

SALES AND USE TAX REPORT

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Issue 3-10

NEW LOOK! The *Sales and Use Tax Report* has a new look. The one-column report is designed to make the report computer reader-friendly.

REMINDER: The *Sales and Use Tax Reports* are no longer being printed. The *Sales and Use Tax Reports* will continue to be available electronically on the Department of Revenue's web site. Don't miss an issue!

- Subscribe **now** to the sales and use tax electronic mailing list to receive notification when a new *Sales and Use Tax Report* is available at www.revenue.wi.gov/html/lists.html.
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I. MOTOR VEHICLE DEALERS' MEASURE OF USE TAX INCREASED TO \$139

Wisconsin licensed motor vehicle dealers are permitted to report use tax on a certain dollar amount per plate per month for the use of motor vehicles assigned to certain employees and dealership owners.

Effective January 1, 2011, the amount subject to use tax is increased from \$138 to \$139 per plate per month. **Note:** The use tax per plate per month is not \$139. Rather, \$139 is multiplied by the use tax rate (5%, 5.1%, 5.5%, or 5.6%) to arrive at the use tax due per plate per month.

The reason for the increase to \$139 per plate is that sec. 77.53(1m)(a), Wis. Stats. (2007-08), requires that the Department of Revenue annually adjust the amount subject to use tax to reflect the annual percentage change in the U.S. Consumer Price Index for All Urban Consumers, U.S. City Average, as determined by the U.S. Department of Labor for the 12 month period ending June 30. All Urban Consumers, U.S. City Average, was 215.693 as of June 30, 2009 and increased to 217.965 as of June 30, 2010. Consequently, since the index changed over this period by 1.05335%, the measure of use tax for

dealers' motor vehicle license plates is adjusted upward from \$138 to \$139 as of January 1, 2011 = (\$138 X (217.965/215.693)) rounded to the nearest whole dollar).

II. LOCAL EXPO ROOM TAX RATE TO INCREASE TO 2.5%

Effective January 1, 2011, the 2.0% local exposition basic room tax will be increased to 2.5%. The sale of lodging is subject to the local exposition room tax when furnished in Milwaukee County to a person for a continuous period of less than one month. If the lodging is furnished in the City of Milwaukee, it is subject to the local exposition basic room tax and a 7% additional room tax.

[Publication 410](#), *Local Exposition Taxes*, provides additional information about the local exposition taxes. This publication will be updated in the near future to reflect the basic room tax increase.

III. HOW SHOULD A RETAILER DOCUMENT EXEMPT SALES TO AMERICAN INDIAN TRIBES OR BANDS?

Purchases by a federally recognized American Indian Tribe or band in Wisconsin are exempt from Wisconsin sales and use taxes. This exemption became effective on August 1, 2009.

The 11 federally-recognized Indian Tribes in Wisconsin are: the Bad River band of Lake Superior Chippewa; Forest County Potawatomi Community; Ho-Chunk Nation; Lac Courte Oreilles band of Lake Superior Chippewa; Lac du Flambeau band of Lake Superior Chippewa; Menominee Nation; Oneida Nation of Wisconsin; Red Cliff band of Lake Superior Chippewa; St. Croix Chippewa Community; So-kaogon Chippewa Community; and Stockbridge-Munsee Community.

Retailers must support their exempt sales to federally recognized American Indian Tribes and bands by one of the following:

- a. Obtaining a purchase order or similar written document from the Tribe or band identifying the Tribe or band as the purchaser.
- b. Obtaining a fully completed exemption certificate from the Tribe or band (for example, Form [S-211](#), or [Form S-211-SST](#)).
- c. Recording the Tribe or band's Certificate of Exempt Status (CES) number* on the invoice.

* Any federally recognized American Indian Tribe or band in Wisconsin may request a CES number from the Department of Revenue by completing [Form S-103](#), *Application for Wisconsin Sales and Use Tax Certificate of Exempt Status (CES)*.

IV. EXEMPT SALES TO THE FEDERAL GOVERNMENT

Sales to the United States government or any of its agencies or instrumentalities are exempt from Wisconsin sales and use taxes. The governmental unit, agency, or instrumentality must give the seller one of the following:

- An exemption certificate (e.g., [Form S-211](#), [Form S-211-SST](#)).
- A completed purchase order or similar document clearly identifying the purchaser.
- The Certificate of Exempt Status number issued to the governmental unit to be recorded by the seller on the invoice it keeps.

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 and use tax, because they are considered sales to the federal government, provided one of the three items, above, is provided to the seller.

The following are examples of GSA SmartPay® cards:



V. DON'T FORGET ABOUT THE IPT TAX SEMINAR IN MADISON!

The Institute for Professionals in Taxation (IPT), in cooperation with the Wisconsin Department of Revenue, is presenting a one-day tax seminar at the Monona Terrace Community and Convention Center in Madison on September 23, 2010. The seminar (morning session) will include updates on Streamlined Sales Tax and sales and use tax law changes. The full agenda and registration information can be found at the following web site: <http://www.ipt.org/learncenter.asp?sessionid=3-976B5E53-75D2-4F32-A230-9B1A1C566CA1&id=178410&page=9#WIOD>.

VI. TAX SCHOOL IN SESSION THIS FALL

Tax Insight, LLC, in cooperation with the Wisconsin Department of Revenue, will be conducting a series of tax schools from October through December. Topics include income tax, corporate tax, sales and use tax and agricultural tax issues.

Additional information is available on Tax Insight's web site at www.taxinsight.com or the Department of Revenue's web site at www.revenue.wi.gov/training/insight.html.

VII. BARTERS AND EXCHANGES

Oftentimes, a business will trade its products for the services, realty, or intangibles of another business. Sales or use tax may apply to such trades.

Section 11.32(6), Wis. Adm. Code (May 2010 Register), provides that the sales price from a retail transaction includes the exchange of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., for taxable or nontaxable services, realty, or intangibles if the person providing the tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., receives the sales price or purchase price valued in money, whether received in money or otherwise. If the products that a business provides are not subject to sales and use taxes (such as nontaxable services or realty), the business may deduct the sales price from the transaction on its sales and use tax return.

Example: A restaurant operator exchanges meals having retail price of \$100 for radio or television advertising which has an established price of \$100 for this type of advertising service. The restaurant operator and the radio or television station each have to report the sales price of \$100 as a result of the transaction. **Note:** The total sales reported on the sales and use tax return includes both taxable and nontaxable transactions.

The radio station may, however, deduct the \$100 from its total sales reported on its sales and use tax return, since the advertising service that it is selling is not subject to Wisconsin sales or use tax. The restaurant operator's sales of the meals are taxable; therefore, no deduction may be taken on the restaurant operator's sales and use tax return.

For information about trading tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., for other tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., see the tax release titled "Trade-ins," which was published in [Wisconsin Tax Bulletin #124](#) (April 2001), beginning on page 30.

VIII. ELECTRONIC FILING MANDATE LETTERS TO BUSINESSES

Last year, the Wisconsin Department of Revenue (DOR) sent approximately 106,000 letters to businesses notifying them of their requirement to file their sales and use tax returns by electronic means. Through the cooperation of businesses to comply with this requirement, over 80% of sales and use tax returns are now filed electronically. Unfortunately, there are still over 25,000 accounts not following the e-file mandate. Thus, the department will again send a letter to these businesses notifying them to file their next sales and use tax return electronically. There are provisions to request a waiver if the requirement to electronically file causes an undue hardship. Businesses should also consider paying their tax owed by electronic means through direct debit/withdrawal, ACH Credit, or by credit card. Businesses have a number of choices to e-file and e-pay, which can be found at www.revenue.wi.gov (i.e., *My Tax Account*, TeleFile, e-file transmission).

IX. EXTENDED SERVICE CONTRACTS AND WARRANTIES

The department has received questions about whether charges for extended service contracts and warranties are subject to Wisconsin sales and use tax. This Q & A clarifies the tax treatment of such charges.

Q I am going to purchase some appliances for my home. I intend to purchase extended service contracts (warranties) for the appliances. Are my purchases of the extended service contracts subject to Wisconsin sales tax?

A Your purchase of a service contract is subject to Wisconsin sales tax if your purchase of the property covered by the service contract is subject to Wisconsin sales tax. Similarly, if your purchase of the covered property is not subject to Wisconsin sales tax, your purchase of the service contract is also not subject to Wisconsin sales tax.

Example 1: You purchase a new freestanding refrigerator for your home. The seller's charges for the sale, delivery, and set-up of the refrigerator are subject to Wisconsin sales tax. Therefore, the seller's charge for the extended service contract for the refrigerator is also subject to Wisconsin sales tax.

Example 2: You purchase a built-in dishwasher that the seller will install. The sale and installation of the dishwasher are not subject to Wisconsin sales tax because the dishwasher is installed as a real property improvement. Therefore, the seller's charge for the extended service contract for that dishwasher is also not subject to Wisconsin sales tax. **Note:** The seller must pay Wisconsin sales or use tax on its purchase of the dishwasher, since the seller uses the dishwasher in making a real property improvement. If the seller purchases an extended service contract for the dishwasher, the seller must also pay Wisconsin sales or use tax on its purchase of the extended service contract.