions, credits, exemptions, or inclusions of additional taxable sales or additional taxable purchases to which the requested records relate.
- (b) A penalty for each violation of this subsection that is equal to the greater of \$500 or 25 percent of the amount of the additional tax on any adjustment made by the Department of Revenue that results from the person's failure to produce the records.
- (c) The Department of Revenue shall promulgate rules to administer this subsection and the rules shall include a standard response time, a standard for noncompliance, and penalty waiver provisions.

Personal Liability:

A person required to collect, account for, or pay sales or use taxes, who willfully fails to collect, ac-

count for, or pay those taxes to the Department of Revenue, is personally liable for such taxes, including interest and penalties, if that person's principal is unable to pay such amounts to the department.

IX. RECORD KEEPING

A. General Records to Keep: If you are required to file sales and use tax returns or consumer use tax returns, you must keep adequate records of business transactions to enable you 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.

See sec. Tax 11.92, Wis. Adm. Code, "Records and record keeping," in Appendix C for more information.

If you make retail sales and at the same time are engaged in some other nontaxable business, occupation, or profession, you must keep records to show separately the transactions used in determining the sales and use tax due. If separate records are not kept, the tax may be imposed upon the total sales from all of your business operations.

B. Records to Keep – Exempt Sales, Exemption Certificates: If you claim that part or all of your retail sales of tangible personal property or taxable services are exempt from sales and use tax, you are 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.

Exceptions: This information is not required for:

- Sales, as described in Part XI.B.
- Sales of commodities, as defined in 7 U.S.C. §2, that are consigned for sale in a warehouse in or from which the commodity is deliverable on a contract for future delivery subject to rules of a commodity market regulated by the U.S. Commodity Futures Trading

Commission if upon the sale the commodity is not removed from the warehouse.

- Sales of cattle, sheep, goats, and pigs that are sold at a livestock market, as defined in sec. 95.68(1)(e), Wis. Stats. Section 95.68(1)(e), Wis. Stats., defines livestock market as any premises which are open to the public for the purpose of trading in livestock and on which facilities are maintained for their yarding, feeding and watering prior to sale.

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. (See “Penalties for Failing to Provide Records,” in Part VIII.M.) 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 or lessor who accepts in “good faith” an exemption certificate which discloses a proper basis for exemption is relieved of any liability for payment of tax upon transactions covered by the certificate. The seller or lessor 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 or lessor knows, or has reason to believe, is false or misleading.
- The certificate must be properly executed and contain all the necessary information.

If a retailer 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.

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

1. The use to be made of the item purchased is exempt or the item is to be resold. 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 [Form S-211](#), *Wisconsin Sales and Use Tax Exemption Certificate*, from the purchaser.

2. The purchasing organization is exempt (for example, Wisconsin public schools and Wisconsin municipalities, federal government).
- Sales to the federal and Wisconsin governments, Wisconsin municipalities, and Wisconsin public schools should be supported by one of the following:
 - a. A purchase order or similar written document identifying the governmental unit as the purchaser.
 - b. Form S-211.
 - c. Recording the federal or Wisconsin governmental unit’s Certificate of Exempt Status (CES) number on the invoice.

Note regarding U.S. Government Bankcards: A retailer that is making an exempt sale to a person holding an approved U.S. Government Bankcard must support the exempt sale with one of the items listed above. Sales to persons holding debit cards issued by the Federal Emergency Management Agency (FEMA) for disaster relief do not qualify for exemption. Please refer to Part XI.D.4. for additional information about sales to persons holding U.S. Government Bankcards or receiving disaster relief payments, respectively.

Exempt sales to nonprofit organizations holding a CES (for example, church) can be supported by an exemption certificate (Form S-211) or by recording the CES number on the invoice.

Note regarding disaster relief vouchers and bankcards issued by organizations holding a CES number: A retailer that is making an ex-

empt sale to a person holding a qualifying voucher or bankcard issued by an exempt organization must support the exempt sale by retaining a copy of the voucher or bank card and receipt, and indicating the exempt organization's CES number on the receipt to prove that the sale qualifies for exemption from Wisconsin sales and use tax. Please refer to Part XI.E. for additional information about specific vouchers and cards and whether sales to persons holding such vouchers or cards qualify for exemption.

Nonprofit organizations organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, may apply on [Form S-103 Application for Wisconsin Sales and Use Tax Certificate of Exempt Status \(CES\)](#), to the Department of Revenue for a Certificate of Exempt Status (CES) and, if approved, will be issued a CES number by the department.

3. 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. See Part XVII for more information on direct pay.

Note: If exemptions are claimed for any of the above three reasons, you must keep as part of your records the completed certificates, purchase orders, or invoices to prove that the sales are exempt. If the Department of Revenue conducts an audit of your records, and you do 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.

See sec. Tax 11.14, Wis. Adm. Code, "Exemption certificates" for more information about exemption certificates.

X. WHAT'S TAXABLE

A retailer's gross receipts from the sale, lease, or rental of tangible personal property or the selling, performing, or furnishing of taxable services are subject to Wisconsin sales tax. The storage, use, or other consumption in Wisconsin of tangible personal property or taxable services is subject to Wisconsin use tax, unless Wisconsin

sales tax was paid by the buyer when purchasing the property or service.

No sales or use tax is payable on a sale or purchase of property or service if the property or service is resold or if an exemption applies.

Refer to Part XI for more information on exemptions.

A description of the types of personal property and services which are subject to the sales or use tax follows:

A. Tangible Personal Property

All sales and purchases of *tangible personal property* are subject to Wisconsin sales or use tax, unless an exemption applies to the property (for example, prescribed medicines) or to the seller or buyer (for example, certain nonprofit organizations or governmental agencies).

"Tangible personal property" means all tangible personal property of every kind and description and includes electricity, natural gas, steam and water and also leased property affixed to realty if the lessor has the right to remove the property upon breach or termination of the lease agreement, unless the lessor of the property is also the lessor of the realty to which the property is affixed. "Tangible personal property" also includes coins and stamps of the United States sold or traded as collectors' items above their face value and certain computer programs.*

*Prior to March 6, 2009, tangible personal property included "computer programs except custom computer programs."

March 6, 2009 and thereafter, tangible personal property includes "prewritten computer software, regardless of how it is delivered to the purchaser."

The changes relating to computer software are explained on pages 14-15 of Wisconsin Tax Bulletin #160 (March 2009), which can be accessed at www.revenue.wi.gov/ise/wtb/160art.pdf%20#page=3.

B. Services

Only certain specified services which are sold, performed, or furnished at retail in Wisconsin are

subject to Wisconsin sales or use tax, unless the service provider or the buyer is exempt from tax on the particular transaction. Total sales from the selling, performing, or furnishing of the following services are taxable, including any charges for tangible personal property transferred in conjunction with the service:

1. Admissions and Access Privileges

- Admissions to amusement, athletic, entertainment, or recreational events or places, such as admissions to movies, plays, ballets, musical and dance performances, fairs, ball games, campgrounds, circuses, carnivals, hockey games, ice shows, races, festivals, and other spectator events.

Exceptions:

- Admissions to county fairs are not subject to Wisconsin sales or use tax.
- The sale of admissions by any baseball team affiliated with the Wisconsin Department of American Legion baseball are not subject to Wisconsin sales or use tax.
- The sale of admissions by a gun club, including the sale of a gun club membership, is not subject to Wisconsin sales or use tax if the gun club is a non-profit organization and if the gun club provides safety classes to at least 25 individuals in the calendar year (effective July 1, 2007).
- Admissions, such as league entry fees, sold by a nonprofit organization to participate in any sports activity in which more than 50 percent of the participants are 19 years old or younger are not subject to Wisconsin sales tax (effective July 1, 2009).
- The privilege of access to or the use of amusement, entertainment, athletic, or recreational facilities for dues, fees, or other considerations, such as charges by country clubs, golf clubs, athletic clubs, swimming clubs, yachting clubs, tennis clubs, and flying clubs, or charges for the use of gymnasiums, auditoriums, theaters, and

other facilities to be used for entertainment, amusement, athletic, or recreational purposes.

Exceptions:

- The sale or furnishing of recreational facilities on a periodic basis or other recreational rights in connection with the sale or use of time-share property are not taxable *if the facilities are not available to persons who have not purchased the time-share property (other than guests)*. For example, if the facilities or rights are available to the general public for a fee, the sale or furnishing of such facilities or rights is taxable, even if they are sold or furnished in connection with the sale of time-share property.
- Charges for lessons or classes of study are not subject to Wisconsin sales or use tax.
- Sales of a one-time license or similar right to purchase admissions to professional football games at a football stadium, as defined in sec. 229.821(6), Wis. Stats., are not subject to tax with the following conditions:
 - The license or right to purchase must be granted by a municipality, a local professional football stadium district, or a professional football team or related party, as defined in sec. 229.821(12), Wis. Stats.
 - The person who purchases the license or right must be entitled, at the time of license or right transfer, to purchase admission to at least three professional football games in Wisconsin during one football season.
- Admissions to customer participation events, such as swimming, skiing, bowling, skating, golfing, curling, dancing, and horseback riding.

- Sales of bingo cards of all kinds to players, including admission charges. Bingo event sponsors are required to report and pay the sales tax directly to the Department of Revenue.

Refer to sec. Tax 11.54, Wis. Adm. Code, “Temporary amusement, entertainment or recreational events or places,” and sec. Tax 11.65, Wis. Adm. Code, “Admissions,” for more information.

2. Amusement Devices

The privilege of access to or the use of jukeboxes, pinball machines, arcades, mechanical rides, and mechanical games. Payments (that is, commissions) by vending machine owners or operators to the owner or operator of the establishment in which a machine is placed do not reduce taxable sales.

Refer to sec. Tax 11.52, Wis. Adm. Code, “Coin-operated vending machines and amusement devices,” for more information.

Information about the tax treatment of receipts from video gambling machines can be found on pages 4-6 of *Wisconsin Tax Bulletin #140* (October 2004), which can be accessed at www.revenue.wi.gov/ise/wtb/140art.pdf and pages 14-15 of *Wisconsin Tax Bulletin #146* (February 2006), which can be accessed at www.revenue.wi.gov/ise/wtb/146art.pdf.

3. Cable Television

Cable television system services provided to customers located in Wisconsin, including installation charges.

4. Landscaping and Lawn Maintenance

Landscaping and lawn maintenance services, including landscape planning and counseling, lawn and garden services such as planting, mowing, spraying, and fertilizing and shrub and tree services.

Refer to Wisconsin [Publication 210](#), *Sales and Use Tax Treatment of Landscaping*, for more information.

5. Laundry and Dry Cleaning

Laundry, dry cleaning, pressing, and dyeing services and the rental of linens, uniforms, and towels.

Note: This type of service performed on cloth diapers by a diaper service, raw materials or goods in process destined for sale, and receipts from coin-operated laundry and dry cleaning units when the service is performed by the customer are not taxable.

Refer to sec. Tax 11.72, Wis. Adm. Code, “Laundries, dry cleaners, and linen and clothing suppliers,” for more information.

6. Parking

- Providing parking space for motor vehicles and aircraft.

Refer to sec. Tax 11.49, “Service stations and fuel oil dealers,” and sec. Tax 11.84, Wis. Adm. Code, “Aircraft,” for more information.

- Providing docking or storage space for boats.

Refer to sec. Tax 11.48, Wis. Adm. Code, “Landlords, hotels and motels,” and sec. Tax 11.85, Wis. Adm. Code, “Boats, vessels and barges,” for more information.

7. Photographic

- Photographic services, including the processing, printing, and enlarging of film.
- Services of photographers for the taking, reproducing, and sale of photographs, including those sold to students through schools.
- Videotaping services.

Refer to sec. Tax 11.47, Wis. Adm. Code, “Commercial photographers and photographic services,” for more information.

8. Producing, Fabricating, and Printing

The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish directly or indirectly the materials used in producing, fabricating, processing, printing, or imprinting. For example, the making of a custom tailored suit for a customer who furnished the material is taxable.

Effective April 1, 2009, the tax will no longer apply to the printing or imprinting of tangible personal property that results in printed materials that are exempt as printed advertising materials (sec. 77.54(25), Wis. Stats.) or certain catalogs and their mailing envelopes (sec. 77.54(25m), Wis. Stats.)

Refer to sec. Tax 11.38, Wis. Adm. Code, "Fabricating and processing," and sec. Tax 11.56, Wis. Adm. Code, "Printing industry," for more information.

9. Repair and Service of Tangible Personal Property

The repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of all items of tangible personal property. Mileage and transportation charges associated with these taxable repairs and services are also taxable.

The items listed below are deemed to retain their character as tangible personal property for purposes of repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance, regardless of whether the repair, service, alteration, etc., of the item is an addition to or a capital improvement of real property.

The original installation or the complete replacement of an item listed below continues to be nontaxable if such installation or replacement is a real property construction activity under sec. 77.51(2), Wis. Stats.:

- air conditioners
- awnings

- bar equipment
- bathroom fixtures
- blinds
- boilers
- burglar alarm and fire alarm fixtures
- carpeting and rugs
- clothes dryers
- clothes washers
- coolers
- dehumidifiers
- dishwashers
- electric clocks
- electronic dust collectors
- electric signs
- equipment in offices, business facilities, schools, and hospitals, but not in residential facilities including personal residences, apartments, long-term care facilities as defined under sec. 16.009(1)(em), Wis. Stats., state institutions, as defined under sec. 101.123(1)(i), Wis. Stats., Type 1 secured (juvenile) correctional facilities as defined in sec. 938.02(19), Wis. Stats.:
 - beverage making equipment
 - canvas awnings
 - chandeliers
 - compressors
 - condensing units
 - evaporative condensers
 - fans
 - ice and milk dispensers
 - lamps
 - office and business machines
 - pneumatic conveying systems
 - soda fountains
 - steam warmers and tables
 - vending machines
 - venetian blinds
- freezers
- furnaces
- furniture and furnishings
- intercoms
- jukeboxes
- garbage disposal units
- gas and electric logs
- grills and rotisseries
- heat lamps
- heaters
- humidifiers
- incinerators
- intercoms

- laundry, dry cleaning, and pressing machines
- ovens (including associated hoods and exhaust systems)
- power tools
- radios and radio antennas
- record players
- recreational, sporting, gymnasium, and athletic goods and equipment including by way of illustration but not of limitation:
 - bowling alleys
 - golf practice equipment
 - pool tables
 - punching bags
 - ski tows
 - swimming pools
- refrigerators
- sinks
- stoves
- tape players
- television receivers and antennas
- vacuum cleaners
- water conditioners and softeners
- water heaters
- water pumps

Note: Some items above are also tangible personal property when installed.

Refer to sec. Tax 11.68, Wis. Adm. Code, “Construction contractors,” Part XII of this publication, and [Publication 207](#) *Sales and Use Tax Information for Contractors*, for more information.

10. Rooms and Lodging for Less Than One Month

Furnishing of rooms or lodging to a person for a continuous period of less than one month by hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public, regardless of whether membership is required for use of the accommodations.

“One month” means a calendar month or 30 days, whichever is less, counting the first day of the rental, but not counting the last day of the rental.

“Hotel” or “motel” includes inns, tourist homes, tourist houses or courts, lodging houses, room-

ing houses, summer camps, apartment hotels, resort lodges, and cabins.

Exceptions:

- The furnishing of rooms or lodging through the sale of any kind of time-share property is not taxable.
- The furnishing of accommodations by hospitals, sanatoriums, nursing homes, and corporations or associations organized or operated exclusively for religious, charitable, or educational purposes, such as public schools, colleges, and universities, for any period of time is not taxable.

Refer to sec. Tax 11.46, Wis. Adm. Code, “Summer camps,” sec. Tax 11.48, Wis. Adm. Code, “Landlords, hotels and motels,” and [Publication 219](#), *Hotels, Motels and Other Lodging Providers*, for more information.

11. Telecommunications Services

- Sales of telecommunication services when the service originates or terminates in Wisconsin and is charged to a service address in Wisconsin.

Exceptions:

- Telecommunications services that are (a) obtained by means of a toll-free number, (b) originate outside Wisconsin, and (c) terminate in Wisconsin are not taxable.
- Sales of mobile telecommunications services are subject to Wisconsin sales or use tax if the customer’s place of primary use is in Wisconsin (effective for customer bills issued after August 1, 2002). See *Wisconsin Tax Bulletin #131* (August 2002), pages 5-7, for more information, which can be accessed at www.revenue.wi.gov/ise/wtb/2002.html.

“Telecommunication services” means sending messages and information transmitted through use of local, toll, and wide-area

telephone service; channel services; telegraph services; teletypewriter; computer exchange services; cellular mobile telecommunications service; specialized mobile radio; stationary two-way radio; paging service; or any other form of mobile and portable one-way or two-way communications; or any other transmission of messages or information by electronic or similar means between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. “Telecommunications services” does not include sending collect telecommunications that are received outside Wisconsin.

- The sale of rights to purchase telecommunications services, including purchasing reauthorization numbers, by paying in advance and using an access number and authorization code (for example, prepaid telephone calling cards or prepaid authorization numbers) is subject to Wisconsin sales or use tax.

The situs of the sale of the rights to purchase telecommunications services is as follows:

- If the sale takes place at a retailer’s place of business, the situs of the sale is that place of business.
- If the sale does not take place at a retailer’s place of business and an item that will implement the right to purchase telecommunications services (for example, calling card) is shipped, the situs of the sale is the customer’s shipping address.
- If the sale does not take place at a retailer’s place of business and no item that will implement the right to purchase telecommunications services is shipped, the situs of the sale is the customer’s billing address.

Note: Receipts from “911” charges, including wireless surcharges, and police and fire protection fees are not taxable.

Refer to sec. Tax 11.66, Wis. Adm. Code, “Telecommunication and telecommunications message services,” for more information.

12. Telecommunications Message Services

Sales of 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.

In addition to voice mail services and telephone answering services, telecommunications messaging services include security and fire alarm monitoring services that involve equipment at a customer’s location forwarding a message of intrusion or other information to the retailer which the retailer records and forwards to the customer or someone designated by the customer (for example, police department).

The situs of the sale is the location where the customer, or someone designated by the customer, receives the message.

“Incidental” is defined in Part XI.C.16 of this publication.

Refer to *Wisconsin Tax Bulletin #127* (October 2001), pages 29-32 for more information, which can be accessed at www.revenue.wi.gov/ise/wtb/127tr.pdf.

13. Towing and Hauling of Motor Vehicles by a Tow Truck (effective July 1, 2009)

Towing and hauling of motor vehicles by a tow truck, as defined in sec. 340.01(67n), Wis. Stats., unless at the time of towing or hauling a sale in this state of the motor vehicle to the purchaser would be exempt from sales and use taxes, not including the exempt sale of a motor vehicle to a nonresident under sec. 77.54(5)(a), Wis. Stats., and nontaxable sales described in sec. 77.51(14r), Wis. Stats.

“Tow truck” is defined in sec. 340.01(67n), Wis. Stats., to mean “a motor vehicle that is equipped with mechanical or hydraulic lifting

devices or winches capable of, and used for, the recovery or transport or both of wrecked, disabled, abandoned, used or replacement vehicles.”

Under prior law, sales and use tax applied to the towing of tangible personal property (see Part X.B.9.), including the towing of motor vehicles, unless, at the time of the towing, a sale in Wisconsin of the type of property towed would have been exempt to the customer from sales tax, other than the exempt sale of a motor vehicle or truck body to a nonresident under sec. 77.54(5)(a), Wis. Stats., and other than nontaxable sales under sec. 77.51(14r), Wis. Stats. This tax treatment is provided in sec. 77.52(2)(a)10., Wis. Stats., and was not changed in 2009 Act 28.

14. Transportation Charges

When a retailer sells tangible personal property or taxable services which are subject to tax and the retailer charges the purchaser for the delivery, the retailer’s total charge, including the transportation charge, is taxable. It is immaterial whether delivery is made by the seller’s vehicle, a common or contract carrier, or the United States Postal Service.

The correct state tax computation to be shown on an invoice when the retailer charges the purchaser for delivery of the tangible personal property is shown in the following example:

Merchandise	\$ 100.00
Delivery Charge	<u>10.00</u>
Subtotal	\$ 110.00
Tax (\$110 x 5%)	<u>5.50</u>
Total	<u>\$ 115.50</u>

A Wisconsin consumer who purchases taxable property or taxable services for use in Wisconsin without tax is subject to the sales or use tax based on the “sales price.” The “sales price” includes transportation charges paid by the Wisconsin consumer to the supplier for shipment of the property or service. The “sales price” does not include transportation charges paid by the Wisconsin consumer directly to the carrier.

Refer to sec. Tax 11.94, Wis. Adm. Code, “Wisconsin sales and taxable transportation charges.” Also see pages 31-33 of *Wisconsin Tax Bulletin* #111 (October 1998), which can be accessed at www.revenue.wi.gov/ise/wtb/111tr.pdf. for more information.

C. Property May Only Be Taxed Once

The sale, license, lease, or rental of a product may be taxed only once under the sales and use tax law, regardless of whether such sale, license, lease, or rental is subject to taxation under more than one imposition provision under the sales and use tax law. This is provided in sec. 77.61(20), Wis. Stats., which was created in 2009 Wis. Act 28, and merely clarifies the law, but does not change the tax treatment of any transaction.

Example 1: Individual A brings his clothing to Laundry B. Laundry B cleans the clothing for Individual A for a fee. The provision of laundry service is taxable under sec. 77.52(2)(a)6., Wis. Stats. Additionally, the cleaning of tangible personal property (e.g., clothing) is taxable under sec. 77.52(2)(a)10., Wis. Stats. Although the tax is imposed under two separate provisions of the sales and use tax law, the service may only be taxed once.

Example 2: Individual C purchases a new automobile for \$20,000 plus tax. Three years later, Individual C sells the automobile to Individual D. Individual D pays the tax upon registering the automobile with the Department of Transportation. Individual D later sells the automobile to Individual E, who also pays the tax upon registering the automobile with the Department of Transportation. Tax was correctly paid on each of these separate transactions. The taxation of these transactions is not affected by the creation of sec. 77.61(20), Wis. Stats., in 2009 Wis. Act 28.

XI. WHAT’S EXEMPT

A. General

The retail sale or purchase of tangible personal property and selected services are subject to Wisconsin sales or use tax. The exemptions for such

property and taxable services generally depend upon:

1. How the property is used or other specific criteria. (Refer to Parts B and C, “Exemptions Based on Use or Other Criteria,” that follow.)
2. Whether the buyer or seller is exempt from the tax. (Refer to Part D, “Exempt Organizations.”)

Normally, to purchase property or taxable services in Wisconsin without tax, an exemption certificate must be given to the seller as described in Part IX. However, for retail sales of certain property (for example, food for human consumption sold by grocery stores), the taxable use is so rare or unlikely that exemption is presumed and certificates are not required to be given to the seller.

B. Exemptions Based on Use or Other Criteria
(Certificates Not Required)

Retail sales of the following property and services may be made without sales tax, even though an exemption certificate is not received by the seller. However, if the property is not used for the exempt purpose, the purchaser must pay use tax based on the property’s sales price.

1. **Affiliated Businesses - Certain Sales By** (effective September 1, 2005)

If the seller and the purchaser are members of the same affiliated group under sec. 1504 of the Internal Revenue Code and are eligible to file a single consolidated return for federal income tax purposes, an exemption applies for sales of the following:

- Taxable services.
- Tangible personal property that is physically transferred to the purchaser as a necessary part of services that are subject to the taxes imposed under sec. 77.52(2)(a)7, Wis. States. (photographic services), sec. 77.52(2)(a)10, Wis. Stats. (repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance of tangible personal property), sec. 77.52(2)(a)11, Wis. Stats. (producing, fabricating, processing, printing, or imprint-

ing of tangible personal property), and sec. 77.52(2)(a)20, Wis. Stats. (landscaping and lawn maintenance services).

If a seller purchases a taxable service or tangible personal property that is subsequently sold to a member of the seller’s affiliated group, and the sale is exempt as described above, the original purchase of the taxable service or tangible personal property by the seller is not considered a sale for resale or exempt as described above.

2. **Caskets and Burial Vaults**

Caskets and burial vaults sold for use in burying human remains. Caskets and burial vaults for animals are taxable.

3. **Food Products**

- Food, food products, and beverages for human consumption sold for consumption off the premises of the seller.

The following are examples of food, food products, and beverages that do not qualify for this exemption:

- Medicines, tonics, vitamins, and medicinal preparations in any form
- Fermented malt beverages (for example, beer) and intoxicating liquors
- 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
- Food for animals
- Food used in research and experimentation

If a combination of food, food products, and beverages is packaged together with

other goods by a person other than a retailer before sale to the final consumer, and 50% or more of the sales price of the package is attributable to goods that are exempt from Wisconsin sales or use tax, the total selling price of the combined package is exempt from Wisconsin sales or use tax. If less than 50% of the sales price is attributable to goods that are exempt from Wisconsin sales or use tax, that portion of the selling price attributable to the taxable items is subject to Wisconsin sales or use tax.

Refer to sec. Tax 11.51, Wis. Adm. Code, "Grocers' guidelist," and Publication 220, *Grocers - How Do Wisconsin Sales and Use Taxes Affect Your Operations*, for more information.

- The following food, food products, and beverages (1) purchased by restaurants, who give them to employees during their work hours, and (2) sold by restaurants to employees during their work hours are exempt from Wisconsin sales or use tax:
 - Soda water beverages as defined in sec. 97.29(1)(i), Wis. Stats., bases, concentrates, and powders intended to be reconstituted by consumers to produce soft drinks, and fruit drinks and ades not defined as fruit juices in sec. 97.02(27), 1967 Wis. Stats.
 - Meals and sandwiches, whether heated or not
 - 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
 - Disposable products that are transferred with the above items, such as paper cups, napkins, straws, etc.

Example: Restaurant A purchases soda water beverages without sales tax to sell to customers. A portion of the soda water beverages are not sold. Instead, they are

consumed by employees during their work hours. Restaurant A is exempt from Wisconsin sales or use tax on the portion of soda water beverages consumed by employees during their work hours.

Caution: This exemption does not apply to the above items consumed by employees of grocery stores, convenience stores, and other businesses that do not operate restaurants.

- Sales of meals, food, food products, and beverages, as defined in sec. 77.54(20)(a), (b), and (bg) Wis. Stats., sold by hospitals, sanatoriums, nursing homes, retirement homes, community-based residential facilities as defined in sec. 50.01(lg), Wis. Stats., and day care centers licensed under Chapter 48, Wis. Stats., and served at the hospital, sanatorium, nursing home, retirement home, community-based residential facility, and day care center are exempt. Also exempt are "mobile meals on wheels" sold to the elderly and handicapped.

Note: This exemption does not apply to soda water beverages, fermented malt beverages, and intoxicating liquor not sold as part of a meal. Such sales are subject to tax.

Refer to sec. Tax 11.87, Wis. Adm. Code, "Meals, food, food products and beverages," for more information.

4. Fuel and Electricity

- Fuel oil, propane, coal, steam, peat, fuel cubes produced from solid waste, or wood used for fuel which is sold for residential use. "Residential use" means use in a structure which is a person's permanent principal residence.
- Electricity and natural gas sold for residential use during the months of November through April.
- Fuel and electricity sold for use in farming, including agriculture, dairy farming, floriculture, and horticulture.

- Fuel and electricity consumed in manufacturing tangible personal property in Wisconsin (effective January 1, 2006).
- Biomass sold for fuel for residential use (effective December 1, 2007).

Note 1: If fuel or electricity sold to a consumer is for both exempt and non-exempt use, the seller must obtain an exemption certificate to substantiate the exempt sales.

Note 2: Wood residue and wood pellets used as fuel in a business activity may also be exempt. See Part XI.C.18.

5. Home Exchange Service Sales (effective December 1, 2007)

Sales by a home exchange service that receives moneys from the appropriation account under sec. 20.485(1)(g), Wis. Stats., and is operated by the Department of Veterans Affairs.

6. Medicines and Medical Equipment

- Medicines prescribed for the treatment of human beings by medical care providers who are authorized by law to prescribe medicines. Insulin furnished by a registered pharmacist for treatment of diabetes, as directed by a physician, is considered to be dispensed on prescription.

Refer to sec. Tax 11.09, Wis. Adm. Code, "Medicines," and sec. Tax 11.45, Wis. Adm. Code, "Sales by pharmacies and drug stores," for more information.

- Artificial devices, including parts and accessories, individually designed, constructed, or altered solely for the use of a physically disabled person so as to become a brace, support, supplement, correction, or substitute for a bodily structure.

Refer to sec. Tax 11.08, Wis. Adm. Code, "Medical appliances, prosthetic devices and aids," for more information.

- Artificial limbs and eyes, hearing aids, artificial teeth, and prescription eye glasses.

Refer to sec. Tax 11.17, Wis. Adm. Code, "Hospitals, clinics and medical professions," and sec. Tax 11.18, Wis. Adm. Code, "Dentists and their suppliers," for more information.

- Equipment used to administer oxygen for medical purposes.
- Crutches and wheelchairs, including motorized wheelchairs and scooters used by disabled persons and their parts and accessories.
- Antiembolism elastic hose and stockings that are prescribed by a physician and sold to the ultimate consumer.
- Adaptive equipment that makes it possible for handicapped persons to enter, operate, or leave a vehicle if that equipment is purchased by the individual who will use it, a person acting directly on behalf of that individual, or a nonprofit organization.
- Medicines furnished without charge to a physician, surgeon, nurse anesthetist, advanced practice nurse, osteopath, dentist who is licensed under ch. 447, Wis. Stats., podiatrist who is licensed under ch. 448, Wis. Stats., or optometrist who is licensed under ch. 449, Wis. Stats., if the medicine may not be dispensed without a prescription.

7. Motor Vehicle and Alternate Fuel

Motor vehicle fuel (gasoline and diesel), alternate fuel (CNG and LPG), or general aviation fuel which is subject to the excise tax under ch. 78, Wis. Stats., except when the excise tax paid under ch. 78, Wis. Stats., is later refunded to the vendor, or to a buyer under sec. 78.75, Wis. Stats., because the buyer does not use the fuel in operating a motor vehicle upon public highways.

8. Printed Publications

- Newspapers.
- Periodicals, if sold by subscription and regularly issued at average intervals not exceeding three months.

Note: All over-the-counter sales of periodicals not made by subscription are taxable.

- Periodicals sold by subscription issued at average intervals not exceeding six months if the seller is an educational association or corporation, as described in Part XI.D.1, that is exempt from sales or use tax on its purchases.
- Shoppers guides which distribute no less than 48 issues in a 12-month period.
- Controlled circulation publications sold to commercial publishers for distribution without charge.

Refer to sec. Tax 11.19, Wis. Adm. Code, "Printed material exemptions."

9. Occasional Sales

- Sales of personal property or taxable services by persons who do not hold and are not required to hold a seller's permit.

Refer to Part XVI of this publication and to secs. Tax 11.33, Wis. Adm. Code, "Occasional sales," 11.34, Wis. Adm. Code, "Occasional sales exemption for sale of a business or business assets," and 11.35 Wis. Adm. Code, and "Occasional sales by nonprofit organization," for more information. Also see pages 30-37 of *Wisconsin Tax Bulletin* #122 (October 2000), which can be accessed at www.revenue.wi.gov/ise/wtb/122tr.pdf.

- Sales to the seller's spouse, parent, stepparent, father-in-law, mother-in-law, child, stepchild, daughter-in-law, or son-in-law of motor vehicles, boats, snowmobiles, mobile homes not exceeding 45 feet in length, trailers, semi-trailers, all-terrain vehicles, or aircraft, but such sales are exempt only if the seller is not engaged in the business of selling this type of property and if the property has been previously registered or titled in Wisconsin, or in the case of boats, registered or titled under the laws of Wisconsin or the United States, in the name of the seller.

10. Water Delivered Through Mains

Utilities, governmental agencies, and others delivering water to consumers through mains.

Note: Sales of carbonated, sweetened, or flavored water are taxable.

11. Manufactured Homes

- 35% of the total amount for which a new manufactured home that is used as a dwelling and is certified by the federal Department of Housing and Urban Development (HUD) as complying with the standards under 42 USC 5401 to 5425.

Prior to January 1, 2008, the term "manufactured home" was referred to as "mobile home," and the 35% exemption applied to mobile homes that were primary housing units, as defined in sec. 340.01(29), Wis. Stats., or that were transported in two unattached sections if the total size of the combined sections, not including additions and attachments, was at least 984 square feet measured when the sections are ready for transportation, was sold.

No credit is allowed for trade-ins.

This 35% exemption *only* applies to sales, not to leases and rentals.

- The full amount for which a used mobile home (manufactured before June 15, 1976) is sold, if the home is a primary housing unit as defined under sec. 340.01(29), Wis. Stats.
- The full amount for which a used manufactured home is sold, if the home is used as a dwelling and is certified by the federal Department of Housing and Urban Development (HUD) as complying with the standards under 42 USC 5401 to 5425.

The changes relating to "mobile homes" versus "manufactured homes" are explained on pages 30-33 of *Wisconsin Tax Bulletin* #154 (December 2007), which can be accessed at www.revenue.wi.gov/ise/wtb/154law.pdf.

12. Modular Homes

Prior to January 1, 2008, the term “modular home” was referred to as “manufactured building.”

For a “modular home,” as defined in sec. 101.71(6), Wis. Stats. (see definition below), that is tangible personal property when sold, a retailer may claim exemption on one of the following:

Option A: 35% of the sales price.

Option B: An amount equal to the sales price minus the cost of the materials that become an ingredient or component part of the modular home.

No credit is allowed for trade-ins.

Note: Once a retailer chooses Option A or Option B, the retailer must continue to use that option for all subsequent sales of modular homes, that are tangible personal property when sold, until such time as the Department of Revenue approves in writing the use of the other option.

“Modular home” under sec. 101.71(6), Wis. Stats., means any structure or component thereof which is intended for use as a dwelling and:

- a. is of closed construction and fabricated or assembled on-site or off-site in manufacturing facilities for installation, connection, or assembly and installation, at the building site; or
- b. is a building of open construction which is made or assembled in manufacturing facilities away from the building site for installation, connection, or assembly and installation on the building site and for which certification is sought by the manufacturer.

“Modular home” does not mean a manufactured home or mobile home under sec. 101.91, Wis.

Stats., or any building of open construction which is not subject to b. above.

Refer to pages 23-28 of *Wisconsin Tax Bulletin* #104 (November 1997) for additional information, which can be accessed at www.revenue.wi.gov/ise/wtb/104lawb.pdf.

13. Cloth Diapers and Diaper Services

Laundry, dry cleaning, pressing, and dyeing services performed on cloth diapers by a diaper service. Also, the sale, lease, or rental and the storage, use, or other consumption of cloth diapers.

“Cloth diaper” means a cloth diaper used for sanitary purposes.

“Diaper service” means a business primarily engaged in the lease or rental, delivery, and laundering of cloth diapers.

14. Copies of Certain Records

Copies of a public record that a person may examine and use under sec. 16.61(12), Wis. Stats., and copies of records under sec. 19.35(1), Wis. Stats.

15. Animal Identification Tags

Sales of animal identification tags by the Wisconsin Department of Agriculture, Trade, and Consumer Protection to persons required or authorized to use those identification tags.

16. Standard Samples

Sales of standard samples representing product or commodity grades by the Wisconsin Department of Agriculture, Trade, and Consumer Protection.

17. Public Benefit Fees

Gross receipts from the collection of public benefit fees that are charged under sec. 16.957(4)(a) or (5)(a), Wis. Stats.

18. United States and Wisconsin Flags

- The United States flag or the Wisconsin state flag. A flag, for purposes of this exemption, is considered to include the staff to which the flag is permanently mounted when sold by the retailer.

Example: Retailer A sells hand-held U.S. flags permanently mounted with staples to a wood or plastic staff. The sale of the flag (that is, the fabric and staff to which the fabric is mounted) is exempt from Wisconsin sales or use tax.

- A “flag kit,” sold as a single unit, which includes a United States flag or Wisconsin state flag and related accessories, such as a mounting bracket, a flagpole, a cord, and instructions on the display of the flag. A “flag kit” does not include flag-related accessories that are available for sale individually, even if such items are sold in a single transaction along with a U.S. flag or Wisconsin state flag.

Example: Retailer B sells an 8-foot sectional “flag kit” consisting of a two-piece pole with an eagle affixed to the top, a cord, an attaching bracket and screws, and a U.S. flag, all enclosed in a package with a single Universal Product Code (UPC). The sale of the “flag kit” is exempt from Wisconsin sales and use tax.

This exemption does **not** apply to:

- Any accessories, when not sold as a part of a “flag kit” containing a United States flag or Wisconsin State flag.

Example: Retailer C sells an 8-foot sectional flagpole. The sale of the flagpole is not exempt from Wisconsin sales or use tax under sec. 77.54(46), Wis. Stats.

Example: Retailer D sells 40-foot sectional flagpoles, hardware for flags, U.S. flags, and Wisconsin state flags. All are for sale individually. The sale of the flagpoles and hardware are taxable, even if Retailer D sells these items in a single transaction along with the sale of a U.S. flag or a Wisconsin state flag.

- A representation of the United States flag or Wisconsin state flag (for example, stickers, magnets, lapel pins, photographs, and clothing).

For additional information, see the tax release titled “Exemption for United States Flags and Wisconsin State Flags,” which was published on pages 28-29 of *Wisconsin Tax Bulletin* #127 (October 2001). This tax release can be accessed at www.revenue.wi.gov/ise/wtb/2001.html.

C. Exemptions Based on Use or Other Criteria (Certificate Required)

A seller will be subject to sales tax on gross receipts from the sale of the following property unless exemption certificates are received in good faith from the purchaser:

See Appendix E, for a copy of [Form S-211](#), *Wisconsin Sales and Use Tax Exemption Certificate*.

1. Carriers of Property or Passengers

- Buses, motor trucks, truck tractors, road tractors, trailers, and semitrailers (and accessories, attachments, supplies, parts, and repair services therefore) sold to persons who use the vehicles *exclusively* as common or contract carriers.

Refer to sec. Tax 11.16, Wis. Adm. Code, “Common or contract carriers.” Also see pages 31-37 of *Wisconsin Tax Bulletin* #110 (July 1998), which can be accessed at www.revenue.wi.gov/ise/wtb/110tr.pdf.

- Railway rolling stock used in railroad operations and accessories, attachments, parts, and fuel for the railway rolling stock.

Refer to sec. Tax 11.16, Wis. Adm. Code.

- Commercial vessels and barges of 50-ton burden or over *primarily* engaged in interstate commerce or commercial fishing.

Refer to sec. Tax 11.16, Wis. Adm. Code, and sec. Tax 11.85, Wis. Adm. Code, “Boats, vessels and barges.”

- Aircraft, and accessories, attachments, fuel, and parts for aircraft, sold to persons who use the aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce.

Refer to sec. Tax 11.84, Wis. Adm. Code, "Aircraft."

- All types of tangible personal property sold to a common or contract carrier and shipped by the seller via the purchasing carrier under a bill of lading to a point outside Wisconsin for use outside Wisconsin by the carrier in the conduct of its business.

2. Catalogs and Their Mailing Envelopes (effective April 1, 2009)

Effective April 1, 2009, an exemption is created for the gross receipts from the sale of and the storage, use, or other consumption of catalogs, and the envelopes in which the catalogs are mailed, that are designed to advertise and promote the sale of merchandise or to advertise the services of individual business firms. "Catalog" means a printed and bound, stitched, sewed, or stapled book containing a list and description of property or services for sale, regardless of whether a price is specified.

See the exemption for "Printed Advertising Materials" for a related exemption.

3. Clay Pigeons and Live Game Birds (effective January 1, 2003)

- Clay pigeons and live game birds sold to bird hunting preserves that are licensed under sec. 169.19, Wis. Stats.
- Clay pigeons that are sold to a shooting facility, if any of the following applies:
 - a. The shooting facility is required to pay the tax imposed under sec. 77.52, Wis. Stats., on its gross receipts from charges for shooting at the facility.
 - b. The shooting facility is a nonprofit organization that charges for shooting at the facility, but is not required to pay the tax imposed under sec. 77.52, Wis.

Stats., on its gross receipts from such charges because the charges are for occasional sales, as provided under sec. 77.54(7m), Wis. Stats.

Effective July 1, 2007, the sales and use tax exemption for sales of clay pigeons applies if:

- (1) the clay pigeons are sold to a nonprofit gun club that charges for shooting at the facility, and
- (2) the charges for shooting at the facility qualify for exemption because the gun club is a nonprofit organization that provides safety classes to at least 25 individuals in the calendar year.

4. Farmers

Tangible personal property described below sold to persons engaged in "farming." Farming includes agriculture, horticulture, or floriculture when engaged in as a business enterprise. Effective July 1, 2007, the definition of "farming" is expanded to include silviculture. ("Silviculture" is defined in Webster's II New College Dictionary, 1995, as "Care and cultivation of forest trees: FORESTRY.")

See the tax release titled "Sales and Use Tax Exemption for Silviculture" on pages 19-31 of *Wisconsin Tax Bulletin* #152 (July 2007), which can be accessed at www.revenue.wi.gov/ise/wtb/2007.html.

Refer to sec. Tax 11.12, Wis. Adm. Code, "Farming, agriculture, horticulture and floriculture," and [Publication 221](#), *Farmers and Farm Suppliers*, for more information.

- Tractors and machines, including accessories, attachments, and parts therefore, used exclusively and directly in the business of farming. (See *Important Change* in this section.)

This exemption does not include:

- a. Automobiles, trucks, and other motor vehicles for highway use,
- b. Personal property that is attached to, fastened to, connected to, or built into real property or that becomes an addition to, component of, or capital improvement of real property, or
- c. Tangible personal property used or consumed in the erection of buildings or in the alteration, repair, or improvement of real property, regardless of any contribution that the personal property makes to the production process in that building or real property and regardless of the extent to which that personal property functions as a machine.

For purposes of this sales and use tax exemption, the following items retain their character as tangible personal property, regardless of the extent to which they are fastened to, connected to, or built into real property:

- a. Auxiliary power generators
- b. Bale loaders
- c. Barn cleaners and elevators
- d. Conveyors
- e. Feed elevators and augers
- f. Grain dryers and grinders
- g. Irrigation implements
- h. Milk coolers
- i. Milking machines; including piping, pipeline washers, and compressors
- j. Powered feeders, but not including platforms or troughs constructed from ordinary building materials
- k. Silo unloaders (top and bottom)

For purposes of this sales and use tax exemption, the following definitions apply.

“Building” means any structure that is intended to be a permanent accession to real

property; that is designed or used for sheltering people, animals, or plants, for storing property or for working, office, parking, sales, or display space, regardless of any contribution that the structure makes to the production process in it; that in physical appearance is annexed to that real property; that, except for a few structures, is covered by a roof or encloses space; that is not readily moved or disassembled; and that is commonly known to be a building because of its appearance and because of the materials of which it is constructed.

“Machine” means an assemblage of parts that transmit force, motion, and energy from one part to another in a predetermined manner.

“Used exclusively” means used to the exclusion of all other uses except for other uses not exceeding 5% of total use.

Important Change: Effective July 1, 2007, the gross receipts from the sales of and the storage, use, or other consumption of lubricants, nonpowered equipment, and other tangible personal property that are used exclusively and directly, or are consumed or lose their identities, in the business of farming are exempt from Wisconsin sales and use taxes. For additional information about these changes, see Publication 221, *Farmers and Farm Suppliers*.

- Milkhouse supplies, animal bedding, and farm livestock medicine.
- The following property used exclusively in the business of farming: seeds for planting, plants, feed, fertilizer, soil conditioners, sprays, pesticides, fungicides, baling twine and baling wire, breeding and other livestock, poultry, farm work stock, containers for fruits, vegetables, grain, hay, silage, and animal wastes, and plastic bags, plastic sleeves, and plastic sheeting used to store and cover hay or silage.
- Electricity and fuel used in farming.

See Part XI.B.4.

5. Fuel and Electricity Consumed in Manufacturing Tangible Personal Property in Wisconsin (effective January 1, 2006)

Fuel and electricity “consumed in manufacturing” means only fuel and electricity used to operate machines and equipment used directly in the step-by-step manufacturing process. Fuel and electricity are not “consumed in manufacturing” if they are used in providing plant heating, cooling, air conditioning, communications, lighting, safety and fire prevention, research and product development, receiving, storage, sales, distribution, warehousing, shipping, advertising or administrative department activities. However, fuel and electricity used directly in manufacturing steam which is used by the manufacturer in further manufacturing or in heating a facility, or both, is consumed in manufacturing.

For additional information about the exemption for fuel and electricity used in manufacturing, see the FAQ on the Department of Revenue’s web site at

www.dor.state.wi.us/faqs/ise/exempton.html.

Prior to January 1, 2006, sales of fuel and electricity consumed, destroyed, or losing its identity in the manufacture of tangible personal property generally were not exempt from sales or use tax. Instead, a business may have claimed a franchise or income tax credit for the sales and use taxes paid on fuel and electricity consumed in manufacturing tangible personal property in Wisconsin. Unused credits may be carried forward for 20 taxable years. The manufacturer’s sales tax credit may not be claimed for taxable years that begin after December 31, 2005.

For additional information about how the sales and use tax exemption for fuel and electricity used in manufacturing replaced the sales tax income and franchise tax credit, see the article titled “Sales Tax Exemption Replaces Manufacturer’s Sales Tax Credit.” This article was published on pages 15-16 of *Wisconsin Tax Bulletin* #145 (November 2005), and can be accessed at

www.revenue.wi.gov/ise/wtb/2005.html.

6. Fuel Sold for Use in Charter Fishing Boats (effective July 1, 2009)

Fuel sold for use in motorboats that are regularly employed in carrying persons for hire for sport fishing in and upon the outlying waters, as defined in sec. 29.001(63), Wis. Stats., and the rivers and tributaries specified in sec. 29.2285(2)(a)1. and 2., Wis. Stats., if the owner and all operators are licensed under sec. 29.514, Wis. Stats., to operate the boat for that purpose.

“Outlying waters,” as defined in sec. 29.001(63), Wis. Stats., means Lake Superior, Lake Michigan, Green Bay, Sturgeon Bay, Sawyer's Harbor and the Fox River from its mouth up to the dam at De Pere.

“Rivers and tributaries” specified in sec. 29.2285(2)(a)1. and 2., Wis. Stats., include any river or stream tributary of Lake Michigan or Green Bay from its mouth upstream to the first dam or lake and any other river or stream tributary of Lake Michigan or Green Bay that is designated by the department.

Section 29.514, Wis. Stats., details the requirement for obtaining and holding an outlying water sport trolling license. No person may be engaged or be employed for any compensation to guide any other person in sport trolling for trout or salmon in and upon the outlying waters unless the person is issued a sport trolling license by the Department of Natural Resources.

7. Fire Fighting Equipment

Fire trucks and fire fighting equipment including accessories, attachments, parts, and supplies for the trucks and equipment sold to a volunteer fire department.

8. Heavy Logging Equipment

Off-highway heavy mechanical equipment such as feller bunchers, slashers, delimiters, chippers, hydraulic loaders, loaders, skidder-forwarders, skidders, timber wagons, and tractors used *exclusively* and *directly* in the harvesting or processing of raw timber products in the field

by a person in the logging business. "Heavy mechanical equipment" does not include hand tools such as axes, chains, chain saws, and wedges.

9. Insulin and Diabetes Apparatus

- Apparatus or equipment for the injection of insulin sold to the ultimate consumer.
- Apparatus or equipment for the treatment of diabetes and supplies used to determine blood sugar level sold to the ultimate consumer.

10. Internet Equipment Used in the Broadband Market (effective July 1, 2007)

Internet equipment used in the broadband market, if the purchaser certifies to the Department of Commerce, in the manner prescribed by the Department of Commerce, that the purchaser will, within 24 months after the effective date of this exemption (July 1, 2007), make an investment that is reasonably calculated to increase broadband Internet availability in Wisconsin.

"Internet equipment used in the broadband market" is defined to mean equipment that is capable of transmitting data packets or Internet signals at speeds of at least 200 kilobits per second in either direction.

Every person who is required to make an investment that qualifies for this exemption and is reasonably calculated to increase broadband Internet availability in Wisconsin, shall, within 60 days after the end of the year in which the investment is made, file a report with the Department of Commerce that provides a detailed description of the investment, including the amount invested. The Department of Commerce shall provide copies of the report to the Department of Administration, the Department of Revenue, and the Public Service Commission.

For additional information see pages 14-16 of *Wisconsin Tax Bulletin* #148 (July 2006) which can be accessed at www.revenue.wi.gov/ise/wtb/148art.pdf.

11. Manufacturing Machinery, Equipment, and Materials

- Machines and specific processing equipment and repair parts or replacements and safety attachments for such machines and equipment which are *exclusively* and *directly* used by a manufacturer in manufacturing tangible personal property.
- Tangible personal property that is used exclusively and directly by a manufacturer in manufacturing an article of tangible personal property that is destined for sale and that becomes an ingredient or component part of the article of tangible personal property or which is consumed, destroyed, or loses its identity in manufacturing the article of tangible personal property destined for sale, except for fuel and electricity consumed in manufacturing tangible personal property.

Note: Prior to August 1, 2009, the exemption was for tangible personal property which becomes an ingredient or component part of an article of tangible personal property or which is consumed, destroyed, or loses its identity in the manufacture of tangible personal property in any form destined for sale.

- Sales of tangible personal property (for example, paper) or services (for example, printing) that become an ingredient or component of, or that are consumed or lose their identity in, the manufacture of shoppers guides, newspapers, or periodicals. The exemption applies whether the shoppers guides, newspapers, or periodicals are sold or transferred without charge to the recipient.

Effective January 1, 2006, fuel and electricity consumed in manufacturing tangible personal property in Wisconsin is exempt from Wisconsin sales and use tax.

Refer to Part XIV for additional information about manufacturers and the exemptions for persons engaged in manufacturing.

12. Maple Syrup Equipment

Equipment sold for use in the production of maple syrup.

13. Motion Pictures

Motion picture film or tape, and motion pictures or radio or television programs for listening, viewing, or broadcasts, and advertising material related to such film or tape or programs, which are sold, leased, or rented to a motion picture theater or to a radio or television station.

Prior to October 27, 2007, the exemption only applied to motion picture film or tape, and advertising materials related to such film or tape, which are sold, leased, or rented to a motion picture theater or to a radio or television station.

14. Packaging and Shipping Materials

- Containers, labels, sacks, cans, boxes, drums, bags, or other packaging and shipping materials sold for use in packing, packaging, or shipping tangible personal property, if such items are used by the purchaser to transfer merchandise to customers.
- Meat casing, wrapping paper, tape, containers, labels, sacks, cans, boxes, drums, bags, or other packaging and shipping materials sold for use in packing, packaging, or shipping meat or meat products, regardless of whether such items are used to transfer merchandise to customers.

15. Printed Advertising Materials

Printed advertising materials, including catalogs and their envelopes, purchased and stored for the purpose of subsequently transporting them outside Wisconsin by the purchaser for use solely outside Wisconsin.

Effective April 1, 2009, this exemption will no longer apply to catalogs and the envelopes in which they are mailed. See the new exemption for “Catalogs and Their Mailing Envelopes.”

16. Raw Materials for Printed Materials

Raw materials used for the processing, fabricating, or manufacturing of, or the attaching to or incorporating into, printed materials that are transported and used solely outside Wisconsin, even if the printed materials are not sold.

17. Resold Property

- a. Tangible personal property which is sold to persons who will resell the property.

Example: A retailer purchases property from a wholesaler or from another retailer and the retailer intends to resell the property to consumers.

- b. Tangible personal property which is sold to a service provider who resells the property to a customer in conjunction with the selling, performing, or furnishing of the following taxable services is considered to be resold by the service provider:

- Photographic services (sec. 77.52(2)(a)7, Wis. Stats.)
- Repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of tangible personal property (sec. 77.52 (2)(a)10, Wis. Stats.)
- Producing, fabricating, processing, printing, or imprinting of tangible personal property (sec. 77.52(2)(a)11, Wis. Stats.)
- Landscaping and lawn maintenance services (sec. 77.52(2)(a)20, Wis. Stats.)

Examples of services in which the service provider may purchase the property transferred without tax for resale follow:

Example 1: Person X repairs a furnace for Person Y for \$50, which includes the replacement of a furnace part. Person X may purchase the furnace part tax-free by giving an exemption certificate claiming resale to

the seller of the part because the part is physically transferred to the customer.

Example 2: A photographer purchases mounts, frames, and paper for use in finishing photographs which are transferred to customers. Such mounts, frames, and paper may be purchased without tax for resale by the photographer.

Example 3: An operator of a landscaping service delivers and levels topsoil, then installs sod on the topsoil for a customer in providing a taxable landscaping service. This person may purchase the topsoil and sod without tax for resale.

- c. Tangible personal property which is sold to a service provider who resells the property to a customer in conjunction with the selling, performing, or furnishing of nontaxable services or taxable services not listed in 16.b. is considered to be resold by the service provider if the property transferred to the customer is not incidental to the selling, performing, or furnishing of the service.

“Incidental” means “depending upon or appertaining to something else as primary; something necessary, appertaining to, or depending upon another which is termed the principal; something incidental to the main purpose of the service.”

Tangible personal property transferred by a service provider is incidental to the service if the purchaser’s main purpose or objective is to obtain the service rather than the property, even though the property may be necessary or essential to providing the service.

The “incidental” test does *not* apply to contractors. Contractors should refer to Part XII for information about their purchases.

Note: Tangible personal property which is sold to a service provider who transfers the property to the customer in conjunction

with the selling, performing, or furnishing of nontaxable services or taxable services not listed in 16.b. is subject to sales and use tax if the transfer of the property is incidental to providing the service.

Following are examples of property transfers that are incidental to the service and, therefore, the service provider must pay the tax upon the purchase of the property:

Example 1: The operator of a motel or hotel is subject to tax on its purchases of beds, dressers, tables, linens, soap, and other items purchased for use in rooms provided to transients since the customers’ main purpose is to obtain access to the room.

Example 2: A telephone company purchases telephone books which it distributes to its customers. These purchases by the telephone company are subject to the tax since the customers’ main purpose is to obtain telephone service.

Example 3: A baseball team purchases tickets to admit its customers to games and promotional items to be given to certain ticketholders for specific games. The tax applies to these purchases of tickets and promotional items because the ticketholders’ main purpose is to attend the ball game.

Example 4: A person providing accounting services transfers documents, reports, forms, and binders to its clients in the course of setting up an accounting system for the clients. Purchases of paper, forms, and binders by the service provider are taxable since the clients’ main purpose is to obtain the accounting service.

Example 5: An engineer’s purchase of specialized paper, which is used to create drawings transferred to customers, is subject to the tax because the customers’ main purpose is to obtain the engineer’s design services.

Example 6: A physician purchases tape which is used in providing medical service. Such tape purchases are subject to the tax because the patients' main purpose is to obtain the medical service.

Example 7: A mover's purchases of corrugated boxes, containers, and related packing materials used in providing household goods moving services are subject to the tax because the customers' main purpose is to obtain the moving service.

18. Semen

Semen used in the artificial insemination of livestock.

19. Snowmobile Trail Groomers

Snowmobile trail groomers and attachments that are purchased, stored, used, or consumed by a snowmobile club that (a) meets at least three times a year, (b) has at least ten members, (c) promotes snowmobiling, and (d) participates in the Department of Natural Resources snowmobile program under sec. 350.12(4)(b), Wis. Stats.

20. Utilities' Fuel

Fuel sold to utilities for conversion to electric energy, gas, or steam by the utility, and the portion of fuel converted to steam for purposes of resale by persons other than utilities.

21. Waste Treatment Facilities

A sales and use tax exemption applies for tangible personal property that becomes a component part of an industrial waste treatment facility that is exempt under the property tax statute.

- Tangible personal property becoming a component part of the treatment plant of a *utility* waste treatment facility approved by the Department of Revenue as exempt from property tax. Requests for approvals should be sent to the Bureau of Utility Tax,

2135 Rimrock Rd., Mail Stop 6-97, P.O. Box 8971, Madison, WI 53708-8971.

- Tangible personal property becoming a component part of an industrial waste treatment facility that is exempt from Wisconsin property tax. Department of Revenue approval is *not* required.
- Tangible personal property becoming a component part of a *Wisconsin governmental unit* waste treatment facility. Department of Revenue approval of Wisconsin governmental waste treatment facilities is *not* required.
- Chemicals and supplies, including fuel and electricity, used or consumed in operating a governmental unit, approved utility, or industrial waste treatment facility.

Effective October 1, 2007, the sales and use tax exemption was amended to reflect the change to the property tax exemption, which was effective January 1, 2007. With this change, the property tax exemption applies to all property purchased or constructed as a waste treatment facility **used exclusively and directly** to remove, store, or cause a physical or chemical change in industrial waste or air contaminants for the purpose of abating or eliminating pollution of surface waters, the air, or waters of the state if that property is not used to grow agricultural products for sale and, if the property's owner is taxed under Chapter 76, if the property is approved by the Department of Revenue.

The exemption is explained in detail on pages 33-34 of *Wisconsin Tax Bulletin #154* (December 2007), which can be accessed at www.revenue.wi.gov/ise/wtb/154law.pdf.

Contractors should give their suppliers an exemption certificate (Form S-211) claiming this exemption.

More information is contained in sec. Tax 11.11, Wis. Adm. Code, "Utility, industrial and governmental waste treatment facilities."

22. Waste Reduction or Recycling

Waste reduction or recycling machinery and equipment, including parts therefore, *exclusively* and *directly* used for waste reduction or recycling activities, and motor vehicles not required to be licensed for highway use which are used in such activities. Equipment used to remove impurities from lubricating oil used in manufacturing machines and equipment used to produce fuel cubes from shredded paper qualify for this exemption.

Note: Dumpsters, compactors, and other collection containers do not qualify for this exemption.

For additional information, see pages 30-36 of *Wisconsin Tax Bulletin #123* (January 2001), which can be accessed at www.revenue.wi.gov/ise/wtb/123tr.pdf.

23. Wind, Solar, and Gas from Anaerobic Digestions of Agricultural Waste (effective July 1, 2011*)

Products whose power source is wind energy, direct radiant energy received from the sun, or gas generated from anaerobic digestion of animal manure and other agricultural waste, if the product produces at least 200 watts of alternating current or 600 British thermal units per day, except that the exemption under this subsection does not apply to an uninterruptible power source that is designed primarily for computers.

Effective July 1, 2011*, an exemption is also provided for the gross receipts from the sale of and the storage, use, or other consumption of electricity or energy produced by a product described in the paragraph above, except for the sale of electricity or energy that is exempt from taxation under sec. 77.54(30), Wis. Stats.

*The effective date of the exemption for wind, solar, and gas from anaerobic digestions of agricultural waste was delayed from July 1, 2009 to **July 1, 2011**, pursuant to 2009 Wis. Act 28.

24. Wood Residue

Wood residue that is used as a fuel in a business activity and that results from the harvesting of timber or the production of wood products, including slash, sawdust, shavings, edgings, slabs, leaves, wood chips, and bark. Also, wood pellets manufactured primarily from wood or wood residue and used as a fuel in a business activity are exempt.

D. Exempt Organizations

Certain organizations, described below, are exempt from Wisconsin sales and use taxes on their *purchases*. However, most *sales* by these organizations of taxable property and services are subject to sales tax unless the occasional sale exemption applies (see Part XVI). Thus, if such an organization has taxable sales it must obtain a seller's permit and remit sales tax to the Department of Revenue.

The following material describes exemptions available to various organizations.

1. Nonprofit Organizations

All tangible personal property and taxable services sold *to* nonprofit organizations operated exclusively for religious, charitable, scientific, or educational purposes or for the prevention of cruelty to children or animals, are exempt if the organization provides its Certificate of Exempt Status (CES) number to the seller.

To qualify for this exemption, an organization must obtain a CES number from the Wisconsin Department of Revenue and provide the number to the seller when purchasing taxable property or services. However, a similar out-of-state organization may use this exemption to purchase tangible personal property and taxable services without tax even though it has not been issued a Wisconsin CES number.

Refer to Part IX for information about obtaining a CES number.

2. Wisconsin Governmental Units, Agencies, and Instrumentalities

- Sales of tangible personal property and taxable services sold to the following Wisconsin governmental units, agencies, or instrumentalities are exempt.

- The State of Wisconsin or any of its agencies.
- Any unit of Wisconsin government or an agency or instrumentality of one or more units of Wisconsin government. This exemption includes any municipality, public school, or public school district in Wisconsin.
- A county-city hospital established under sec. 66.0927, Wis. Stats.
- An uptown business improvement district organized under sec. 66.1109, Wis. Stats.
- A sewerage commission organized under sec. 281.43(4), Wis. Stats., or a metropolitan sewerage district organized under secs. 200.01 to 200.15 or 200.21 to 200.65, Wis. Stats.
- A joint local water authority created under sec. 66.0823, Wis. Stats.
- Any transit authority created under sec. 59.58(7) or 66.1039 (effective July 1, 2009).
- A local exposition district or professional baseball park or football stadium district under subchs. II, III, and IV of ch. 229, Wis. Stats.
- The University of Wisconsin Hospitals and Clinics Authority.
- A local cultural arts district created under subch. V of ch. 229, Wis. Stats.
- The Fox River Navigational System Authority.
- The Health Insurance Risk-Sharing Plan authority (effective January 7, 2006).

- The Wisconsin Aerospace Authority (effective April 29, 2006).
- The Wisconsin Quality Home Care Authority (effective July 1, 2009).
- 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 (effective July 1, 2009).

Sales to foreign countries, other states, or municipalities in other states or foreign countries are taxable.

The governmental unit, agency, or instrumentality must give the seller one of the following:

- a. An exemption certificate (Form S-211).
- b. A completed purchase order or similar document clearly identifying the purchaser.
- c. The Certificate of Exempt Status number issued to the governmental unit to be recorded by the seller on the invoice it keeps.

- Sales by the State of Wisconsin of admission fees or stickers permitting access to state parks are exempt.
- A governmental unit's charges for copying public records or confidential records are exempt.

Refer to sec. Tax 11.05, Wis. Adm. Code, "Governmental units," for additional information about exempt sales by governmental units.

3. Wisconsin American Indian Tribes and Bands (effective August 1, 2009)

Sales to any federally recognized American Indian tribe or band in Wisconsin are exempt from Wisconsin sales and use taxes.

4. Elementary or Secondary Schools

- Sales of tangible personal property by any non-profit public or private elementary or secondary school, including the school district, are exempt. However, sales by colleges and universities are generally taxable.
- Sales of admissions to public and private elementary and secondary school activities are exempt if the entire net proceeds are expended for educational, religious, or charitable purposes.

More information about sales and purchases by elementary and secondary schools is contained in sec. Tax 11.03, Wis. Adm. Code, "Schools and related organizations."

5. United States Government

Sales by or to the United States government or any of its agencies or instrumentalities are exempt.

Sales tax applies to the receipts of non-governmental operators of vending machines located on army, navy or air force installations, hospitals, or other facilities of the United States government.

United States Government Bankcards

The federal government issues certain U.S. Government Bankcards (for example, "GSA SmartPay" cards) to some of its employees for use when traveling. Such cards state that payment of all purchases will be made directly by the federal government. The cards may also list property and services which may not be purchased using such cards.

Sales to employees of the federal government holding such cards are exempt from Wisconsin sales or use tax, because they are considered sales to the federal government, provided the retailer makes the billing or invoice out in the name of the federal government agency and the retailer receives a purchase order or similar written documentation from the federal government agency.

6. Colleges, Universities, and Vocational Schools

- Gross receipts from student tuition are non-taxable because such receipts are from educational services. If a single billing for tuition includes mandatory charges for materials (which are incidental to the educational services) or mandatory charges for otherwise taxable services, the entire billing for these mandatory charges and tuition is considered a nontaxable education service. This is the case whether such mandatory charges are or are not separately stated on such single billing issued to the student.

Note: Non-mandatory charges for these items included in such single billing are taxable.

- Sales of meals, food, food products, or beverages, as defined in sec. 77.54(20)(a) and (b), Wis. Stats., furnished in accordance with any contract or agreement by a public or private institution of higher education, are exempt if:
 - the items are furnished to an undergraduate student, a graduate student, or a student enrolled in a professional school if the student is enrolled for credit at that institution and if the items are consumed by that student, or
 - the items are furnished to a National Football League team.

For additional information, see [Publication 204](#), *Sales and Use Tax Information for Colleges, Universities, and Technical Colleges*.

E. Disaster Relief Bankcards and Vouchers Issued by Exempt Organizations

Organizations, such as the Federal Emergency Management Agency (FEMA) and the American Red Cross (ARC), provide relief to disaster victims by distributing funds to those in need. The funds are distributed to disaster victims using various methods including: (1) making electronic transfers directly into a disaster victim's bank account; (2) issuing U.S. Treasury checks to a disaster victim; (3) issuing FEMA debit cards to a disaster victim;

(4) providing the disaster victim with an ARC Disbursing Order (ARCDO); and (5) providing the disaster victim with a Client Assistance Card (CAC). The Wisconsin sales and use tax treatment of purchases made using each of these payment methods is described below.

FEMA Electronic Funds Transfer and U. S. Treasury Checks

Purchases made by disaster victims with funds from FEMA that have been electronically transferred into an individual's bank account or received by the individual in the form of a U.S. Treasury check are subject to Wisconsin sales or use tax in the same manner as any other purchase made by that individual.

Example: Individual A is a victim of Hurricane Katrina and receives funds from FEMA through an electronic funds transfer directly into Individual A's bank account. Individual A uses these funds to purchase gasoline for his automobile and a meal at a restaurant. Individual A's purchase of the gasoline for his automobile is not subject to Wisconsin sales tax since gasoline for automobiles is generally not subject to Wisconsin sales tax. Individual A's purchase of the meal is subject to Wisconsin sales tax. The fact that these purchases are made with funds that were provided to Individual A by FEMA does not affect the taxability of the transactions.

FEMA Issued Debit Cards

In addition to providing funds to disaster victims using electronic funds transfer and U.S. Treasury checks, FEMA also had a pilot program in which they provided approximately 8,500 debit cards to some of the victims. The debit cards were set up in the victim's name and "pre-loaded" with \$2,000 in spending authority. Purchases made by persons using the FEMA provided debit cards that have been set up in the victim's name are subject to Wisconsin sales or use tax in the same manner as any other purchase made by that individual.

American Red Cross Disbursing Orders (ARCDO)

An ARCDO is a voucher that the American Red Cross (ARC) provides to a disaster victim for a specific vendor and is good up to a specified dollar amount. Although ARCDOs are mainly issued for lodging for the victims, the ARC also issues ARCDOs for items such as groceries and clothing. A

vendor that accepts an ARCDO submits a copy of the invoice or receipt showing what was purchased by the victim, along with a copy of the ARCDO, to the ARC. (Note: If the purchase was for less than \$25 or was for groceries, a copy of the invoice or receipt is not required to be sent along with the ARCDO.) The ARC then sends a check to the vendor to pay for the purchase. Purchases made using ARCDOs, as described above, are not subject to Wisconsin sales or use tax since these purchases are made by the ARC. The vendor should keep a copy of the ARCDO and receipt and indicate the ARC's Certificate of Exempt Status (CES) number on the receipt to prove that the sale qualifies for exemption from Wisconsin sales and use tax. The CES number for the ARC is contained in the merchant instructions for the ARCDO.

American Red Cross Client Assistance Cards (CAC)

American Red Cross Client Assistance Cards (CACs) are prepaid credit cards which the ARC issues to some victims. Generally, CACs can be used anywhere that a MasterCard is accepted and may be used to purchase any items other than alcohol, tobacco and firearms.

When a CAC account is set up by the ARC for a victim, the financial institution through which the CAC has been issued will remove the specified amount of funds from the ARC's bank account and transfer the funds to the CAC account. The victim will then select a personal identification number (PIN) for the account and have approximately 15 days to spend the balance on the card. The ARC reserves the right to deactivate or suspend the card at any time if misuse is suspected. In addition, any funds left on the card after a specified period of time are returned to the ARC's bank account.

Purchases made using CACs are not subject to Wisconsin sales or use tax, provided the invoice for the purchase is made out in the name of the ARC and the purchaser pays for the purchase using the CAC. The retailer should keep a copy of the CAC and receipt and indicate the ARC's CES number on the receipt to prove that the sale qualifies for exemption from Wisconsin sales and use tax.

F. Other Exemptions

1. Auto Dealers

The loan by an automobile dealer of a motor vehicle to any school or school district for a driver training educational program conducted by the school or school district is exempt. If the dealer makes any other use of the vehicle except retention, demonstration, or display while holding it for sale in the regular course of business, the use is taxable as described in sec. 77.53(1m), Wis. Stats.

2. Interest, Financing, or Insurance

Charges for interest, financing, or insurance are exempt if such charges are separately set forth upon the invoice given by the seller to the purchaser.

3. Interstate Commerce Sales

- Sales of tangible personal property by retailers are exempt from sales tax if the purchaser or the purchaser's agent takes possession from the retailer or the retailer's agent outside Wisconsin. Sales of taxable services are exempt from sales tax if the service is furnished outside Wisconsin. A service to tangible personal property is furnished outside Wisconsin if the property serviced is transferred by the retailer or the retailer's agent to the purchaser or the purchaser's agent outside Wisconsin.

A common carrier or the U.S. Postal Service is always an agent of the retailer.

Example: A dry cleaner located in Beloit, Wisconsin has a pick-up route including territory in Illinois. The receipts from dry cleaning or laundry services of clothing picked up in Illinois and returned to Illinois by the dry cleaner are not subject to the Wisconsin tax, even though the actual service is performed in Wisconsin. In the opposite situation (that is, Illinois dry cleaner selling in Wisconsin), the charges made to Wisconsin customers for dry cleaning are taxable.

Caution: If the tangible personal property sold or serviced outside Wisconsin is later brought into Wisconsin, the purchaser may be subject to Wisconsin use tax on the storage, use, or consumption of the property in Wisconsin, unless an exemption applies.

- Sales of tangible personal property purchased for use solely outside Wisconsin and delivered to a forwarding agent, export packer, or other person engaged in the business of preparing goods for export or arranging for their exportation and actually delivered to a port outside the continental limits of the United States prior to making any use of the property, are exempt.

4. Nonresidents

- Aircraft, motor vehicles, or truck bodies (including semitrailers) sold in Wisconsin to nonresidents of Wisconsin who do not use such property in Wisconsin other than to remove it from Wisconsin, are exempt. However, other tangible personal property sold to nonresidents is taxable if delivery takes place in Wisconsin.
- An aircraft is exempt from Wisconsin use tax when all of the following requirements are met:
 - a. It is purchased in another state.
 - b. Its owner or lessee has paid all of the sales and use taxes imposed in respect to it by the state where it was purchased.
 - c. If the owner or lessee is a corporation, that corporation, and all corporations with which that corporation may file a consolidated return for federal income tax purposes, neither is organized under the laws of Wisconsin nor has real property or other tangible personal property, except aircraft and such property as hangars, accessories, attachments, fuel, and parts required for operation of aircraft, in Wisconsin at the time the aircraft is registered in Wisconsin.

- d. If the owner or lessee is a partnership, all of the corporate partners fulfill the requirements in c. above and none of the general partners and none of the limited partners who has management or control responsibilities is domiciled in Wisconsin and the partnership has no other tangible personal property and no real property, except aircraft and such property as hangars, accessories, attachments, fuel, and parts required for operation of aircraft, in Wisconsin at the time the aircraft is registered in Wisconsin.
- e. If the owner or lessee is a limited liability company, all of the corporate members fulfill the requirements under c. above, and none of the managers and none of the members who has management control responsibilities is domiciled in Wisconsin and the limited liability company has no other tangible personal property and no real property, except aircraft and such property as hangars, accessories, attachments, fuel, and parts required for operation of aircraft, in Wisconsin at the time the aircraft is registered in Wisconsin.
- f. If the owner or lessee is an individual, the owner or lessee is not domiciled in Wisconsin.
- g. If the owner or lessee is an estate, trust, a cooperative, or an unincorporated cooperative association (effective May 26, 2006), that estate, that trust and its grantor, or that cooperative or association does not have real property or other tangible personal property, except aircraft and such property as hangars, accessories, attachments, fuel, and parts required for operation of aircraft, in Wisconsin at the time the aircraft is registered in Wisconsin.
- h. The Department of Revenue has not determined that the owner, if the owner is a corporation, trust, partnership, or limited liability company, was formed to

qualify for the exemption from Wisconsin use tax.

- A boat is exempt from Wisconsin use tax if purchased in a state contiguous to Wisconsin by a person domiciled in that state if the boat is berthed in Wisconsin's boundary waters adjacent to the purchaser's state of domicile, if the transaction was an exempt occasional sale under the laws of the state in which the purchase was made.
- Household goods, aircraft, motor vehicles, boats, snowmobiles, mobile homes, trailers, semitrailers, and all-terrain vehicles, for personal use, purchased by a nonresident outside this state 90 days or more before bringing the property into this state in connection with a change of domicile to this state.
- Repair work (labor and materials) performed in Wisconsin on a nonresident's motor vehicle or truck body is taxable.
- Repair work (labor and materials) performed in Wisconsin on a nonresident's aircraft is taxable.

Exception: Repair services for aircraft never used in Wisconsin other than to be removed from the state when purchased and subsequently brought into Wisconsin solely to be repaired are not taxable. However any sales of parts are taxable.

5. Non-Sales

The following transactions are not considered to be sales under the Wisconsin sales and use tax law, and, therefore, are not subject to Wisconsin sales or use tax:

- The transfer of property to a corporation upon its organization solely in consideration for the issuance of its stock.
- The contribution of property to a newly formed partnership solely in consideration for a partnership interest therein.
- The contribution of property to a limited liability company upon its organization

solely in consideration for a membership interest.

- The transfer of property to a corporation, solely in consideration for the issuance of its stock, pursuant to a merger or consolidation.
- The transfer of property to a limited liability company solely in consideration for a membership interest, pursuant to a merger.
- The distribution of property by a corporation to its stockholders as a dividend or in whole or partial liquidation.
- The distribution of property by a partnership to its partners in whole or partial liquidation.
- The distribution of property by a limited liability company to its members in whole or partial liquidation.
- Repossession of property by the seller from the purchaser when the only consideration is cancellation of the purchaser's obligation to pay the remaining balance of the purchase price.
- The transfer of transmission facilities, as defined in sec. 196.485(1)(h), Wis. Stats., to a transmission company, as defined in sec. 196.485(1)(ge), Wis. Stats., after the organizational start-up date, as defined in sec. 196.485(1)(dv), Wis. Stats., of such company in exchange for securities, as defined in sec. 196.485(1)(fe), Wis. Stats.
- The transfer of property in a reorganization as defined in sec. 368 of the Internal Revenue Code in which no gain or loss is recognized for franchise or income tax purposes.
- Any transfer of all or substantially all the property held or used by a person in the course of an activity requiring the holding of a seller's permit, if after the transfer the real or ultimate ownership of the property is substantially similar to that which existed before the transfer. In this context, stockholders, bondholders, partners, members, or other persons holding an interest in a corporation or other entity are regarded as having

the real or ultimate ownership of the property of the corporation or other entity. "Substantially similar" means 80% or more of ownership.

A business entity that converts to another business entity under sec. 179.76, 180.1161, 181.1161, or 183.1207, Wis. Stats., is subject to the sales and use tax provisions applicable to liquidations, reorganizations, and business entity formations in ch. 77, subch. III, Wis. Stats. (effective October 1, 2002).

6. Donation of Certain Property

The donation, to an entity specified in sec. 77.54(9a), Wis. Stats., of property that the donating person has purchased tax-free for resale or with a valid exemption certificate is exempt from use tax.

Exempt entities specified in sec. 77.54(9a), Wis. Stats., are discussed in Part XI.D.1 and 2 of this publication.

XII. CONTRACTORS

A. How Contractors Are Taxed on Labor, Materials, and Supplies: Contractors are taxed in several ways, depending upon whether they are acting as retailers or as consumers in conducting their business.

A contractor is a *consumer* when constructing, installing, repairing, or servicing real property such as buildings. As a consumer, the contractor must pay sales or use tax on materials and supplies used in such activities. A contractor may not charge sales tax on the labor or materials used in such work. However, the contractor's selling price may reflect all costs incurred.

A contractor is a *retailer* when selling, installing, repairing, or servicing tangible personal property. When selling, installing, repairing, or servicing personal property, the contractor is liable for sales tax on all gross receipts from labor, material, and other charges for such sales or activities (unless an exemption applies as described in Part XI).

Important: Obtain [Publication 207](#), *Sales and Use Tax Information for Contractors*, for more information about what is real and personal property and a contractor's activities involving such property for purposes of the sales and use tax.

Contractors and other persons providing taxable landscaping and lawn maintenance services may purchase without tax for resale, items physically transferred to the customer in conjunction with providing the taxable service, even though the service results in a realty improvement.

Example: A landscaper installs sod and plants trees for a customer in providing a taxable landscaping service. The landscaper may purchase the sod and trees without tax for resale. The landscaper should give a completed exemption certificate indicating resale to the person from whom it purchased the sod and trees.

B. Contractor's Tools and Equipment: A contractor must pay a sales or use tax on purchases of all tools and equipment used in any construction, installation, repair, or service activity.

C. Contractors Constructing Buildings for Governmental Units, Schools, Churches, Hospitals, or Other Exempt Institutions: Even though a contractor is constructing a building for a governmental unit, school, church, hospital, or other exempt entity, the sales of building materials to the contractor are taxable. The reason for this treatment is that the contractor is the consumer of the building materials used in constructing the building. Consequently, the sale to the contractor is a retail sale and is subject to tax.

Refer to [Publication 207](#), *Sales and Use Tax Information for Contractors*, Part IV.A. Also, see the tax release titled "Purchases of Building Materials by Exempt Entities for Use by Contractor in Real Property Construction," published on pages 27-34 of *Wisconsin Tax Bulletin #115* (October 1999), which can be accessed at www.revenue.wi.gov/ise/wtb/115tr.pdf.

D. Construction, Renovation, or Development of Professional Sports and Entertainment Home Stadiums: The sale of and the storage, use, and consumption of building materials, supplies, and

equipment to or by owners, contractors, subcontractors, or builders acquired solely for or used solely in the construction, renovation, or development of sports and entertainment home stadiums are exempt from Wisconsin sales and use tax. For more information, contact any Department of Revenue office.

XIII. RENTALS – LESSORS

Gross receipts from the lease or rental of tangible personal property located in Wisconsin are subject to sales or use tax to the same extent that gross receipts from the sale of the same property would be subject to tax. A lease is a continuing sale for the period of time the leased property is in Wisconsin and the tax is collected by the lessor from the lessee at the time of each lease payment required under the lease.

A lessor's purchase of tangible personal property to be used solely for lease or rental, and not otherwise by the lessor, is exempt as a purchase for resale. The purchase of property to be used by the lessor and also leased to others is taxable and an exemption certificate indicating resale may not be given by the lessor on the purchase of such property.

A lessor's purchase of repair parts, repair service, and lubricants for property used solely in leasing may be purchased without tax for resale; however, a lessee's purchases of the same items for property leased from the lessor are taxable.

Charges by a lessor to a lessee for maintenance work on leased personal property are taxable.

Sometimes it is not clear whether a transaction involves a lease or the providing of a service by the owner of equipment. In this situation, for purposes of sales and use taxation, a person who uses his or her own equipment to perform a job and who assumes responsibility for its satisfactory completion is considered to be performing a service and is not considered to have leased the equipment used in providing the service. On the other hand, a person is considered to be leasing property in a situation in which the person furnishes equipment with an operator to perform a job which the lessee will supervise and be responsible for the job's satisfactory completion.

If it is customary or mandatory that the lessee accept an operator with the leased equipment, the entire charge

for the equipment and operator is taxable. However, if the lessor customarily gives the lessee the option of taking the equipment without an operator and bills the operator's services separately, the charge for the operator's services are not taxable.

Note: Refer to sec. Tax 11.29, Wis. Adm. Code, "Leases and rentals of tangible personal property," for additional information on specific lease transactions.

XIV. MANUFACTURERS

Specific exemptions are contained in the sales and use tax law for persons engaged in manufacturing. Effective August 1, 2009, the definition of "manufacturing" was amended to mean "the production by machinery of a new article of tangible personal property with a different form, use, and name from existing materials, by a process popularly regarded as manufacturing, and that begins with conveying raw materials and supplies from plant inventory to the place where work is performed in the same plant and ends with conveying finished units of tangible personal property to the point of first storage in the same plant."

"Manufacturing" includes:

1. Crushing, washing, grading and blending sand, rock, gravel and other minerals.
2. Ore dressing, including the mechanical preparation, by crushing and other processes, and the concentration, by flotation and other processes, of ore, and beneficiation, including the preparation of ore for smelting.
3. Conveying work in process directly from one manufacturing process to another in the same plant; testing or inspecting, throughout the manufacturing process, the new article of tangible personal property that is being manufactured; storing work in progress in the same plant where the manufacturing occurs; assembling finished units of tangible personal property; and packaging a new article of tangible personal property, if the manufacturer, or another person on the manufacturer's behalf, performs the packaging and if the packaging becomes part of the new article as it is cus-

tomarily offered for sale by the manufacturer.

"Manufacturing" does not include storing raw materials or finished units of tangible personal property, research or development, delivery to or from the plant, or repairing or maintaining plant facilities.

For purposes of the definition above, "plant" means a parcel of property or adjoining parcels of property, including parcels that are 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; and "plant inventory" does not include unsevered mineral deposits.

Prior to August 1, 2009, the law defines "manufacturing" as "the production by machinery of a new article with a different form, use and name from existing materials by a process popularly regarded as manufacturing. 'Manufacturing' includes but is not limited to:

- (a) Crushing, washing, grading and blending sand, rock, gravel and other minerals.
- (b) Ore dressing, including the mechanical preparation, by crushing and other processes, and the concentration, by flotation and other processes, of ore, and beneficiation, including but not limited to the preparation of ore for smelting."

A. Manufacturers

Types of businesses which are usually considered to be manufacturers include (this list is not all-inclusive):

Asphalt plants, bakeries, battery makers, breweries (including micro-breweries in brew-pubs) and soda water bottling plants, candy factories, cement and concrete plants, cheese cutting and repackaging plants, chemical processing plants, persons engaged in chemically treating wood, concrete block and tile producers, creameries and instant milk producers, dairies and cheese plants, dental labs, ductwork fabrication shops, electric generating companies, fertilizer plants, flour and feed mills including mobile units, food processing plants (canning and freezing), foundries and glass making plants, grain dryers,

hide curers, persons engaged in duplicating keys, limestone calcination plants, machine and equipment producers, malting plants, meat packing and processing plants, manufactured home and modular home factories (when not engaged in real property construction activities), motor vehicle and aircraft factories, oil refineries, paint factories, paper making plants, persons engaged in snowmaking for a ski hill, photofinishers, printers, sawmills, scrap processors, shoe and clothing factories, smelting and steel mills, tanneries, tool and die making plants, tire retreaders, persons engaged in crushing, washing, grading and blending sand, rock, gravel and other minerals, persons engaged in ore dressing, including the mechanical preparation, by crushing and other processes, and the concentration, by flotation and other processes, of ore, and the beneficiation, including but not limited to the preparation of ore for smelting, persons engaged in editing and duplicating video tapes, and persons engaged in heat treating and metal plating semi-finished products furnished by manufacturers.

B. Nonmanufacturers

Businesses which are not considered manufacturers include (this list is not all-inclusive):

Contractors (when engaged in real property construction activities and installing or repairing tangible personal property), farmers, fish hatcheries, freezer and locker plants, highway truckers, hotels, laundries and dry cleaners, repair persons, restaurants, television and radio stations, and persons engaged in: corn shelling, experimental and development activities, logging and forestry operations, paper recycling, photography, popping corn, the business of raising and breeding animals, real property construction activities, custom slaughtering of animals and vending machine operations.

C. Exemption for Manufacturing Machines and Specific Processing Equipment:

Machines and specific processing equipment and repair parts or replacements thereof and safety attachments for such machines and equipment may be purchased exempt from tax if such items are used

exclusively and directly by a manufacturer in manufacturing tangible personal property.

D. Exemption for Ingredients, Component Parts, and Consumable Items:

Effective August 1, 2009, items are exempt from Wisconsin sales and use tax if the items are used exclusively and directly by a manufacturer in manufacturing an article of tangible personal property that is destined for sale and that become an ingredient or component part of the article of tangible personal property or which are consumed, destroyed, or lose their identity in manufacturing the article of tangible personal property destined for sale, except for fuel and electricity consumed in manufacturing tangible personal property.

Note: Prior to August 1, 2009, the exemption was for items which became an ingredient or component part of an article of tangible personal property or which were consumed, destroyed, or lost their identity in the manufacture of tangible personal property in any form destined for sale, except for fuel and electricity consumed in manufacturing tangible personal property.

The exemption does not apply to fuel and electricity (currently as well as prior to August 1, 2009), except that the following are exempt:

1. Tangible personal property, including fuel and electricity, that becomes an ingredient or component part of, or is consumed, destroyed, or loses its identity in the manufacture of shoppers guides, newspapers, or periodicals is exempt, regardless of whether or not the shoppers guides, newspapers, or periodicals are destined for sale.
2. Effective January 1, 2006, fuel and electricity consumed in manufacturing tangible personal property in Wisconsin, regardless of whether the property manufactured is destined for sale.

Note: Although most manufacturers could not purchase fuel or electricity exempt from sales and use tax prior or January 1, 2006, they could reduce their Wisconsin franchise or income taxes by claiming a credit for sales and use tax paid on fuel and electric-

ity consumed in manufacturing tangible personal property in Wisconsin. Unused credits may be carried forward for 20 taxable years. The manufacturer's sales tax credit may not be claimed for taxable years that begin after December 31, 2005. See pages 24-30 of *Wisconsin Tax Bulletin* #138 (April 2004) for additional information, which can be accessed at www.revenue.wi.gov/ise/wtb/138tr.pdf.

Caution: Fuel and electricity "consumed in manufacturing" means only fuel and electricity used to operate machines and equipment used directly in the step-by-step manufacturing process. Fuel and electricity are not "consumed in manufacturing" if they are used in providing plant heating, cooling, air conditioning, communications, lighting, safety and fire prevention, research and product development, receiving, storage, sales, distribution, warehousing, shipping, advertising or administrative department activities. However, fuel and electricity used directly in manufacturing steam which is used by the manufacturer in further manufacturing or in heating a facility, or both, is consumed in manufacturing.

Examples of ingredients or component parts qualifying for the exemption are neon or argon gases used as a filler in the production of light bulbs. Welding rods which become a component part of the product manufactured may also be purchased exempt from tax.

Examples of items which are consumed, destroyed or lose their identity are acids, chemicals, cleaning compounds, and solvents for maintaining manufacturing machinery, cutting or lubricating oils, greases, lapping and grinding compounds, sandpaper, and gases and wood used to smoke products.

The exemption does not apply to purchases of employee wearing apparel and gloves worn for the comfort or welfare of the employee. However, wearing apparel consumed during the manufacturing process which prevents contamination of the product produced is exempt from tax.

For more information about how the sales and use tax law applies to manufacturers, obtain [Publication 203](#), *Sales and Use Tax Information for Manufacturers*.

Also, rules which may be of interest to manufacturers include secs. Tax 11.15, Wis. Adm. Code, "Containers and other packaging and shipping materials," 11.38, Wis. Adm. Code "Fabricating and processing," 11.39, Wis. Adm. Code "Manufacturing," 11.40, Wis. Adm. Code "Exemption of machines and processing equipment," and 11.41, Wis. Adm. Code "Exemption of property consumed or destroyed in manufacturing."

XV. SELLING A BUSINESS OR BUSINESS ASSETS

The sale of business assets consisting of tangible personal property (for example, equipment, furniture, and fixtures) is subject to sales tax if you hold or are required to hold a seller's permit at the time of sale, except that the sale is exempt if both of the following conditions are met:

- a. The sale is of personal property (other than inventory held for sale) previously used by the seller to conduct its trade or business at a location.
- b. The sale occurs after the seller ceased operating the business at that location.

A sale meeting the above two conditions is exempt from sales and use taxes even though the seller holds a seller's permit for one or more other locations.

Situations involving the sale of business assets which are subject to tax include:

- Selling inventory of a continuing business. (The purchaser may be able to purchase the inventory without tax for resale.)
- Sales of motor vehicles, boats, snowmobiles, mobile homes not exceeding 45 feet in length, trailers, semitrailers, all-terrain vehicles, or aircraft. (Unless the seller is a dealer of such property, the seller will not collect the tax on the sales. (The purchaser will pay tax upon registration of the property.)

Refer to sec. Tax 11.34, Wis. Adm. Code, "Occasional sales exemption for sale of a business or business assets," for more information.

XVI. OCCASIONAL SALES

The “occasional sales” of property and services may be taxable or exempt as described below.

A. Exempt Occasional Sales By Nonprofit Organizations: Sales by neighborhood associations, churches, social clubs, civic groups, garden clubs, and other nonprofit organizations which conduct one or more fund raising events during the year are exempt occasional sales if certain conditions are met.

The sales of tangible personal property and services, including admissions or tickets to an event, conducted by a nonprofit organization are exempt occasional sales if: (1) the aggregate payments for entertainment does not exceed \$500* at an event for which an admission is charged, (2) the organization is not engaged in a trade or business, and (3) the organization does not have and is not required to have a seller’s permit.

An organization is deemed to be engaged in a trade or business if its sales of tangible personal property or services or its events occur on more than 20 days during the year. For events involving the sale of tickets, only the actual days of the events are counted for the 20-day standard (not the days of ticket sales). However, if an organization’s receipts do not exceed \$25,000* for the year, it is not considered to be engaged in a trade or business even if its sales and/or events exceed 20 days.

*The standards (1) relating to the payment for entertainment at an admission event, and (2) relating to a nonprofit organization’s receipts were increased to \$500 and \$25,000, respectively, effective January 1, 2006. Under prior law, the entertainment standard was \$300, and the standard relating to a nonprofit organization’s receipts was \$15,000.

A nonprofit organization whose gross receipts have become taxable because it has exceeded the above standards must obtain a seller’s permit and pay taxes on all taxable receipts received after it is required to obtain that permit.

If an organization later becomes eligible for the occasional sale exemption except for its possession of a seller’s permit, it may inactivate its permit. Sales

of tangible personal property and taxable services are subject to Wisconsin sales or use tax until the permit is inactivated. An organization may inactivate its seller’s permit by sending an e-mail message stating that the permit should be inactivated. The e-mail should include the reason for inactivation, the organization’s tax account number, and the day on which the inactivation will be effective. This e-mail should be sent to sales10@revenue.wi.gov.

IMPORTANT: An organization is liable for Wisconsin sales or use tax on all of its Wisconsin sales of tangible personal property and taxable services if the organization holds or is required to hold a seller’s permit, unless an exemption applies (for example, sale to a federal governmental agency).

For additional information on exempt occasional sales by nonprofit organizations, see [Publication 206](#), *Sales Tax Exemption for Nonprofit Organizations*. Also refer to sec. Tax 11.35, Wis. Adm., Code, “Occasional sales by nonprofit organization, for more information.”

B. Sales by Auction: Sales by an auctioneer of personal household goods and personal farm property if the auctioneer has five or fewer auctions at that location during the year are exempt occasional sales. For indoor locations, “location” means a building, except that in the case of a shopping center or shopping mall, “location” means a store.

Refer to [Publication 217](#), *Auctioneers – How Do Wisconsin Sales and Use Taxes Affect your Operations?*, for more information.

C. Sales Which Are Not “Occasional Sales”: The following transactions are not exempt occasional sales, but rather are taxable sales:

- Sales by a person who holds or is required to hold a seller’s permit. For example, sales of used equipment by a retail store or vending machine operator are taxable.
- The sale of a business or the assets of a business when the seller holds or is required to hold a seller’s permit and does not qualify for the occasional sale exemption (see Part XV). The tax applies to the portion of the gross receipts

attributable to the personal property, such as equipment, furniture, and fixtures.

- Sales made by persons who hold themselves out to the public as engaged in business, even though their sales may be few and infrequent. This includes the sales of works of art, hand-made articles, antiques, or used property by artists or others who are pursuing a vocation or part-time business as a seller of such property.

Exception: Sales of tangible personal property or taxable services by a person not otherwise required to hold a seller's permit, if the total taxable gross receipts from sales of tangible personal property and taxable services are less than \$1,000 during the calendar year, are occasional sales.

Additional information regarding the occasional sale exemption can also be found in a tax release published in *Wisconsin Tax Bulletin* #122 (October 2000), pages 30-37, which can be accessed from the department's web site at www.revenue.wi.gov/ise/wtb/index.html.

- Sales of bingo supplies and cards by persons conducting bingo games.
- Sales by persons engaged primarily in the business of making nontaxable sales of personal property, such as manufacturers, wholesalers, and grocers. Since these persons are in the business of selling tangible personal property, the fact that only a small fraction of their total sales are taxable retail sales does not make these sales exempt occasional sales.

D. Occasional Sales of Motor Vehicles, Boats, Etc., Are Taxable: Occasional sales of motor vehicles, boats, snowmobiles, mobile homes 45 feet or less in length, trailers, semitrailers, all-terrain vehicles, and aircraft are taxable unless sold to the spouse, parent, stepparent, father-in-law, mother-in-law, child, stepchild, daughter-in-law or son-in-law, of the seller, and then only when the unit was previously registered or titled in Wisconsin in the name of the seller.

The purchaser must pay any tax due at the time the unit is registered or titled for use in Wisconsin. The purchaser of a motor vehicle, mobile home, trailer,

or semitrailer files Form MV-1, "Application for Title/Registration" with the Department of Transportation and pays any tax due. The purchaser of an aircraft pays any tax due to the Department of Transportation with the "Application for Aircraft Registration or Exemption." The purchaser of a boat, snowmobile, or all-terrain vehicle pays the tax to the Department of Natural Resources (or Lac du Flambeau Band for snowmobiles or all-terrain vehicles registered with the Lac du Flambeau Band) at the time the boat, snowmobile, or all-terrain vehicle is registered with that department.

Filing an incorrect return due to neglect may result in a penalty of 50% of the tax finally determined.

XVII. DIRECT PAY

Eligible persons may purchase certain tangible personal property or taxable services without Wisconsin sales or use tax using a direct pay permit. If the tangible personal property or taxable services are stored, used, or consumed in Wisconsin in a taxable manner, the purchaser must report Wisconsin use tax on the purchase price of the property or service.

A. Who Is Eligible for Direct Pay? The Department of Revenue will issue a direct pay permit to an applicant at the beginning of the applicant's taxable year, if the following seven requirements are met:

1. Because the nature of the applicant's business, issuing the permit will significantly reduce the work of administering the sales and use taxes;
2. The applicant's accounting system will clearly indicate the amount of tax the applicant owes;
3. The applicant makes enough taxable purchases to justify the expense of regular audits by the Department of Revenue;
4. The applicant is not liable under ch. 71, 72, 76, 77, 78, or 139, Wis. Stats., for delinquent taxes (including costs, penalties, surcharges, and interest) of \$400 or more if any part of the tax is delinquent for at least five months;
5. It is in the state's best interests to issue the permit;

- 6. The applicant purchases enough tangible personal property under circumstances that make it difficult to determine whether the property will be subject to sales or use tax; and
- 7. The applicant holds a valid business tax registration certificate under sec. 73.03(50), Wis. Stats.

B. How to Apply for a Direct Pay Permit: [Form S-101](#), *Application For Direct Pay Permit*, may be obtained by writing to or calling Wisconsin Department of Revenue, P.O. Box 8949, Madison, WI 53708-8949 (telephone (608) 266-2776).

C. Additional Information: Obtain a copy of sec. Tax 11.13, Wis. Adm. Code, for more information about direct pay.

XVIII. COUNTY AND STADIUM SALES AND USE TAXES

A. Introduction

1. County Sales and Use Taxes

There is a 0.5% county sales and use tax in 61 counties. Listed below are the 61 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.)

Counties With County Tax

County	Effective Date	County	Effective Date
Adams (01)	1/1/94	Marathon (37)	4/1/87
Ashland (02)	4/1/88	Marinette (38)	10/1/01
Barron (03)	4/1/86	Marquette (39)	4/1/89
Bayfield (04)	4/1/91	Milwaukee (40)	4/1/91
Buffalo (06)	4/1/87	Monroe (41)	4/1/90
Burnett (07)	4/1/89	Oconto (42)	7/1/94
Chippewa (09)	4/1/91	Oneida (43)	4/1/87
Clark (10)	1/1/09	Ozaukee (45)	4/1/91
Columbia (11)	4/1/89	Pepin (46)	4/1/91
Crawford (12)	4/1/91	Pierce (47)	4/1/88
Dane (13)	4/1/91	Polk (48)	4/1/88
Dodge (14)	4/1/94	Portage (49)	4/1/89
Door (15)	4/1/88	Price (50)	1/1/93
Douglas (16)	4/1/91	Richland (52)	4/1/89
Dunn (17)	4/1/86	Rock (53)	4/1/07
Eau Claire (18)	1/1/99	Rusk (54)	4/1/87
Florence (19)	7/1/06	St. Croix (55)	4/1/87
Forest (21)	4/1/95	Sauk (56)	4/1/92
Grant (22)	4/1/02	Sawyer (57)	4/1/87
Green (23)	1/1/03	Shawano (58)	4/1/90
Green Lake (24)	7/1/99	Taylor (60)	7/1/99
Iowa (25)	4/1/87	Trempealeau (61)	10/1/95
Iron (26)	4/1/91	Vernon (62)	1/1/97
Jackson (27)	4/1/87	Vilas (63)	4/1/88
Jefferson (28)	4/1/91	Walworth (64)	4/1/87
Juneau (29)	4/1/92	Washburn (65)	4/1/91
Kenosha (30)	4/1/91	Washington (66)	1/1/99
La Crosse (32)	4/1/90	Waupaca (68)	4/1/89
Lafayette (33)	4/1/01	Waushara (69)	4/1/90
Langlade (34)	4/1/88	Wood (71)	1/1/04
Lincoln (35)	4/1/87		

There is **no** county sales and use tax in the following 11 Wisconsin counties.

Counties Without County Tax

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

*The County of Fond du Lac has notified the Department of Revenue that, effective April 1, 2010, the 0.5% county tax will also be imposed in Fond du Lac County.

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 [Form ST-12](#), *Wisconsin*

Sales And Use Tax Return, filed with the Department of Revenue.

Retailers who report sales and purchases subject to county sales and use tax in more than four counties must complete and submit a separate Schedule CT with the Form ST-12 they file. Schedule CT lists all counties that have adopted the county tax.

The department, after receiving the county tax from retailers, then makes monthly distributions of the county tax revenues to the counties which adopted the tax.

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.

A retailer that is not engaged in business in a taxable county may voluntarily collect, report, and remit the county and special district taxes on its sales in a taxable county. However, a retailer who voluntarily collects county or special district tax on sales in one county in which it is *not* engaged in business must collect the applicable tax on *all* sales subject to county and/or special district taxes. The retailer must continue to collect such taxes on *all* sales subject to county and/or special district taxes, unless it *completely* stops voluntarily collecting county and special district taxes for *all* of its sales in counties in which it is not engaged in business.

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
- Ozaukee
- Racine
- Washington
- Waukesha

The baseball stadium tax was created for the purpose of assisting in the development of a professional baseball park in Wisconsin.

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.

Note: Beginning January 1, 2010, the Department of Transportation may issue special license plates to persons interested in expressing their support of a major league professional baseball team that uses as its home field baseball park facilities that are constructed under the local professional baseball park district. Any money distributed to the baseball park district from the sale of such plates must be used exclusively to retire the district’s debt.

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 in 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) as described in Part D.

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. Please see *Caution* at the end of Part XVIII.A.1.

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: 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: 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 Milwaukee county and baseball stadium sales taxes of \$7.50 and \$1.50, respectively.

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, other than (1) mobile telecommunications services billed on or after August 1, 2002, and (2) prepaid telecommunications services, have a “*situs*” where the customer is billed for the service if the customer calls collect or pays by credit card.
- Mobile telecommunications services, other than prepaid mobile telecommunications services, have a “*situs*” at the customer’s place of primary use, regardless of where the mobile telecommunications services originate, terminate, or pass through (customer bills issued on or after August 1, 2002). “Place of primary use” means the street address representative of where the customer’s use of the mobile telecommunications service primarily occurs, which must be: (1) the residential street address or the primary business street address of the customer, and (2) within the licensed service area of the home service provider.
- Prepaid mobile telecommunications services have a “*situs*” as follows: (1) if the sale takes place at a retailer’s place of business, the *situs* of the sale is that place of business; (2) if the sale does not take place at a retailer’s place of business and an item that will implement the right to purchase telecommunications services (for example, calling card) is shipped, the *situs* of the sale is the customer’s shipping address; or (3) if the sale does not take place at a retailer’s place of business and no item that will implement the right to purchase telecommuni-

cations services is shipped, the situs of the sale is the customer's billing address.

- 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 which 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. When Do the County and Stadium Use Taxes Apply?

1. General

A 0.5 % county use tax, a 0.1% baseball stadium use tax, or 0.5% football stadium use tax are imposed on the sales price of tangible personal property stored, used, or consumed in a county with a county tax or a stadium district, with the following exceptions

2. Exceptions

- No county use tax will be imposed if (a) a receipt indicates county sales taxes have been paid, or (b) county use tax has been paid as described in the "Contractors" and "Motor Vehicles, Boats, Etc." parts that follow.

No baseball stadium use tax will be imposed if (a) a receipt indicates baseball stadium sales taxes have been paid, or (b) baseball stadium use tax has been paid as described in the "Contractors" and "Motor Vehicles, Boats, Etc." parts that follow.

No football stadium use tax will be imposed if (a) a receipt indicates football stadium sales taxes have been paid, or (b) football stadium use tax has been paid as described in the "Contractors" and "Motor Vehicles, Boats, Etc." parts that follow.

No county use tax will be imposed if the buyer purchased property in a sale consummated in a Wisconsin county that does not have a county tax and the property is later brought by the buyer into a county with a county tax. See the exceptions for "Contractors" and "Motor Vehicles, Boats, Etc." that follow.

No baseball stadium use tax will be imposed if the buyer purchased property in a sale consummated in a Wisconsin county that does not have a baseball stadium tax and the property is later brought by the buyer into the baseball stadium district.

No football stadium use tax will be imposed if the buyer purchased property in a sale consummated in a Wisconsin county that does not have a football stadium tax and the property is later brought by the buyer into the football stadium district.

See the exceptions for "Contractors" and "Motor Vehicles, Boats, Etc." that follow.

- If the buyer paid sales or use taxes in another state on the purchase of the same property or services, that tax may be credited against the county and stadium use taxes.

For additional information about credit for taxes paid to another state, see the tax release titled "Credit for Sales and Use Taxes Paid to Other States and Their Local Units of Government," which was published on pages 28-49 of *Wisconsin Tax Bulletin* #157 (July 2008). This tax release can be accessed at www.revenue.wi.gov/ise/wtb/2008.html.

3. Contractors

County and stadium use taxes are imposed upon a contractor engaged in construction activities in a county with a county tax and a stadium district, on the sales price of tangible personal property that is used in constructing, altering, repairing, or improving real property and that becomes a component part of real property in

any of the counties with a county tax and in a stadium district.

Sales and use tax paid in another state may be allowed as a credit in computing the Wisconsin county and stadium use taxes. For additional information about credit for taxes paid to another state, see the tax release titled “Credit for Sales and Use Taxes Paid to Other States and Their Local Units of Government,” which was published on pages 28-49 of *Wisconsin Tax Bulletin* #157 (July 2008). This tax release can be accessed at www.revenue.wi.gov/ise/wtb/2008.html.

If the buyer has paid a football stadium tax on the purchase of tangible personal property or taxable services, that tax may be credited against the baseball stadium tax and vice versa. However, if a buyer paid a Wisconsin county tax on the purchase of the property or services, that tax may not be credited against the baseball or football stadium use tax. Similarly, if a buyer paid a Wisconsin football or stadium tax on the purchase of tangible personal property or taxable services, that tax may not be credited against the county use tax.

4. Motor Vehicles, Boats, Etc.

County and stadium use taxes are imposed upon every motor vehicle, boat, snowmobile, mobile home 45 feet or less in length, trailer, semi-trailer, all-terrain vehicle, or aircraft, if (a) that property must be registered or titled with the State of Wisconsin, and (b) that property is to be customarily kept in a county with a county tax and/or a stadium district.

Purchases of motor vehicles, etc. from non-dealers: The buyer of the motor vehicle, boat, etc., that is taxable must remit the 5% state use tax, 0.5% county use tax, and 0.1% or 0.5% stadium use tax to the state agency at the time of registering or titling with the state agency.

Example: “A” buys a car for \$5,000 from “B,” who is not a motor vehicle dealer. “A” is a resident of a Milwaukee County and will keep the car at his residence. “A” must file an Application for Title/Registration (Form MV-1) with

the Department of Transportation and include with this form the 5% state use tax of \$250, the 0.5% county use tax of \$25, and the 0.1% baseball stadium use tax of \$5.

Purchases from dealers: The dealer (seller) of motor vehicles, boats, etc., must collect the state sales tax and the county and stadium use taxes from the buyer.

Example: “A” (the resident of Milwaukee County) buys a car for \$5,000 from “C,” who is a motor vehicle dealer in a county which does not have the county or stadium tax. “C” must remit the 5% state sales tax of \$250, the county use tax of \$25, and the baseball stadium use tax of \$5 to the Department of Revenue.

Rentals of motor vehicles, etc.: Retailers, regardless of whether or not they are dealers of motor vehicles, boats, etc., must report the county and stadium sales and use tax from the rentals of such property on their sales and use tax return and remit the 5% state tax, 0.5% county tax, and 0.1% or 0.5% stadium tax to the Department of Revenue on such rentals.

E. Transitional Provisions

1. Services

Services subject to the 5% state sales tax are not subject to the county or stadium tax if those services are billed to the customer and paid for before the effective date of the county or stadium tax, regardless of whether the services are furnished to the customer before or after the effective date of the county or stadium tax.

2. Sales of Tangible Personal Property (except construction materials used in real property construction – see 4. below)

Sales of tangible personal property before the effective date of the county or stadium tax are not subject to the county or stadium sales or use tax.

A sale takes place when the seller or the seller’s agent transfers possession of the tangible personal property to the buyer or the buyer’s agent,

regardless of when the tangible personal property was paid for or ordered.

Example: On December 20, 2008, Individual A places an order for an automobile with Dealership B. The automobile is not available for delivery until January 15, 2009. Individual A picks up the vehicle from Dealership B on January 16, 2009. If County C (where Individual A will customarily keep the automobile) adopts the county tax effective January 1, 2009, the sale of the automobile to Individual A is subject to the County C tax. The sale of the automobile took place on January 16, 2009 when Individual A received possession, which is after the effective date of the County C tax (January 1, 2009).

3. Leases of Tangible Personal Property

The lessor's rental receipts from tangible personal property that the lessor is obligated to furnish at a fixed price under a contract entered into before the effective date of the county or stadium tax, are not subject to the county or stadium sales tax until the contract is terminated, extended, renewed, or modified. However, the lessee is subject to the county and stadium use taxes on these lease or rental payments beginning on the effective date of the county or stadium tax, except when the lessor voluntarily reports the tax on such receipts for the convenience of the customer or when the lessor collects the tax because the contract is modified.

4. Construction Materials

Sales of building materials to contractors engaged in the business of constructing, altering, repairing, or improving real estate for others are not subject to the county or stadium taxes if (1) the materials are affixed and made a structural part of real estate, and (2) the amount payable to the contractor is fixed without regard to the costs incurred in performing a written contract that was irrevocably entered into prior to the effective date of the county or stadium tax, or that resulted from the acceptance of a formal written bid accompanied by a bond or other performance guaranty that was irrevoca-

bly submitted before the effective date of the county or stadium tax.

F. Collecting County and Stadium Tax From Customers

Read Part VI which explains how the 5% state tax, 0.5% county tax, and 0.1% and 0.5% stadium taxes are collected from customers.

G. Sales and Use Tax Return Requires County and Stadium Tax Data

Retailers engaged in business in a county with a county tax or a stadium district must 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.

Retailers who report sales and purchases subject to county sales and use tax for four or less counties should fill in the first five letters of the counties and county codes with the appropriate sales and purchases for those counties on [Form ST-12](#). **Exception:** Enter GLAKE for Green Lake County.

Retailers who report sales and purchases subject to county sales and use tax for more than four counties must complete and submit a separate Schedule CT with the Form ST-12 they file. Schedule CT lists all counties that have adopted the county tax.

H. Seller's Permits

No additional seller's permit is required by a retailer for the county and stadium taxes.

I. Audits, Appeals, Collections, Etc.

The Wisconsin Department of Revenue has authority to audit persons to determine if they reported and paid the correct county and stadium taxes, to impose interest and penalties related to such taxes, and to collect any unpaid county and stadium taxes. Interest rates on refunds and unpaid county and stadium taxes are the same as the rates that apply to the 5% state sales and use taxes. A county and stadium district may not intervene in any matter related to the audit, appeal, or collection of any county and stadium sales and use taxes.

XIX. YOU MAY BE AUDITED

If you are in business, an auditor from the Department of Revenue may visit you. Don't be alarmed, as many taxpayers are audited to determine if they paid the correct amount of income, corporate, withholding, and sales and use taxes.

You will be notified prior to any audit so that a convenient time can be arranged to examine your records. As a taxpayer, you are required to make available your records for sales and use tax as well as your records for other taxes. To perform the audit, it will be necessary for the auditor to examine these records. Don't hesitate to ask any questions of the auditor.

If the audit results show that you have not paid the proper amount of tax, the department will issue you a written notice indicating the amount of tax you owe or overpaid. As a taxpayer you have the right to appeal if you disagree with the audit. The notice from the department will explain the procedures for appealing.

XX. OTHER TAXES AND FEES TO BE AWARE OF

If you have business activities or earn income in Wisconsin, you also may be subject to Wisconsin taxes other than sales and use taxes. Although the information below is not intended to be all-inclusive, it may help you in obtaining information about other Wisconsin taxes.

A. Individual Income Tax: Every person who is a resident of Wisconsin and who has gross income of more than a certain amount is subject to Wisconsin income taxes, regardless of where the income is earned.

A person who is a nonresident of Wisconsin is subject to Wisconsin income taxes if he or she has gross income of \$2,000 or more from personal services performed in Wisconsin or from business or property in Wisconsin.

For more information, write to: Wisconsin Department of Revenue, P.O. Box 8949, Madison, WI 53708-8949.

B. Corporation Income or Franchise Tax: Every corporation organized under the laws of Wisconsin or licensed to do business in Wisconsin (except certain organizations exempt under sec. 71.26(1), Wis. Stats.) is required to file a Wisconsin corporate franchise or income tax return, regardless of whether or not business was transacted. Unlicensed corporations are also required to file returns for each year they do business or have certain business activities in Wisconsin.

For more information, write to: Wisconsin Department of Revenue, P.O. Box 8906, Madison, WI 53708-8906.

C. Withholding: If an employer has employees in Wisconsin, the employer may be required to withhold Wisconsin income taxes from the employees' wages. An employer required to withhold must apply for a withholding registration certificate from the department.

For more information, write to: Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708-8902.

D. Estimated Tax for Individuals: Estimated income tax payments are required if you expect to owe \$200 or more of income tax with your income tax return. The estimated tax requirement applies to full-year residents, part-year residents, and nonresidents. An interest charge may be imposed if you fail to make these payments.

For more information, write Wisconsin Department of Revenue, Mail Stop 3-164, P.O. Box 8903, Madison, WI 53708-8903 or call any department office. The Madison office telephone number is (608) 266-9940.

E. Estimated Tax for Corporations: Corporations must make estimated income or franchise tax payments if their current year tax liability will be \$500 or more, unless they owed no tax for the previous twelve-month tax year.

For more information, write Wisconsin Department of Revenue, Mail Stop 3-138, P.O. Box 8906, Madison, WI 53708-8906 or call any department office. The Madison office telephone number is (608) 266-0800.

F. Unemployment and Worker's Compensation:

For more information on these taxes write to: Wisconsin Department of Workforce Development, P.O. Box 7901, Madison, WI 53708-7901.

G. Motor Vehicle Alternate Fuel Tax: An alternate fuel tax is imposed on all compressed natural gas (CNG) fuel or liquid propane (LPG) placed into the supply tank of a motor vehicle. If you purchase CNG or LPG for heating and use this fuel in your truck or automobile, you must obtain an Alternate Fuel Users License and pay the tax directly to the Department of Revenue.

If you sell or purchase alternate fuel and have questions about the alternate fuel tax, write to: Wisconsin Department of Revenue, Mail Stop 5-107, P.O. Box 8906, Madison, Wisconsin 53708-8900.

H. Local Exposition Taxes: Persons selling lodging, food, or beverages or renting automobiles in municipalities located wholly or partially in Milwaukee County are subject to local exposition taxes. For more information, obtain Wisconsin [Publication 410](#), *Local Exposition Taxes*, from any Department of Revenue office.

I. Dry Cleaner Fees: Any person operating a dry cleaning facility in Wisconsin is subject to dry cleaning fees. Dry cleaner fees are due in installments payable on or before April 25, July 25, October 25, and January 25. The amounts must be equal to 2.8%* of the previous three months' gross receipts from dry cleaning apparel and household fabrics, but not from formal wear that the facility rents to the general public. In addition, a fee of \$5 per gallon of perchloroethylene sold, and \$0.75 per gallon of any other dry cleaning product sold, is imposed.

*Prior to the quarterly payment due April 25, 2008, the dry cleaning fee was 1.8% (rather than 2.8%).

For more information, contact the Department of Revenue in Madison as provided in Part XXII of this publication.

J. Police and Fire Protection Fees (effective September 1, 2009): Every communications provider and retailer required to impose the police and fire

protection fee must register with the Department of Revenue to report and remit the fees.

Communications providers are required to impose a monthly fee of \$0.75 on each communications service connection with an assigned telephone number, including a communication service provided via a Voice over Internet Protocol connection. Communications providers and other retailers who sell prepaid wireless telecommunications plans, such as a \$15 card for a prepaid wireless account, are subject to the \$0.38 fee on each *retail transaction for prepaid wireless telecommunications plans*.

The fees will be reported to the Department of Revenue on an electronic return on a monthly basis through the Department of Revenue's [My Tax Account](#) System. Returns will be due and payable on the last day of the month following the month in which the fees were collected.

For additional information, see the Department of Revenue's web page for the Police and Fire Protection Fee at www.revenue.wi.gov/html/pfprofefee.html.

K. Premier Resort Area Taxes: Persons selling tangible personal property or taxable services in the Village of Lake Delton*, the City of Wisconsin Dells*, the City of Bayfield, and the City of Eagle River (effective October 1, 2006) are subject to the 0.5% premier resort area tax on such sales if the persons are classified in the Standard Industrial Classification manual (1987 Edition) under certain numbers. For more information, obtain [Publication 403](#), *Premier Resort Area Taxes*, from any Department of Revenue office.

*The City of Wisconsin Dells and the Village of Lake Delton have notified the Department of Revenue that, effective January 1, 2010, the premier resort area tax will be increased from 0.5% to 1%. The City of Wisconsin Dells and the Village of Lake Delton were given the authority to increase the tax in 2009 Wis. Act 28.

L. Rental Vehicle Fee: Persons primarily engaged in the business of short-term rentals of vehicles without drivers are subject to a 5%* rental vehicle fee on rentals in Wisconsin of Type 1 automobiles,

mobile homes, motor homes, and camping trailers for periods of 30 days or less.

*Prior to October 1, 2005, the rental vehicle fee was 3%.

Persons providing limousines with drivers in Wisconsin are subject to a 5% limousine fee.

Refer to Wisconsin [Publication 202](#), *Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs*, for more information. If you have questions about the rental vehicle fee or limousine fee, write or call the Wisconsin Department of Revenue, P.O. Box 8949, Madison, WI 53708-8949 (telephone (608) 261-6261).

M. Regional Transit Authority – Rental Vehicle Fee (effective July 1, 2009): The \$2 per transaction regional transit authority fee on the short-term rental of vehicles in Kenosha, Racine, and Milwaukee was terminated, effective July 1, 2009. Effective July 1, 2009, the newly created Southeastern Regional Transit Authority may impose a vehicle rental fee of up to \$18 per vehicle rental.

Under prior law, persons primarily engaged in the short-term rental of vehicles without drivers are subject to a \$2 fee for each transaction within the region of Kenosha, Racine, and Milwaukee counties on the rental of Type 1 automobiles for periods of 30 days or less. The fee, which was effective June 1, 2006, is to be collected from the person to whom the passenger car is rented. The retailer that collects this fee is required to separately state the fee on the receipt that it provides to the rental customer.

For additional information about the \$2 Regional Transit Authority Fee, see pages 18-20 of *Wisconsin Tax Bulletin* #144 (September 2005), which can be accessed at www.revenue.wi.gov/ise/wtb/144law.pdf.

Effective July 1, 2009, the Southeastern Regional Transit Authority (SERTA) was created. The SERTA is authorized to impose a vehicle rental fee of up to \$18 per vehicle rental on the rental but not for re-rental and not for rental as a service or repair replacement vehicle, of Type 1 automobiles by establishments primarily engaged in short-term rental

of passenger cars without drivers, for a period of 30 days or less, unless the sale is exempt from sales taxes.

The fee is effective on the first day of the first month that begins at least 90 days after the board of directors of the SERTA approves the imposition of the fee and notifies the Department of Revenue. The SERTA board of directors also has the authority to adjust the fee for inflation.

At the date of publication, the SERTA had not notified the Department of Revenue of the required resolution needed to impose the fee. For additional information, see the article on pages 45-46 of *Wisconsin Tax Bulletin* #162 (July 2009), which can be accessed at

www.revenue.wi.gov/ise/wtb/162law.pdf.

N. Regional Transit Authorities – Sales and Use Taxes (effective July 1, 2009): Effective July 1, 2009, the creation of the following regional transit authorities was authorized: the Chequamegon Bay Regional Transit Authority, the Chippewa Valley Regional Transit Authority, and the Dane County Regional Transit Authority.

Once one of these regional transit authorities is created, that authority may impose a sales and use tax up to 0.5%, which will apply within the transit authority's jurisdictional area. The sales and use tax imposed by a transit authority is effective on the first day of the first calendar quarter that begins at least 120 days after adoption of the resolution by the transit authority that imposes the tax. The transit authority must notify the Department of Revenue at least 120 days prior to the effective date of the tax.

At the date of publication, only the Dane County Regional Transit Authority had been created. For additional information, see the article on pages 42-44 of *Wisconsin Tax Bulletin* #162 (July 2009), which can be accessed at www.revenue.wi.gov/ise/wtb/162law.pdf.

XXI. KEEPING AWARE OF NEW SALES AND USE TAX DEVELOPMENTS

If you are required to file sales and use tax returns, you should be aware of changes in the tax laws, new interpretations, and court cases which may affect how you file returns and compute the tax. Informational type aids available to you include:

A. Sales and Use Tax Report

The *Sales and Use Tax Report* is published one or more times each year by the Department of Revenue. It includes general information about sales and use tax, including new tax laws enacted by the legislature. These reports are available on the department's web site at www.revenue.wi.gov/ise/sales/index.html.

Notification of new reports will be sent to subscribers of the sales and use tax electronic mail list. See Part XXI.G.

B. Publications

You may obtain the following sales and use and other local tax publications from any Department of Revenue office or at www.revenue.wi.gov/html/taxpubs.html:

No.	Title
200	Electrical Contractors
202	Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs
203	Sales and Use Tax Information for Manufacturers
204	Sales and Use Tax Information for Colleges, Universities, and Technical Colleges
205	Use Tax Information for Individuals
206	Sales Tax Exemptions for Nonprofit Organizations
207	Sales and Use Tax Information for Contractors
209	Sales and use Tax Information for Wisconsin Counties and Municipalities

210	Sales and Use Tax Treatment of Landscaping
211	Cemetery Monument Dealers
212	Do You Owe Use Tax on Imported Goods? (Businesses)
214	Do You Owe Use Tax? (Businesses)
216	Filing Claims for Refund of Sales or Use Tax
217	Auctioneers
219	Hotels, Motels, and Other Lodging Providers
220	Grocers
221	Farm Suppliers and Farmers
222	Motor Vehicle Fuel Users: Do You Owe Use Tax?
223	Bakeries
224	Veterinarians
225	Beauty and Barber Shops
226	Golf Courses
228	Temporary Events
229	Brackets for Collecting Wisconsin Sales or Use Tax Paid on Retail Sales
230	Sales and Use Tax Information for Sellers of Antiques, Crafts, and Artwork
240	Digital Goods
403	Premier Resort Area Tax
405	Wisconsin Taxation of Native Americans
410	Local Exposition Taxes

C. Forms

You may obtain the following sales and use tax and other forms from any Department of Revenue office or at www.revenue.wi.gov/html/formpub.html.

No.	Title
BTR-101	Application for Business Tax Registration and Instructions
Schedule CT	County Sales and Use Tax Schedule

ST-12	Wisconsin Sales and Use Tax Return
S-240	Wisconsin Temporary Event Operator and Seller Information
UT-5	Consumer's Use Tax Return
S-213	Sales and Use Tax Bracket System
S-218	Sales & Use Tax Bracket Chart
S-220	Form BCR, Buyer's Claim for Refund
S-211	Wisconsin Sales and Use Tax Exemption Certificate
S-103	Application for Wisconsin Sales and Use Tax Certificate of Exempt Status
S-101	Application for Direct Pay

Additional information about certain forms, including detailed descriptions, can be found in *Appendix A*.

D. Wisconsin Tax Bulletin

The *Wisconsin Tax Bulletin* is a quarterly publication of the Department of Revenue, which is available on the department's web site at www.revenue.wi.gov, under the "Publications" tab. The Bulletin includes information on most taxes administered by the Department of Revenue, including sales and use, income, franchise, and excise taxes. It includes up-to-date information on new tax laws, interpretations of existing laws, and information on filing returns. It also gives brief excerpts of major Wisconsin tax cases decided by the Wisconsin Tax Appeals Commission and the courts.

Notification of new bulletins will be sent to subscribers of the sales and use tax electronic mail list. See Part XXI.G.

E. Rules - Wisconsin Administrative Code

The *Wisconsin Administrative Code* includes administrative rules that interpret the Wisconsin Statutes. Rules have the force and effect of law. The Department of Revenue has adopted a number of

rules pertaining to sales and use tax. A list of sales and use tax rules is found in *Appendix B*.

A subscription and update service, which provides all new Department of Revenue rules and changes to existing rules, may be purchased from Department of Administration Document Sales.

The administrative rules are also available for viewing on the Revisor of Statutes web site at www.legis.state.wi.us/rsb/code/tax/tax011.pdf.

F. Topical and Court Case Index

The *Topical and Court Case Index* is a two-part index. The first part (a Topical Index) will help you find the particular Wisconsin statute, administrative rule, Wisconsin Tax Bulletin tax release, publication, private letter ruling, or Attorney General opinion that deals with your particular tax question. The second part of the index (a Court Case Index) lists Wisconsin Tax Appeals Commission, Circuit Court, Court of Appeals, and Wisconsin Supreme Court decisions relating to your question. The *Topical and Court Case Index* is available on the department's web site at www.revenue.wi.gov under the "Publications" tab.

G. Electronic Mail Lists

The Department of Revenue has several electronic mailing lists available to the public. The goal is to provide communication from the department to list members on information and news specific to the respective list they have signed up for.

For additional information or to subscribe, go to www.revenue.wi.gov/html/lists.html.

XXII. 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 8949, Mail Stop 5-77
Madison, WI 53708-8949

Telephone . . . (608) 266-2776

Fax . . . (608) 267-1030

E-Mail . . . sales10@revenue.wi.gov

Visit our web site . . . www.revenue.wi.gov

You may also contact any of the Department of Revenue offices. For a listing of offices and their current hours, please see the department's web site at www.revenue.wi.gov/faqs/ise/address.html.

**XXIII. BUSINESS DEVELOPMENT
ASSISTANCE – DEPARTMENT
OF COMMERCE PERMIT
INFORMATION CENTER**

If you have questions about what other permits may be needed for your business, or need assistance in obtaining a permit, call the Permit Information Center at 1-800-HELPBUS (435-7287).

SALES AND USE TAX FORMS

The forms and certificates listed below pertain to Wisconsin sales and use taxes. The number in parenthesis after the title is the form number. Copies of these forms may be obtained from any Department of Revenue office, by calling (608) 266-1961, from the Department of Revenue's Internet site at www.revenue.wi.gov or by writing Wisconsin Department of Revenue, P.O. Box 8949, Madison, WI 53708-8949.

I. SALES/USE TAX RETURNS FILED WITH DEPARTMENT OF REVENUE OR ANOTHER STATE AGENCY

- **Wisconsin Sales and Use Tax Return** – Form ST-12 (S-012) - filed by a person who has a seller's permit, use tax certificate or consumer's use tax certificate and has received a waiver from filing an electronic return (see Part VIII.A.). Also used as an amended return to correct an error on a Form ST-12 previously filed with the Department of Revenue.
- **Consumer Use Tax Return** – Form UT-5 (SU-050) - filed with Department of Revenue by a person who is not required to be registered for consumer's use tax.
- **Buyer's Claim for Refund of Wisconsin State, County and Stadium Sales Taxes (BCR)** - filed with the Department of Revenue by a person who paid sales or use tax in error to a seller.
- **Aircraft Registration Application (DT-1556)** - filed with Department of Transportation by a Wisconsin aircraft dealer and by a person who purchases an airplane from someone who is not a dealer or from a seller located outside Wisconsin.
- **Application For Title/Registration (MV-1)** - filed with Department of Transportation by a Wisconsin motor vehicle dealer, and by a person who purchases a motor vehicle, mobile home, trailer, or semitrailer from a person who is not a Wisconsin dealer, as evidence that state and/or county sales tax has been paid or that the vehicle is exempt from tax.
- **Application for Title/Registration (9400-193, 9400-210 and 9400-376)** - filed with Department of Natural Resources by a person who purchases a boat, snowmobile, or all-terrain vehicle from someone who is not a dealer, or from a seller located outside Wisconsin.

II. EXEMPTION CERTIFICATES GIVEN TO SELLER BY BUYER

- **Wisconsin Sales and Use Tax Exemption Certificate (S-211)** - used by a buyer when purchasing property or services which are for resale or for which an exemption applies.

Note: Form S-211 is an expanded exemption certificate that replaces Forms S-016, S-017, S-205, S-206, S-207, S-207m, and S-209. Although these forms are no longer printed and distributed by the department, they are still valid as proof of exempt sales if properly completed and taken in good faith.

- **Construction Contract Entered Into Before Effective Date of County Tax (S-207CT)** - used by buyer (contractor) when purchasing materials under a written contract entered into prior to the date the county tax went into effect, allowing the buyer to purchase the materials without the 0.5% county sales tax.

III. OTHER FORMS

- **Application for Business Tax Registration (BTR-101)** - filed by a person applying for a seller's permit, use tax certificate, consumer's use tax certificate or employer's withholding registration.
- **Application for Certificate of Exempt Status (S-103)** - filed by a federal or Wisconsin governmental unit or a nonprofit religious, charitable, scientific, or educational organization which qualifies to purchase items exempt from tax.
- **Seller's Permit** - issued by Department of Revenue to a person who has been approved as a seller of tangible personal property or taxable services.
- **Use Tax Registration Certificate (S-201U)** - issued by Department of Revenue to a person (usually an out-of-state retailer) who conducts business activities in Wisconsin but is not otherwise registered for sales or use tax.
- **Sales and Use Tax Clearance Certificate** - issued by Department of Revenue to a purchaser (successor) of a business certifying that the seller of the business owes no sales and use tax.

SALES AND USE TAX RULES - WISCONSIN ADMINISTRATIVE CODE

APPENDIX B

Listed below are sales and use tax rules in effect as of September 30, 2009. The Wisconsin Administrative Code of the Department of Revenue and a subscription update service may be purchased by writing to: Wisconsin Department of Administration, Document Sales, Box 7840, 202 South Thornton Avenue, Madison, WI 53707-7840, telephone (608) 266-3358. Copies of individual sales and use rules may be obtained from any Department of Revenue office or are available for viewing on the Revisor of Statutes web site at www.legis.state.wi.us/rsb/code/tax/tax011.pdf.

CAUTION: An [emergency rule order](#) was drafted by the Wisconsin Department of Revenue to reflect the statutory changes made to conform Wisconsin's sales and use tax laws to the requirements of the Streamlined Sales and Use Tax Agreement (SSUTA). This emergency rule order is effective October 1, 2009. The Department is also in the process of promulgating permanent rules with respect to conforming its sales and use tax laws to the requirements of the SSUTA and anticipates holding two public hearings on the permanent rule in December 2009.

	General Provisions		
Tax 11.001	Forward and definitions	Tax 11.51	Grocers' guidelist
Tax 11.002	Registration	Tax 11.52	Coin-operated vending machines and amusement devices
Tax 11.01	Sales and use tax return forms	Tax 11.53	Temporary events
	Exempt Entities	Tax 11.535	Operators of a swap meet, flea market, craft fair or similar event
Tax 11.03	Schools and related organizations	Tax 11.54	Temporary amusement, entertainment, or recreational events or places
Tax 11.04	Constructing buildings for exempt entities	Tax 11.55	Agents, consignees, lienors and brokers
Tax 11.05	Governmental units	Tax 11.56	Printing industry
	Exemptions	Tax 11.57	Public utilities
Tax 11.08	Medical appliances, prosthetic devices and aids		Service Enterprises
Tax 11.09	Medicines	Tax 11.61	Veterinarians and their suppliers
Tax 11.11	Industrial or governmental waste treatment facilities	Tax 11.62	Barbers and beauty shop operators
Tax 11.12	Farming, agriculture, horticulture and floriculture	Tax 11.63	Radio and television stations
Tax 11.13	Direct pay	Tax 11.64	Background music
Tax 11.14	Exemption certificates	Tax 11.65	Admissions
Tax 11.15	Containers and other packaging and shipping materials	Tax 11.66	Telecommunication and CATV services
Tax 11.16	Common or contract carriers	Tax 11.67	Service enterprises
Tax 11.17	Hospitals, clinics and medical professions	Tax 11.68	Construction contractors
Tax 11.18	Dentists and their suppliers	Tax 11.69	Financial institutions
Tax 11.19	Printed material exemptions	Tax 11.70	Advertising agencies
	Gross Receipts	Tax 11.71	Computer industry
Tax 11.26	Other taxes in taxable gross receipts and sales price	Tax 11.72	Laundries, dry cleaners, and linen and clothing suppliers
Tax 11.27	Insurance and warranties		Types of Tangible Personal Property
Tax 11.28	Gifts and other advertising specialties	Tax 11.78	Stamps, coins and bullion
Tax 11.29	Leases and rentals of tangible personal property	Tax 11.79	Leases of highway vehicles and equipment
Tax 11.30	Credit sales, bad debts and repossessions	Tax 11.80	Sales of ice
Tax 11.32	"Gross receipts" and "sales price"	Tax 11.81	Industrial gases, welding rods and fluxing materials
	Occasional Sales	Tax 11.82	Mailing lists and mailing services
Tax 11.33	Occasional sales	Tax 11.83	Motor vehicles
Tax 11.34	Occasional sales exemption for sale of a business or business assets	Tax 11.84	Aircraft
Tax 11.35	Occasional sales by nonprofit organizations	Tax 11.85	Boats, vessels and barges
	Manufacturers and Producers	Tax 11.86	Utility transmission and distribution lines
Tax 11.38	Fabricating and processing	Tax 11.87	Meals, food, food products and beverages
Tax 11.39	Manufacturing	Tax 11.88	Mobile homes
Tax 11.40	Exemption of machines and processing equipment		Administrative Provisions
Tax 11.41	Exemption of property consumed or destroyed in manufacturing	Tax 11.91	Successor's liability
	Types of Retailers	Tax 11.92	Records and record keeping
Tax 11.45	Sales by pharmacies and drug stores	Tax 11.925	Sales and use tax security deposits
Tax 11.46	Summer camps	Tax 11.93	Annual filing of sales tax returns
Tax 11.47	Commercial photographers and photographic services	Tax 11.94	Wisconsin sales and taxable transportation charges
Tax 11.48	Landlords, hotels and motels	Tax 11.95	Retailer's discount
Tax 11.49	Service stations and fuel oil dealers	Tax 11.96	Delivery of ordinance, county and premier resort area tax
Tax 11.50	Auctions	Tax 11.97	"Engaged in business" in Wisconsin
		Tax 11.98	Reduction of delinquent interest rate under s. 77.62 (1), Stats.

SECTION TAX 11.92 - RECORDS AND RECORD KEEPING

Tax 11.92 Records and record keeping. (1) GENERAL. All persons selling, leasing or renting tangible personal property or taxable services and every person storing, using or otherwise consuming in Wisconsin tangible personal property or taxable services shall keep adequate and complete records so that they may prepare complete and accurate tax returns. These records shall include the normal books of account ordinarily maintained by a prudent business person, together with all supporting information such as beginning and ending inventories, records of purchases and sales, cancelled checks, bills, receipts, invoices which shall contain a posting reference, cash register tapes, credit memoranda which shall carry a reference to the document evidencing the original transaction or other documents of original entry which are the basis for the entries in the books of account, and schedules used in connection with the preparation of tax returns. These records shall show:

(a) The gross receipts from sales of tangible personal property or taxable services, or rentals or leases of tangible personal property, including any services that are a part of the sale or lease, made within Wisconsin even if the seller or lessor regards the receipts as taxable or nontaxable. Taxable gross receipts shall be reported on the accrual basis, except when the department is satisfied that an undue hardship would exist and authorizes reporting on some other basis.

(b) The basis for all deductions claimed in filing returns, including resale and exemption certificates obtained from customers. Exempt sales to governmental units and public schools need not be supported by exemption certificates, if the supplier retains a copy of the exempt entity's purchase order and the supplier's invoice or billing document. Sales to organizations holding a certificate of exempt status, CES, including religious or charitable organizations, can be shown to be exempt by recording the CES number on the seller's copy of the bill of sale. All other exempt sales shall be supported by an exemption certificate signed by the purchaser and retained by the seller, unless the merchandise sold is specifically exempted by statute regardless of use, such as groceries. Documents necessary to support claimed exemptions from tax liability, such as bills of lading and purchase orders, shall be maintained in a manner in which they readily can be related to the transaction for which exemption is sought.

(c) Total purchase price of all tangible personal property or taxable services purchased for sale or consumption or lease in Wisconsin.

(d) Every person subject to the county sales and use tax shall keep a record of sales the person completes in each county enacting an ordinance under s. 77.70, Stats., imposing a county tax, separately from sales made elsewhere in the state. Every person shall also keep a record of the sales price of items on which the person is subject to county use or excise tax in each enacting county.

(2) MICROFILM RECORDS. Microfilm, including microfiche, reproductions of general books of account, such as cash books, journals, voucher registers and ledgers, and supporting records of detail shall be acceptable if the following conditions are met:

(a) Appropriate facilities are provided for preservation of the films for periods required.

(b) Microfilm rolls are indexed, cross referenced, labeled to show beginning and ending numbers or beginning and ending alphabetical listing of documents included and are systematically filed.

(c) Transcriptions are provided for any information contained on microfilm which may be required for purposes of verification of tax liability.

(d) Proper facilities are provided for the ready inspection and location of the particular records, including adequate projectors for viewing and copying the records.

(3) RECORDS PREPARED BY AUTOMATED DATA PROCESSING (ADP) SYSTEMS. An automatic data processing, ADP, tax accounting system shall have the capability of producing visible and legible records which will provide the following necessary information for verification of the taxpayer's tax liability:

(a) *Recorded or reconstructible data.* ADP records shall provide an opportunity to trace any transaction back to the original source or forward to a final total. If detailed printouts are not made of transactions at the time they are processed, then the system must have the ability to readily reconstruct these transactions.

(b) *General and subsidiary books of account.* A general ledger, with source references, shall be written out to coincide with financial reports for tax reporting periods. Where subsidiary ledgers are used to support the general ledger accounts, the subsidiary ledgers shall also be written out periodically.

(c) *Audit trail and supporting documents.* The audit trail shall be designed so that the details underlying the summary accounting data may be identified and made available to the department upon request. The record keeping system should be so designed that supporting documents, such as sales invoices, purchase invoices, exemption certificates and credit memoranda, shall be readily available.

(d) *Program documentation.* A written description of the ADP portion of the accounting system shall be available. Important changes, together with their effective dates, shall be noted in order to preserve an accurate chronological record. The statements and illustrations as to the scope of operations shall be sufficiently detailed to indicate:

1. The application being performed.
2. The procedures employed in each application.
3. The controls used to ensure accurate and reliable processing.

(4) **RECORDS RETENTION.** The records shall be preserved and retained for the 4-year period open to audit under s. 77.59 (3), Stats. If any agreement is entered into to extend the 4-year audit period, the records shall be preserved for that extended period. If a notice of tax de-

termination has been issued to the taxpayer by the department and if the taxpayer files a petition for redetermination, the records for the period covered by the notice of the tax determination shall be preserved and retained until the tax redetermination has been finally resolved.

(5) **EXAMINATION OF RECORDS.** All records described in this section shall be made available for examination by the department at its request.

(6) **FAILURE TO MAINTAIN RECORDS.** In the absence of suitable and adequate records, the department may determine the amount of tax due by using any information available, whether obtained from the taxpayer's records or from any other source. Failure to maintain and keep complete and accurate records may result in penalties or other appropriate action provided by law

(7) **PENALTIES.** If the department has given notice to a person to keep certain sales and use tax records, and thereafter additional sales or use taxes are assessed on the basis of information not contained in the records, the department shall impose a penalty equal to 25% of the amount of sales or use tax assessed. This is in addition to all other penalties provided by law

Note: Section Tax 11.92 interprets ss. 77.51 (4) (d), 77.52 (13), 77.60 (8), 77.61 (4) (a) and (9) and 77.75, Stats.

Note: The interpretations in this s. Tax 11.92 are effective under the general sales and use tax law on and after September 1, 1969, except that the 25% penalty in sub. (7) became effective July 20, 1985, pursuant to 1985 Wis. Act 29.

History: Cr. Register, July, 1977, No. 259, eff. 8-1-77; emerg. cr. (1) (d), eff. 3-24-86; cr. (1) (d), Register, October, 1986, No. 370, eff. 11-1-86; am. (1) (intro.), (a), (b) and (c), (2) (intro.), (3) (intro.) and (c) and (4), cr. (7), Register, June, 1991, No. 426, eff. 7-1-91.

SECTION TAX 11.14 - EXEMPTION CERTIFICATES

Tax 11.14 Exemption certificates. (1) STATUTES. The sales tax status of exemption certificates is contained in s. 77.52 (13) to (17), Stats., and the use tax status of exemption certificates is contained in s. 77.53 (10) to (13), Stats.

(2) GENERAL. (a) Exemption certificates are signed by purchasers or lessees and are given to sellers or lessors to verify that a transaction is exempt. Sellers and lessors shall exclude from taxable gross receipts transactions for which they have accepted a valid exemption certificate in good faith from a purchaser. The department has provided retailers with the following 2 sales and use tax exemption certificates:

1. Wisconsin sales and use tax exemption certificate, form S-211. This is a multipurpose form which may be used for any sales and use tax exemption provided by law, except as provided in sub. (14). For direct pay, form S-211 may be used as the document described in s. Tax 11.13(5)(a)2. if all of the required information is included on the form S-211.

2. Construction contract entered into before the effective date of county/stadium tax, form S-207CT-1. This is a certificate which may be used by a contractor to purchase building materials without a county or stadium tax under the circumstances described in sub. (13).

(b) Use of an exemption certificate designed by the department is not required by law. A person may use a substitute exemption certificate if it contains all the essential information relating to the transaction and if it is in a form approved by the department. The law requires that the certificate be signed by and bear the name and address of the purchaser and that it indicate the general character of the property or service being purchased and the basis of the claimed exemption.

(c) If a purchaser certifies in writing by using an exemption certificate that the property purchased will be used for activities or under circumstances which make the purchase of the property exempt from the sales tax or for resale, and the property is subsequently used in a manner that makes the property ineligible for exemption from tax, the purchaser shall pay the sales tax.

(3) EFFECT OF OBTAINING CERTIFICATE. (a) A seller is relieved of liability for the tax if the seller takes from the purchaser a valid, written exemption certificate which certifies that the purchaser will use the property or service in a manner or for a purpose entitling the seller to accept the certificate in good faith.

(b) To be valid, an exemption certificate shall upon its face disclose a proper basis for exemption. The use of phrases such as "nontaxable," "exempt" or similar terminology do not provide a proper basis for an exemption. A certificate shall be properly executed and dated and shall contain all the necessary

information. A certificate claiming an exemption not provided by law is not valid.

Note: All retailers should be familiar with the instructions contained in an exemption certificate.

(c) If a certificate is valid, a seller or lessor who accepts the certificate in good faith is relieved of any liability for collection or payment of tax upon transactions covered by the certificate. For good faith to be shown, the certificate may contain no statement or entry which the seller or lessor knows, or has reason to believe, is false or misleading. The question of good faith is one of fact and depends upon a consideration of all the conditions surrounding the transaction. If the seller accepts a certificate with knowledge which gives rise to a reasonable inference that the purchaser does not intend to use the item or service as claimed, the good faith of the seller will be questioned. The seller is presumed to be familiar with the law and rules of the department relating to the business or businesses in which the seller is involved.

(4) FAILURE TO OBTAIN CERTIFICATE. If a seller does not obtain a certificate, a seller is not relieved from liability for the tax, nor from the burden of proving the sale was for resale or otherwise exempt. It is not a satisfactory substitute for obtaining an exemption certificate from the purchaser, for the seller to accept payment of the seller's billing with the tax or tax reimbursement deleted, or to accept the purchaser's permit number, or a statement that the transaction is not taxable.

(5) CONTINUOUS CERTIFICATES. (a) Continuous exemption certificates do not expire and need not be renewed at any prescribed interval. However, they should be renewed at reasonable intervals in case of a business change, registration number change or discontinuance of the specific business claiming the exemption. The seller should periodically review exemption certificates on file to ascertain that the person claiming the exemption is the person who furnished the certificate.

(b) Continuous exemption certificates approved by the department do not allow a purchaser to issue "this time only" purchase orders cancelling the continuous tax exemption certificate for the one transaction only. The notation "taxable" on a purchase order is not sufficient to relieve a purchaser of the responsibility for a previously issued continuous certificate. The seller is not liable for the tax on transactions covered by a valid exemption certificate, unless the purchase order is accompanied by a separate letter explaining the inapplicability of the previously issued certificate to a particular order.

(6) RESALE. (a) *Effect of obtaining exemption certificate claiming resale.* 1. The burden of proving that a sale of property or services is not at retail is upon the seller unless the seller accepts a certificate from the purchaser certifying that the property is purchased for resale. If valid and accepted in

good faith from a person who is in the business of selling tangible personal property or taxable services and who holds a seller's permit, the certificate relieves the seller from liability for the sales tax and the duty of collecting the use tax.

2. If a purchaser gives an exemption certificate claiming resale for property acquired and then makes any storage or use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first stored or used. The use tax shall be reported and paid by the purchaser with the tax return for the period in which the property is first so stored or used.

(b) *Contents of exemption certificates claiming resale.* An exemption certificate claiming resale shall contain the following information for the seller to be relieved from the burden of proving the sale of property or services was not a taxable sale:

1. The name and address and the signature of the purchaser.

2. A description of the general character of the tangible personal property or service sold by the purchaser.

3. A general description of the property or service purchased for resale if a "continuous" exemption certificate is used, or an itemization of the property or service purchased if a "single purchase" certificate is used.

4. The seller's permit number of the purchaser, except that:

a. A wholesaler who sells only to other sellers for resale may insert "wholesale only" in the space for a seller's permit number.

b. A person registered as a seller in another state, who makes no retail sales in Wisconsin, may insert the name of the state in which registered and the permit number issued to the person by that state.

c. A person who makes exempt sales only in the regular course of business may insert the words "exempt sales only" in the space for a seller's permit number.

5. An indication of the general character of the purchaser's business. This is for the protection of the seller, since it may enable the seller to determine whether a particular type of property or service may be sold without collecting the tax. If the nature of the business described is such that the property or services purchased normally would not be resold, the seller should question the purchaser's reason for issuing the certificate. If a satisfactory answer cannot be provided, the certificate should not be accepted. If all of these conditions are met, the seller is relieved from the burden of proving that the sale of property or services was not a taxable sale.

Example: A "continuous" exemption certificate claiming resale describing a business as a "tavern" normally should not be accepted for the sale of a radio, camera, auto part or other item not regularly sold by taverns.

(7) **MANUFACTURING EXEMPTION.** (a) A supplier which accepts a properly completed exemption certificate claiming a manufacturing exemption in good faith marked for "continuous" use may make sales to the manufacturer without collecting the tax if the nature of the property or services sold qualifies for one of the exempt uses claimed by the manufacturer on the form. If an exemption certificate is a "continuous" form, each purchase order of the manufacturer shall refer to it. If an individual order contains both exempt and non-exempt purchases, the purchaser shall designate which items are taxable.

(b) If the manufacturer uses "single purchase" certificates, it may print these as an integral part of its purchase orders, as long as the essential information on the approved form is retained.

(8) **FARMER'S EXEMPTION.** A retailer shall have a signed exemption certificate for every exempt sale made to a farmer.

Note: Section Tax 11.12 describes the types of property which may be sold to farmers without tax, and the use of the exemption certificate to claim farming exemptions.

(9) **EXEMPTION FOR FUEL OIL, PROPANE, COAL, STEAM AND WOOD FOR FUEL FOR RESIDENTIAL OR FARM USE.** A retailer shall have a signed exemption certificate if the sale of fuel oil, propane, coal, steam or wood for residential or farm use is partially exempt from sales or use tax. If the sale is 100% exempt, an exemption certificate is not required.

(10) **EXEMPTION FOR ELECTRICITY AND NATURAL GAS SOLD FOR RESIDENTIAL OR FARM USE.** A retailer of electricity or natural gas shall have a signed exemption certificate for all sales of electricity or natural gas for residential or farm use which are exempt from sales or use tax unless any, or all, of the following apply:

(a) 100% of the electricity or natural gas is for exempt use.

(b) The sale is to an account which is properly classified as residential or farm pursuant to schedules which are filed for rate tariff with the Wisconsin public service commission which are in force at the time of the sale.

(c) The sale is to an account which is properly classified as residential or farm for classification purposes as directed by the federal rural electrification administration.

(11) **GOVERNMENT SALES AND USE TAX EXEMPTION.** (a) A retailer of tangible personal property or taxable services may accept from a federal or Wisconsin governmental unit an exemption certificate as proof that a sale is exempt from sales or use tax.

(b) In lieu of accepting an exemption certificate as provided in par. (a) a retailer may accept either one of the following:

1. A purchase order or similar written document from the governmental unit identifying itself as the purchaser.

2. A verbal indication of the governmental unit's certificate of exempt status, or CES, number, which the retailer shall record on the copy of the invoice it retains.

(12) OTHER EXEMPTIONS. The Wisconsin sales and use tax exemption certificate, form S-211, may also be used for any other sales and use tax exemption provided by law, including the following:

(a) Containers and other packaging, packing and shipping materials used to transfer merchandise to customers of the purchaser.

(b) Tangible personal property becoming an ingredient or component part of an article of tangible personal property in any form destined for sale.

(c) Trailers or accessories, attachments, parts, supplies, materials and service on motor trucks, tractors and trailers which are used exclusively in common or contract carriage.

(d) Property or services purchased directly by and used by a religious, charitable, educational, scientific or other organization or governmental unit holding a certificate of exempt status, CES. Sales to organizations holding a CES also can be shown to be exempt by a retailer's recording the certificate number on its bill of sale. A 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, which is located out-of-state, may use the Wisconsin sales and use tax exemption certificate, form S-211, to purchase without tax even though it has not been issued a Wisconsin certificate of exempt status.

(e) Railway cars, locomotives and other rolling stock used in railroad operations, or accessories, attachments, parts, lubricants or fuel therefor.

(f) Commercial vessels and barges of 50-ton burden or over engaged in interstate or foreign commerce or commercial fishing, and accessories, attachments, parts and fuel therefor.

(13) CONSTRUCTION CONTRACTS ENTERED INTO BEFORE THE EFFECTIVE DATE OF A COUNTY OR STADIUM TAX. (a) The certificate for a construction contract entered into before the effective date of a county tax, or a stadium tax as defined in s. Tax 11.001(4), form S-207CT-1, is used by contractors to purchase building materials without the county or stadium tax. The certificate shall be used by a contractor only if the following 3 conditions are met:

1. The contractor entered into a written contract or made a formal bid before the effective date of the county or stadium tax to construct, alter, repair or improve real estate for another person.

2. The written contract is for a fixed price that cannot be changed or the formal written bid cannot be altered or withdrawn.

3. The building materials purchased on or after the effective date of the county or stadium tax are affixed and made a part of real estate in fulfilling the written contract or formal written bid.

(b) The certificate shall give the descriptive name of the contract, job site, county or stadium tax effective date, date of prime contract and bid, date contract was signed, seller's name, date of performance of the contract and contractor's name and address and shall be signed by the contractor.

(14) DIRECT PAY PERMITS. The use of direct pay permits in Wisconsin is authorized under s. 77.52(17m), Stats. A person may apply to the department for a direct pay permit.

Note: For information on who qualifies for a direct pay permit and how to use direct pay, refer to s. Tax 11.13.

(15) IMPROPER USE OF CERTIFICATES. A purchaser who gives an exemption certificate knowing at the time that the transaction is not exempt may be guilty of a misdemeanor under s. 77.52 (16), Stats. The purchaser may also be liable for other penalties provided by law for filing incorrect returns.

(16) CERTAIN COMMODITIES. No exemption certificate is required for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a warehouse in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the U.S. commodity futures trading commission if upon the sale the commodity is not removed from the warehouse.

Note: Section Tax 11.14 interprets ss. 77.52 (13) to (17), 77.53 (10) to (13) and 77.77 (3), Stats.

Note: The interpretations in s. Tax 11.14 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The exemption for railroad lubricants became effective July 1, 1978, pursuant to Chapter 418, Laws of 1977; (b) The use of direct pay permits in Wisconsin became effective for taxable years beginning on or after January 1, 1995, pursuant to 1993 Wis. Act 437; (c) The elimination of the exemption certificate requirement for sales of certain consigned commodities became effective December 1, 1997 as it relates to sales taxes on commodities consigned for resale, pursuant to 1997 Wis. Act 27, and June 17, 1998 as it relates to sales and use taxes on commodities consigned for sale, pursuant to 1997 Wis. Act 237; and (d) The multipurpose exemption certificate, form S-211, was created in November 1998 to replace various types of exemption certificates.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; am. (7) (a), Register, June, 1983, No. 330, eff. 7-1-83; cr. (2) (c) and am. (10), Register, July, 1987, No. 379, eff. 8-1-87; cr. (2) (a) 5. and 6., (10), (11) and (14), am. (2) (a), (5) (b), (6) (b) (intro.) and 5., (7) (a) (intro.) and 4. and 5., (8) (a) and (9), renum. (10) and (11) to be (12) and (13) and am., Register, March, 1991, No. 423, eff. 4-1-91; am. (2)(c), (3)(b) and (c), (6)(b)4., r. and recr. (12), Register, June, 1995, No. 474, eff. 7-1-95; renum. (12), (13) and (14) to be (13), (14) and (15), am. (2)(a)(intro.), cr. (2)(a)7. and (12), Register, October, 1997, No. 502, eff. 11-1-97; am. (1) (c), (3) (a) and (b), (5) (b), (6) (a) 2., (b), 3., r. and recr. (2) (a) 1. and 2., cr. (6) (b) 4. c. and (16), r. (2) (a) 3. to 7., (7) (b), (10) (b), (11) (b) and (12) (b) 1., renum. (7) (a) 1. to 6. to be (12) (a) to (f) and am. (12) (d), renum. (8) to (10) (a) to be (7) to (9) and am. (7) (a), (8) and (9), renum. (11) (a) 1. to 3. to be (10) (a) to (c), renum. (12) (a) to be (11) (a) and am., renum. (12) (b) 2. and 3., (13), (14) and (15) to be (11) (b) 1. and 2., (13), (14) and (15) and am. (13) (a), 1. and 3. and (b), Register, August, 1999, No. 524, eff. 9-1-99.

APPENDIX E

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WISCONSIN SALES AND USE TAX EXEMPTION CERTIFICATE

Check One Single Purchase Continuous

Purchaser's Business Name	Purchaser's Address
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The above purchaser, whose signature appears on the reverse side of this form, claims exemption from Wisconsin state, county, baseball or football stadium, local exposition, and premier resort sales or use tax on the purchase, lease, or rental of tangible personal property or taxable services, as indicated by the box(es) checked below.

I hereby certify that I am engaged in the business of selling, leasing, or renting: _____

(Description of Property or Services Sold by Purchaser)

General description of property or services purchased (itemize property purchased if "single purchase"): _____

Seller's Name	Seller's Address
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PROPOSED EXEMPT USE

Resale (Enter purchaser's seller's permit or use tax certificate number) _____

Manufacturing

- Tangible personal property becoming an ingredient or component part, or which is consumed or destroyed or loses its identity, in the manufacture of tangible personal property destined for sale.
- Machines and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property and safety attachments for those machines and equipment.
- The repair, service, alteration, fitting, cleaning, painting, coating, towing, installation, and maintenance of machines and specific processing equipment, that the above purchaser would be authorized to purchase without sales or use tax, at the time the service is performed thereon. Tools used to repair exempt machines are not exempt.
- Fuel and electricity consumed in manufacturing tangible personal property.
Percent of fuel exempt: _____ % Percent of electricity exempt: _____ %
- Portion of the amount of fuel converted to steam for purposes of resale. (Percent of fuel exempt _____ %)

Farming

(To qualify for this exemption, the purchaser must use item(s) exclusively and directly in the business of farming, including dairy farming, agriculture, horticulture, floriculture, silviculture, or custom farming services.)

- Tractors (except lawn and garden tractors), all-terrain vehicles (ATV) and farm machines, including accessories, attachments, and parts, lubricants, nonpowered equipment, and other tangible personal property that are used exclusively and directly, or are consumed or lose their identities in the business of farming.
- Feed, seeds for planting, plants, fertilizer, soil conditioners, sprays, pesticides, and fungicides.
- Baling twine and baling wire.
- Breeding and other livestock, poultry, and farm work stock.
- Containers for fruits, vegetables, grain, hay, and silage (including containers used to transfer merchandise to customers), and plastic bags, sleeves, and sheeting used to store or cover hay and silage.
- Animal waste containers or component parts thereof (may only mark certificate as "Single Purchase").
- Animal bedding, medicine for farm livestock, and milk house supplies.

<p>Federal and Wisconsin Governmental Units</p> <p><input type="checkbox"/> The United States and 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.</p> <p><input type="checkbox"/> State of Wisconsin or any agency thereof; Local Exposition District, Professional Baseball Park District, or Professional Football Stadium District.</p> <p><input type="checkbox"/> Wisconsin county, city, village, or town, including public inland lake protection and rehabilitation district, municipal public housing authorities, uptown business improvement districts, local cultural arts district, the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, and Fox River Navigational System Authority.</p> <p><input type="checkbox"/> Wisconsin public schools, school districts, universities, and technical college districts.</p> <p><input type="checkbox"/> County-city hospitals or UW Hospitals and Clinics Authority.</p> <p><input type="checkbox"/> Sewerage commission, metropolitan sewerage district, or a joint local water authority.</p>	<p>Enter CES No., if applicable</p>												
<p>Other</p> <p><input type="checkbox"/> Containers and other packaging, packing, and shipping materials, used to transfer merchandise to customers of the purchaser.</p> <p><input type="checkbox"/> Trailers and accessories, attachments, parts, supplies, materials, and service for motor trucks, tractors, and trailers which are used exclusively in common or contract carriage under LC or IC No. _____.</p> <p><input type="checkbox"/> Items or services purchased directly by and used by religious, charitable, educational, scientific, or other organizations holding a Wisconsin Certificate of Exempt Status. CES No. _____.</p> <p><input type="checkbox"/> Tangible personal property to be resold by _____ on my behalf where _____ is registered to collect and remit sales tax to the Department of Revenue on such sales.</p> <p><input type="checkbox"/> Tangible personal property or services purchased by a Native American with enrollment # _____, who is enrolled with and resides on the _____ Reservation, where buyer will take possession of such property or services.</p> <p><input type="checkbox"/> Tangible personal property becoming a component of an industrial or municipal waste treatment facility, including replacement parts, chemicals, and supplies used or consumed in operating the facility.</p> <p><input type="checkbox"/> Portion of the amount of electricity or natural gas used or consumed in an industrial waste treatment facility. (Percent of electricity or natural gas exempt _____ %)</p> <p><input type="checkbox"/> Electricity, natural gas, fuel oil, propane, coal, steam, corn, and wood (including wood pellets which are 100% wood) used for fuel for residential or farm use.</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 40%;"></th> <th style="width: 20%; text-align: center;">% of Electricity Exempt</th> <th style="width: 20%; text-align: center;">% of Natural Gas Exempt</th> <th style="width: 20%; text-align: center;">% of Fuel Exempt</th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/> Residential</td> <td style="text-align: center;">_____ %</td> <td style="text-align: center;">_____ %</td> <td style="text-align: center;">_____ %</td> </tr> <tr> <td><input type="checkbox"/> Farm</td> <td style="text-align: center;">_____ %</td> <td style="text-align: center;">_____ %</td> <td style="text-align: center;">_____ %</td> </tr> </tbody> </table> <p>Address Delivered: _____</p> <p><input type="checkbox"/> Percent of printed advertising material solely for out-of-state use. _____ %</p> <p><input type="checkbox"/> Other purchases exempted by law. (State items and exemption). _____</p> <p>_____</p> <p>_____</p> <p>_____</p>			% of Electricity Exempt	% of Natural Gas Exempt	% of Fuel Exempt	<input type="checkbox"/> Residential	_____ %	_____ %	_____ %	<input type="checkbox"/> Farm	_____ %	_____ %	_____ %
	% of Electricity Exempt	% of Natural Gas Exempt	% of Fuel Exempt										
<input type="checkbox"/> Residential	_____ %	_____ %	_____ %										
<input type="checkbox"/> Farm	_____ %	_____ %	_____ %										

(DETACH AND PRESENT TO SELLER)

I hereby certify that if the item(s) being purchased are not used in an exempt manner, I will remit use tax on the purchase price at the time of first taxable use. I understand that failure to remit the use tax may result in a future liability that may include tax, interest, and penalty.

Signature of Purchaser	Print or Type Name	Title	Date
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APPENDIX F

5% State Tax

(To be used if there are no county and stadium taxes)

Amount of Taxable Sale	State Tax Collectible
\$.01 to \$.09	0¢
.10 to .29	1¢
.30 to .49	2¢
.50 to .69	3¢
.70 to .89	4¢
.90 to 1.09	5¢

On sales in excess of \$1, the tax equals 5% of each full dollar of the sales price plus the tax shown above the applicable fractional part of a dollar.

5.5% State and County Tax

5.5% State and Football Stadium Tax

(To be used when the sale is subject to the 5% state tax and 0.5% county tax or 0.5% football stadium tax)

Amount of Taxable Sales	State and County or Football Stadium Tax Collectible
\$.01 to \$.09	0¢
.10 to .27	1¢
.28 to .45	2¢
.46 to .63	3¢
.64 to .81	4¢
.82 to .99	5¢
1.00 to 1.18	6¢
1.19 to 1.36	7¢
1.37 to 1.54	8¢
1.55 to 1.72	9¢
1.73 to 1.90	10¢
1.91 to 2.09	11¢

The state and county tax or football stadium tax equals 11¢ for each \$2 of sales, plus the tax shown above for the fractional part of \$2.

6% State, County, and Premier Area Resort Tax

(To be used when the sale is subject to the 5% state tax, 0.5% county tax, and the 0.5% premier resort area tax)

Amount of Taxable Sale	State and Premier Resort Area Tax
\$.01 to \$.08	0¢
.09 to .24	1¢
.25 to .41	2¢
.42 to .58	3¢
.59 to .74	4¢
.75 to .91	5¢
.92 to 1.08	6¢

On sales exceeding \$1.00, the tax equals 6¢ for each full dollar of sales, plus the tax shown above for the applicable fractional part of a dollar.

5.6% State, County, and Baseball Stadium Tax

(To be used when the sale is subject to the 5% state tax, 0.5% county tax, and 0.1% stadium tax)

Amount of Taxable Sale	State, County, and Baseball Stadium Tax Collectible
.01 to .08	0¢
.09 to .26	1¢
.27 to .44	2¢
.45 to .62	3¢
.63 to .80	4¢
.81 to .98	5¢
.99 to 1.16	6¢
1.17 to 1.33	7¢
1.34 to 1.51	8¢
1.52 to 1.69	9¢
1.70 to 1.87	10¢
1.88 to 2.05	11¢
2.06 to 2.23	12¢
2.24 to 2.41	13¢
2.42 to 2.58	14¢
2.59 to 2.76	15¢
2.77 to 2.94	16¢
2.95 to 3.12	17¢
3.13 to 3.30	18¢
3.31 to 3.48	19¢
3.49 to 3.66	20¢
3.67 to 3.83	21¢
3.84 to 4.01	22¢
4.02 to 4.19	23¢
4.20 to 4.37	24¢
4.38 to 4.55	25¢
4.56 to 4.73	26¢
4.74 to 4.91	27¢
4.92 to 5.08	28¢
5.09 to 5.26	29¢
5.27 to 5.44	30¢
5.45 to 5.62	31¢
5.63 to 5.80	32¢
5.81 to 5.98	33¢
5.99 to 6.16	34¢
6.17 to 6.33	35¢
6.34 to 6.51	36¢
6.52 to 6.69	37¢
6.70 to 6.87	38¢
6.88 to 7.05	39¢
7.06 to 7.23	40¢
7.24 to 7.41	41¢
7.42 to 7.58	42¢
7.59 to 7.76	43¢
7.77 to 7.94	44¢
7.95 to 8.12	45¢
8.13 to 8.30	46¢
8.31 to 8.48	47¢
8.49 to 8.66	48¢
8.67 to 8.83	49¢
8.84 to 9.01	50¢
9.02 to 9.19	51¢
9.20 to 9.37	52¢
9.38 to 9.55	53¢
9.56 to 9.73	54¢
9.74 to 9.91	55¢
9.92 to 10.08	56¢

The state, county, and stadium tax equals 56 cents for each \$10 of sales, plus the tax shown above for the fractional part of \$10.

5.1% State and Baseball Stadium Tax
 (To be used when the sale is subject to the 5% state tax
 and 0.1% baseball stadium tax)

Amount of Taxable Sale		State and Baseball Stadium Tax Collectible
\$.01	to \$.09	0¢
.10	to .29	1¢
.30	to .49	2¢
.50	to .68	3¢
.69	to .88	4¢
.89	to 1.07	5¢
1.08	to 1.27	6¢
1.28	to 1.47	7¢
1.48	to 1.66	8¢
1.67	to 1.86	9¢
1.87	to 2.05	10¢
2.06	to 2.25	11¢
2.26	to 2.45	12¢
2.46	to 2.64	13¢
2.65	to 2.84	14¢
2.85	to 3.03	15¢
3.04	to 3.23	16¢
3.24	to 3.43	17¢
3.44	to 3.62	18¢
3.63	to 3.82	19¢
3.83	to 4.01	20¢
4.02	to 4.21	21¢
4.22	to 4.41	22¢
4.42	to 4.60	23¢
4.61	to 4.80	24¢
4.81	to 4.99	25¢
5.00	to 5.19	26¢
5.20	to 5.39	27¢
5.40	to 5.58	28¢
5.59	to 5.78	29¢
5.79	to 5.98	30¢
5.99	to 6.17	31¢
6.18	to 6.37	32¢
6.38	to 6.56	33¢
6.57	to 6.76	34¢
6.77	to 6.96	35¢
6.97	to 7.15	36¢
7.16	to 7.35	37¢
7.36	to 7.54	38¢
7.55	to 7.74	39¢
7.75	to 7.94	40¢
7.95	to 8.13	41¢
8.14	to 8.33	42¢
8.34	to 8.52	43¢
8.53	to 8.72	44¢
8.73	to 8.92	45¢
8.93	to 9.11	46¢
9.12	to 9.31	47¢
9.32	to 9.50	48¢
9.51	to 9.70	49¢
9.71	to 9.90	50¢
9.91	to 10.09	51¢

The state and stadium tax equals 51 cents for each \$10 of sales, plus the tax shown above for the fractional part of \$10.