



Sales and Use Tax Information for Manufacturers

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Important Changes Since Last Revision

Definition of Plant. The definition of plant and how it applies to the scope of manufacturing has been added to Part 5.B.(2).

Example 6 in Appendix A has been updated. The example has been updated to clarify machinery and equipment used in the scope of manufacturing at an asphalt, cement, or concrete plant must be used exclusively on a parcel of land that is leased to or owned by the manufacturer and is not engaged in a real property construction activity. The example also describes a new exemption effective June 1, 2024, for certain portable machinery and equipment used in road and commercial surface lot construction or resurfacing.

See the [Sales Tax Rate Chart](#) for current sales tax rates. Recent rate changes include:

- Racine County imposes 0.5% county sales and use tax, effective April 1, 2025.
- Manitowoc County imposes 0.5% county sales and use tax, effective January 1, 2025.
- Milwaukee County tax rate increased from 0.5% to 0.9%, effective January 1, 2024.
- City of Milwaukee imposed a 2% city tax, effective January 1, 2024.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations enacted as of January 31, 2025: chs. 71, 76, 77, and 101, [Wis. Stats.](#), chs. Tax 2, 6, and 11 [Wis. Adm. Code](#).

Laws enacted and in effect after this date, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to this date, that is contrary to the information in this document is superseded by this document, according to sec. 73.16(2)(a), Wis. Stats.

1. INTRODUCTION

A. General

This publication provides information regarding Wisconsin's sales and use tax as it relates to manufacturers. It describes what is manufacturing, what types of purchases or sales by manufacturers are taxable or exempt, and what a manufacturer must do to comply with the law.

This information relates to the state's 5% sales and use tax. However, it also applies to the 0.5% and 0.9% county and the 2% city of Milwaukee sales and use taxes. Additional information about the county taxes can also be found in [Publication 201](#), *Wisconsin Sales and Use Tax Information*. Also see the [Sales Tax Rate Chart](#) for a listing of the state, county, and city sales and use tax rates.

B. Nature of Sales and Use Taxes

- (1) Sales tax is imposed on retailers who sell, license, lease, or rent any taxable products or services, at retail, if the transaction is sourced (see Part 15.B.) to a location in Wisconsin. The tax is based on the retailer's sales price from such transactions.
- (2) Use tax is imposed on purchasers of any taxable products or services, purchased from a retailer, if:
 - (a) the product or service is stored, used, or consumed in Wisconsin by the purchaser in a taxable manner, and
 - (b) no Wisconsin sales tax was paid by the purchaser to the retailer of the product or service.

The use tax is based on the purchase price of the product or service paid by the purchaser to the retailer.

C. Collecting State and Local Sales and Use Taxes

Any retailer who holds or is required to hold a Wisconsin seller's permit or Wisconsin use tax registration certificate must charge and collect, in addition to the applicable Wisconsin state sales or use taxes, all applicable county, city, premier resort area, and local exposition sales and use taxes that apply, based on the location that the sale is sourced to, as described in Part 15.

Example: Retailer is located in Iowa County. Retailer makes a taxable sale of property to Customer. Retailer ships the product, using a common carrier, from its business location in Iowa County, to Customer in Washington County. Washington County imposes the 0.5% county sales and use tax. The sourcing rule in Part 15.B.(1)(b), applies, and the sale is sourced to Washington County. Retailer is liable for the 5% Wisconsin state sales tax and the 0.5% Washington County sales tax on its sale of this product.

Example: Retailer is located in the State of Kansas and holds a Wisconsin use tax registration certificate. Retailer licenses a taxable digital good to Customer for a one-time license fee. Using the rule in Part 15.B.(2), Retailer properly sources the sale as prescribed under Part 15.B.(1)(c), to the address Retailer maintains for Customer in the ordinary course of its business. That address is a location in Rock County, Wisconsin. Retailer must charge and collect the 5% Wisconsin state use tax and the 0.5% Rock County use tax relating to Customer's purchase of the license for the digital good.

2. OBTAINING A PERMIT AND FILING RETURNS

A. Who Must Obtain a Permit?

A manufacturer located in Wisconsin making retail sales, licenses, leases, or rentals of any taxable products or services that take place in Wisconsin (i.e., are sourced to a location in Wisconsin) is required to obtain a seller's permit from the Wisconsin Department of Revenue.

A manufacturer located outside Wisconsin making retail sales, licenses, leases, or rentals of any taxable products or services that take place in Wisconsin (i.e., are sourced to a location in Wisconsin), is required to obtain a use tax registration certificate unless the manufacturer has \$100,000 or less in annual gross sales into Wisconsin in the previous or current calendar year. See [Remote Sellers](#) common questions for additional information.

If a manufacturer makes only exempt sales, the manufacturer is not required to hold a Wisconsin seller's permit or use tax registration certificate.

[Publication 201](#) provides more information for you to determine:

- The permit you need
- When to apply for the permit
- How to apply for the permit

B. Filing Returns

If you obtain a Wisconsin seller's permit or use tax registration certificate, you will be informed how often you will need to file a sales tax return. Returns must be filed, even if you make no taxable sales for the reporting period.

Detailed information on filing sales tax returns is provided in [Publication 201](#).

3. WHICH SALES ARE TAXABLE?

Sales, licenses, leases, and rentals of tangible personal property, certain coins or stamps, certain leased property that is affixed to real property, certain digital goods, and certain services are taxable.

For further information about these taxable products and services, see [Publication 201](#).

4. WHO IS A MANUFACTURER?

Not all persons who consider themselves to be manufacturers are engaged in manufacturing under the law. Hence, both sellers and purchasers should use exemption certificates with caution being sure that the purchaser qualifies as a manufacturer.

A. Statutory Definition

Section [77.51\(7h\)\(a\)](#), Wis. Stats., provides:

" 'Manufacturing' means the production by machinery of a new article of tangible personal property or item or property under s. 77.52 (1) (b) or (c) 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 or item or property under s. 77.52 (1) (b) or (c) to the point of first storage in the same plant. 'Manufacturing' includes:

1. Crushing, washing, grading and blending sand, rock, gravel and other materials.
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 progress 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 or item or property under s. 77.52 (1) (b) or (c) that is being manufactured; storing work in progress in the same plant where the manufacturing occurs; assembling finished units of tangible personal property or item or property under s. 77.52 (1) (b) or (c); and packaging a new article of tangible personal property or items or property under s. 77.52 (1) (b) or (c), 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 customarily offered for sale by the manufacturer."

Section [77.51\(7h\)\(b\)](#), Wis. Stats., provides:

" 'Manufacturing' does not include storing raw materials or finished units of tangible personal property or items or property under s. 77.52 (1) (b) or (c), research or development, delivery to or from the plant, or repairing or maintaining plant facilities."

Section [77.51\(10b\)](#), Wis. Stats., provides:

"For purposes of sub. (7h), '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."

Section [77.51\(10c\)](#), Wis. Stats., provides:

"For purposes of sub. (7h), 'plant inventory' does not include unsevered mineral deposits."

Since the Wisconsin legislature has provided definitions of the terms manufacturing, plant, and plant inventory, for purposes of Wisconsin's sales and use tax laws, we must look to those definitions and not to various dictionary or encyclopedia definitions. Determinations as to what are and what are not manufacturing, plant and plant inventory under other statutes or governmental rules or regulations are relevant only to the extent that the definitions of manufacturing under these statutes, rules, and regulations are consistent with the definition quoted above.

The definition of manufacturing in sec. 77.51(7h)(a), Wis. Stats., is a limiting definition. It does not include processing or fabricating which does not produce by machinery a new article with a different form, use, and name, by a process popularly regarded as manufacturing, nor does manufacturing include the transportation of work in progress between two plants. In addition, manufacturing does not include the process of severing mineral deposits or the creation or duplication of digital goods.

B. Wisconsin's Definition Requires That a New Article Be Produced

Not every production of tangible personal property is manufacturing. The law requires what is produced by machinery be a new article with a different form, use and name from existing materials before the production of the property is deemed manufacturing. Thus, the application of labor to an article is not manufacturing unless machinery is also applied to produce the finished article and it is clearly and distinctively new and different in form, in use, and in name.

C. Wisconsin's Definition as Interpreted by the Wisconsin Supreme Court

In the case of *Wisconsin Department of Revenue v. Bailey-Bohrman Steel Corp.*, 93 Wis. 2d, 602, 608 (1980), the Wisconsin Supreme Court cited the "six objective elements" in sec. 77.54 (6m), Wis. Stats. (2007-08) (renumbered and amended as sec. 77.51(7h)(a), Wis. Stats.) which must be met for the exemption in sec. 77.54(6)(am)1., Wis. Stats., to apply:

- (1) Production by machinery,
- (2) of a new article,
- (3) with a different form,
- (4) with a different use,
- (5) with a different name, and
- (6) by a process popularly regarded as manufacturing.

In this case, the taxpayer used machinery to cut 15-ton rolls of hot rolled coiled steel into smaller widths called coiled steel or slit and recoiled strip. The Court found that the taxpayer produced by machinery, a new article, with a different form, with a different use and with a different name, by a process popularly regarded as manufacturing in the opinions of persons conversant in the subject matter.

In the previous case of *H. Samuels Co., Inc. v. Department of Revenue*, 70 Wis. 2d 1076, 1085-86 (1975), the Wisconsin Supreme Court stated that a process popularly regarded as manufacturing should only be applied with reference to the opinions of persons conversant with the subject matter involved rather than according to the view of the operation taken by the man on the street.

D. By Way of Illustration and Not of Limitation, the Following Are Ordinarily Manufacturers

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, mobile home and manufactured home factories, 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 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.

E. By Way of Illustration and Not of Limitation, the Following Are Deemed Nonmanufacturers

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, junk and scrap dealers, 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, mining, paper recycling, photography, popping corn, the business of raising and breeding animals, real property construction activities, custom slaughtering of animals and vending machine operations.

F. Fabrication

Fabrication which does not produce a new article with a different form, use, and name as described in Part 4.C. is not manufacturing since the end result of such fabrication is merely the modification of a previously manufactured article. Fabricators engaged in such activities are not entitled to the exemptions provided for manufacturers. Also, the gross receipts from the sale at retail of any fabricated article as well as the gross receipts from the fabrication of an article of tangible personal property for another person are taxable unless a specific exemption applies. See sec. [Tax 11.38](#), Wis. Adm. Code, entitled "Fabricating, processing, and printing," for more information on this subject.

5. EXEMPTION FOR MANUFACTURING MACHINES AND SPECIFIC PROCESSING EQUIPMENT

A. Statutory Language

Section [77.54\(6\)\(am\)1.](#), Wis. Stats., exempts the sales price from the sale of and the storage, use, or other consumption of:

"Machines and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property or items or property under s. 77.52(1)(b) or (c) and safety attachments for those machines and equipment."

Section [77.54\(6\)\(cn\)](#), Wis. Stats., states that the above exemption under sec. 77.54(6)(am)1., Wis. Stats., is to be strictly construed.

Section [77.51\(20\)](#), Wis. Stats., provides:

"Tangible personal property means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses, and includes electricity, gas, steam, water, and prewritten computer software, regardless of how it is delivered to the purchaser."

Section [77.52\(1\)\(b\)](#), Wis. Stats., provides:

"For the privilege of selling, licensing, leasing, or renting at retail coins and stamps of the United States that are sold, licensed, leased, rented, or traded as collectors' items above their face value, a tax is imposed on all retailers at the rate of 5 percent of the sales price from the sale, license, lease, or rental of such coins and stamps."

Section [77.52\(1\)\(c\)](#), Wis. Stats., provides:

"For the privilege of leasing property that is affixed to real property, a tax is imposed on all retailers at the rate of 5 percent of the sales price from the lease of such property, if the lessor has the right to remove the leased property upon breach or termination of the lease agreement, unless the lessor of the leased property is also the lessor of the real property to which the leased property is affixed."

B. Scope of Manufacturing

The exemption requires that the machines and equipment be used *by a manufacturer in manufacturing*. Thus, even when being used by a manufacturer, machines and equipment must be used exclusively and directly in manufacturing to qualify for the exemption.

(1) Scope of Manufacturing

The scope of manufacturing is defined in sec. 77.51(7h)(a), Wis. Stats., as a process 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 or item or property under secs. 77.52(1)(b) or (c) to the point of first storage in the same plant. It includes:

- Crushing, washing, grading and blending sand, rock, gravel, and other minerals.
- 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.
- 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 or item or property under secs. 77.52(1)(b) or (c) that is being manufactured; storing work in progress in the same plant where the manufacturing occurs; assembling finished units of tangible personal property or items or property under secs. 77.52(1)(b) or (c); and packaging a new article of tangible personal property or item or property under secs. 77.52(1)(b) or (c), 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 customarily offered for sale by the manufacturer.

Section 77.51(7h)(b), Wis. Stats., further specifies that "Manufacturing does **not** include storing raw materials or finished units of tangible personal property or items or property under sec. 77.52 (1) (b) or (c), research or development, delivery to or from the plant, or repairing or maintaining plant facilities." (emphasis added)

For examples of the application of the *scope* of manufacturing concept to specific situations, see Appendix A.

(2) Plant

The scope of manufacturing applies in the same plant. "Plant" is defined in sec. [77.51\(10b\)](#), Wis. Stats., to mean a parcel of property or adjoining parcels, 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.

Therefore, the equipment must be used on a parcel or parcels of property that is owned by or leased to the manufacturer to qualify for the exemption.

Example 1: Equipment is purchased and used by the purchaser to perform an activity on a parcel of land that is owned by the purchaser. The activity meets the definition of manufacturing, and the equipment is used exclusively and directly in the scope of manufacturing on the parcel of land that is owned by the purchaser. The purchase of the equipment qualifies for the exemption.

Example 2: Equipment is purchased and used by the purchaser to perform activities at its customer's locations. The purchaser does not own or lease the land where the activities are performed. The equipment does not qualify for the exemption since it is not used on a parcel of land that is owned by or leased to the purchaser.

C. Size of Operation

The size of an operation does not determine whether a process qualifies as manufacturing. The operation must meet the six objective elements described in Part 4.C.; size of the operation is not one of those elements.

Examples:

- (1) A photofinishing operation managed by one employee at a time accepts unexposed film for processing. The employee operates a machine used to develop the film into negatives and a machine used to create prints from the negatives.
- (2) A key making machine used to duplicate a key may qualify for the manufacturing exemption when used in the following manner: A purchaser brings in a key to be duplicated. The operator of the key making machine chooses an uncut blank that a duplicate can be made from. Using the purchaser's key as a model, the machine cuts the blank to copy the original. The new key can be used in the same manner as the purchaser's original key.

If the machines are used exclusively and directly in this manner, they qualify for the manufacturing exemption even though the operation only involves one person at a time and may also be part of a retail operation.

D. Exclusively Used Requirement

To qualify for the exemption, machines and processing equipment must be used exclusively in the manufacture of tangible personal property. Exclusively means that the machines and specific processing equipment are used solely by a manufacturer in manufacturing tangible personal property to the exclusion of all other uses, except that the exemption is not invalidated by an infrequent and sporadic use other than in manufacturing tangible personal property.

For examples of the *exclusively used* requirement, see Appendix C.

E. Directly Used Requirement

To qualify for the exemption, machines and processing equipment must be used directly in the manufacture of tangible personal property. Any machine or specific processing equipment not used directly within the scope of manufacturing is not exempt, even though such item may be indirectly related to the manufacturing process. For example, machines or equipment used for sweeping a plant, disposing of scrap or waste, plant heating or air conditioning, or for communication, lighting, fire prevention, research, development, storage, delivery to or from a plant, or repair or maintenance of machines or facilities are taxable. Electric substations generally are not directly used in manufacturing.

Tables and stands for exempt manufacturing equipment are not used directly in manufacturing and are taxable. However, a stand for an exempt machine is exempt when purchased from the seller of the machine as an original component part of the exempt machine.

For examples of the *directly used* requirement, see Appendix B.

F. Only Machines, Processing Equipment, Safety Attachments and Repair Parts Qualify for Exemption

Some items used in a manufacturing plant are not exempt because they are not the type of item exempt under the statute. Supplies such as sweeping compounds and disposable rags, gloves, shoe covers, and coveralls are not machines or processing equipment. However, such items may be exempt if used exclusively and directly by a manufacturer in manufacturing an article of tangible personal property, certain coins or stamps, or certain leased property that is affixed to real property, that is destined for sale or is consumed, destroyed, or loses its identity in manufacturing the article of tangible personal property, certain coins or stamps, or certain leased property that is affixed to real property. See Part 6.C.

Small tools including hand tools, do qualify as processing equipment, but are exempt only if used both exclusively and directly in the manufacturing process. Such tools used either partially or totally for machine repair or general maintenance are not within the exemption.

Parts for and repair service on exempt machines and processing equipment are also exempt. Examples of such parts are auger bits, conveyor belts, dies and molds, emery wheels, grinding wheels, jigs, machine drills, machine tool holders, milling cutters, reamers, and saw blades.

Safety attachments for exempt machines or processing equipment are exempt also. A safety attachment may protect the machinery, the operator, or the product being manufactured. The safety attachment does not have to be purchased at the same time as the machine or equipment, but it must be an attachment for that machine or equipment. This means that the safety device, when installed, must be physically attached to the exempt machine or equipment to qualify for exemption.

G. Real Property Improvements Do Not Qualify for the Exemption

Real property improvements, such as concrete foundations and settings for machines, heating and ventilation components for general building use, as well as electric conduit and piping which service a building, are neither machines nor processing equipment and are not within the exemption. The consumer of the materials used in making such improvements is the person who purchases the materials and is responsible for the construction or installation of the same. This person is a contractor.

Pursuant to sec. [77.51\(2\)](#), Wis. Stats., " 'Contractors' and 'subcontractors' are the consumers of tangible personal property or items or goods under s. 77.52 (1) (b) or (d) used by them in real property construction activities and the sales and use tax applies to the sale of tangible personal property or items or goods under s. 77.52 (1) (b) or (d) to them. A contractor engaged primarily in real property construction activities may use resale certificates only with respect to purchases of tangible personal property or items or goods under s. 77.52 (1) (b) or (d) which the contractor has sound reason to believe the contractor will sell to customers for whom the contractor will not perform real property construction activities involving the use of such tangible personal property or items or goods under s. 77.52 (1) (b) or (d). In this subsection, 'real property construction activities' means activities that occur at a site where tangible personal property or items or goods under s. 77.52 (1) (b) or (d) that are applied or adapted to the use or purpose to which real property is devoted are affixed to that real property, if the intent of the person who affixes that property is to make a permanent accession to the real property. In this subsection, 'real property construction activities' does not include affixing property subject to tax under s. 77.52 (1) (c) to real property or affixing to real property tangible personal property that remains tangible personal property after it is affixed."

Example 1: Manufacturer enters into a contract with Contractor. Contractor is to furnish the materials and labor to install a new concrete foundation for a new manufacturing machine. Contractor is the consumer of the concrete, rebar and other materials used in the foundation, and is responsible for paying Wisconsin sales or use tax on its purchases of these materials. The machine foundation is a real property improvement and does not qualify as manufacturing machinery or processing equipment. In addition, since the installation of the machine foundation is a real property construction activity, Contractor's charges to Manufacturer for the materials and labor to install the foundation are not taxable.

Example 2: Manufacturer purchases paint from Supplier. The paint will be used by employees of Manufacturer to paint the interior walls of the plant building. Manufacturer is the person who purchases the paint and is responsible for its use in providing a service to real property. Manufacturer is a contractor with respect to this service to real property and is required to pay Wisconsin sales or use tax on its purchase of paint from Supplier.

6. EXEMPTION FOR INGREDIENTS OR COMPONENT PARTS AND CONSUMABLE ITEMS

A. Statutory Language

Section [77.54\(2\)](#), Wis. Stats., provides an exemption for:

"The sales price from the sales of and the storage, use, or other consumption of tangible personal property or item under s. 77.52 (1) (b) that is used exclusively and directly by a manufacturer in manufacturing an article of tangible personal property or item or property under s. 77.52 (1) (b) or (c) that is destined for sale and that becomes an ingredient or component part of the article of tangible personal property or item or property under s. 77.52 (1) (b) or (c) destined for sale or is consumed or destroyed or loses its identity in manufacturing the article of tangible personal property or item or property under s. 77.52 (1) (b) or (c) destined for sale, except as provided in sub. (30) (a) 6."

Section [77.54\(2m\)](#), Wis. Stats., provides an exemption for:

"The sales price from the sales of and the storage, use, or other consumption of tangible personal property or services that are used exclusively and directly by a manufacturer in manufacturing shoppers guides, newspapers, or periodicals and that become an ingredient or component of shoppers guides, newspapers, or periodicals or that are consumed or lose their identity in the manufacture of shoppers guides, newspapers, or periodicals, whether or not the shoppers guides, newspapers, or periodicals are transferred without charge to the recipient. In this subsection, 'shoppers guides,' 'newspapers,' and 'periodicals' have the meanings under sub. (15). The exemption under this subdivision does not apply to advertising supplements that are not newspapers."

Section [77.54\(43\)](#), Wis. Stats., provides an exemption for:

"The sales price from the sale of and the storage, use or other consumption of 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 this state."

B. Ingredients or Component Parts

Under sec. 77.54(2), Wis. Stats., purchases of tangible personal property or certain coins and stamps, becoming an ingredient or component part of an article of tangible personal property, certain coins or stamps, or certain leased property that is affixed to real property, destined for sale, are exempt. For example, purchases of gases such as neon or argon used as filler in the production of light bulbs are exempt. Welding rods which become a component part of the product manufactured may also be purchased without tax.

Under sec. 77.54(2m), Wis. Stats., purchases of tangible personal property becoming an ingredient or component part of shoppers guides, newspapers or periodicals are exempt, regardless of whether the shoppers guides, newspapers or periodicals are destined for sale or transferred without charge to the recipient. For example, a publisher of a newspaper may purchase, without Wisconsin sales or use taxes, newspaper and ink to be used by the newspaper in printing a newspaper.

C. Items Consumed, Destroyed, or Losing Their Identity

(1) Manufacturing articles of tangible personal property

Under sec. 77.54(2), Wis. Stats., purchases of tangible personal property, or certain coins and stamps, used exclusively and directly by a manufacturer in manufacturing an article of tangible personal property, certain coins or stamps, or certain leased property that is affixed to real property that is consumed or destroyed or loses its identity in manufacturing the article of tangible personal property, certain coins or stamps, or certain leased property that is affixed to real property destined for sale, are exempt.

Examples of purchases that may qualify for the exemption include: acids, bleaching agents, catalysts, chemicals, cleaning compounds and solvents for maintaining manufacturing machinery, cutting and lubricating oils, filtering clay, fluxing material, foundry sand, greases, lapping and grinding compounds, purification agents, sandpaper, shielding gases, and wood used to smoke products.

Note: The exemption under sec. 77.54(2), Wis. Stats., does not apply to fuel or electricity. Refer to paragraph E. of Part 6., and Part 8. for specific information regarding fuel and electricity.

The purchase of chemicals and cleaning agents used to clean walls, ceilings, floors, and drains of the rooms in which manufacturing takes place are not exempt under sec. 77.54(2), Wis. Stats, including purchases by food processors, as such chemicals and cleaning agents are not used directly in the manufacturing process.

The purchase of cardboard used by a manufacturer by placing it on the floor to catch overspray or waste from a manufacturing process (see Appendix D, Example 4), is not exempt under sec. 77.54(2), Wis. Stats., as the cardboard is not used directly in the manufacturing process.

The purchase of clean towel service or employee wearing apparel consumed during the manufacturing process which prevents contamination of the product produced and sold are exempt. Clean towel service refers to an agreement in which the seller agrees to provide the purchaser the use of clean towels provided by the seller and does not refer to providing the service of performing laundry or cleaning services to the purchaser's property. The exemption does not apply if the clean towel service or employee wearing apparel is used for the comfort or welfare of the employee and not to prevent contamination of the product during the manufacturing process. The exemption also does not apply to the purchase of laundry, dry cleaning, pressing or dyeing services for items such as cleaning towels or employee wearing apparel consumed during the manufacturing process which prevents contamination of the product produced and sold. Such purchases are taxable.

A company that is not a manufacturer and is performing a testing service exclusively on samples of products taken from the step-by-step manufacturing process of a manufacturer may not claim exemption on its purchases of tangible personal property that is consumed, destroyed, or loses its identity in performing the testing service based on the Wisconsin Tax Appeals decision in *Cherney Microbiological Services, LTD. vs. Wisconsin Department of Revenue*, dated April 23, 1996 (CCH ¶1400-215). Such property is not used exclusively and directly by a manufacturer and secs. 77.54(2) and (2m), Wis. Stats., requires that such property be used exclusively and directly by a manufacturer to qualify for exemption.

(2) Manufacturing shoppers guides, newspapers or periodicals

Under sec. 77.54(2m), Wis. Stats., purchases of tangible personal property or taxable services that are used exclusively and directly by a manufacturer and that are consumed or lose their identity in the manufacture of shoppers guides, newspapers or periodicals are exempt, regardless of whether the shoppers guides, newspapers or periodicals are destined for sale or transferred without charge to the recipient. For example, purchases of taxable services such as laundry, dry cleaning, pressing or dyeing services for items such as cleaning towels or employee wearing apparel consumed during the manufacturing process which prevents contamination of shoppers guides, newspapers or periodicals are exempt.

See Appendix D and secs. [Tax 11.41\(1\)](#), [\(2\)](#), and [\(3\)](#), Wis. Adm. Code for additional information and examples of purchases that may qualify for exemption under secs. 77.54(2) and (2m), Wis. Stats.

D. Destined for Sale Requirement

Under sec. 77.54(2), Wis. Stats., there is no exemption for property used exclusively and directly by a manufacturer in manufacturing tangible personal property, certain coins or stamps, or certain leased property that is affixed to real property and 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, unless the item produced is destined for sale. An item is not destined for sale if that item is:

- Given away by the producer of the item.
- Used by the manufacturer to repair the manufacturer's own equipment.
- Used to print advertising and the printer does not supply the paper.
- Used by the manufacturer in making a real property improvement.

Under sec. 77.54(2m), Wis. Stats., tangible personal property or services used exclusively and directly by a manufacturer in manufacturing tangible personal property and which become an ingredient or component of shoppers guides, newspapers, or periodicals or that are consumed or lose their identity in the manufacture of one of those publications are exempt. There is no requirement that shoppers guides, newspapers or periodicals be destined for sale. For example, the exemption applies to the paper purchased in the following situations:

- (1) The publisher of the shoppers guide, newspaper or periodical purchases and provides the paper to the printer.
- (2) The publisher purchases the paper and does its own printing of the shoppers guide, newspaper or periodical.

Periodicals must be regularly issued at average intervals not exceeding 3 months, or issued at average intervals not exceeding 6 months by an educational association or corporation sales to which are exempt under sec. [77.54\(9a\)\(f\)](#), Wis. Stats. Periodicals are further defined in sec. [Tax 11.19\(3\)\(c\)](#), Wis. Adm. Code.

The exemption in sec. 77.54(2m), Wis. Stats., does not apply to advertising supplements which are not newspapers. Therefore, sales of advertising supplements are taxable, unless (1) the seller is a newspaper and is printing and distributing the advertising supplement as a component part of one that newspaper's publications, or (2) the advertising supplements are printed by a newspaper or a commercial printer and sold to a newspaper for inclusion in publications of that newspaper.

Under sec. [77.54\(43\)](#), Wis. Stats., the exemption applies to raw materials becoming a component of or used for processing, fabricating or manufacturing printed materials that are transported and used solely outside Wisconsin. There is no requirement that such printed materials be destined for sale to qualify for this exemption.

E. Fuel and Electricity

Section 77.54(2), Wis. Stats., specifically provides that fuel or electricity are not included within the exemptions provided for by this subsection. Instead, sec. 77.54(30)(a)6., Wis. Stats., provides an exemption for fuel and electricity consumed in manufacturing tangible personal property in Wisconsin. See Part 8.C.

The exemption in sec. 77.54(2m), Wis. Stats., *does not exclude fuel and electricity*. Therefore, fuel and electricity consumed exclusively and directly in the manufacture of shoppers guides, newspapers, and periodicals are exempt under sec. 77.54(2m), Wis. Stats. The exemption applies even if the shoppers guides, newspapers or periodicals are given away, since there is no requirement in sec. 77.54(2m), Wis. Stats., for them to be destined for sale.

7. EXEMPTION FOR CONTAINERS AND OTHER PACKAGING AND SHIPPING MATERIALS

A. Statutory Language

Section [77.54\(6\)\(am\)2.](#), Wis. Stats., provides an exemption from Wisconsin sales and use taxes for the following:

"Containers, labels, sacks, cans, boxes, drums, bags or other packaging and shipping materials for use in packing, packaging or shipping tangible personal property or items or property under secs. 77.52(1)(b) or (c), if the containers, labels, sacks, cans, boxes, drums, bags, or other packaging and shipping materials are used by the purchaser to transfer merchandise to customers."

Section [77.54\(6\)\(am\)2m.](#), Wis. Stats., provides an exemption from Wisconsin sales and use taxes for the following:

"Meat casing, wrapping paper, tape, containers, labels, sacks, cans, boxes, drums, bags or other packaging and shipping materials for use in packing, packaging or shipping meat or meat products regardless of whether such items are used to transfer merchandise to customers."

B. Use Determines Exemption

Items under sec. 77.54(6)(am)2., Wis. Stats., must be *"used by the purchaser to transfer merchandise to customers."* It is immaterial whether the containers or other packaging materials are returnable or non returnable.

In the case of *Luetzow Industries v. Wisconsin Department of Revenue*, 197 Wis. 2d, 916 (1995), the Court of Appeals, in upholding the ruling of the Wisconsin Tax Appeals Commission, concluded that the term merchandise denotes goods that are for sale. In this case, the clothing or items turned over to the dry cleaners were not bought or sold upon their return to the customer. Instead, the customer paid for a service that the dry cleaner performed on the items returned to the customer in the garment bag. As such, the taxpayer's receipts from its sales of plastic garment bags to dry cleaners were not exempt from Wisconsin sales tax, because the dry cleaners did not use the bags to transfer merchandise to their customers, as required by sec. 77.54(6)(am)2., Wis. Stats.

Items under sec. 77.54(6)(am)2m., Wis. Stats., are exempt, regardless of whether the item is used to transfer merchandise to customers. For example, a meat processor uses casings to hold product that will become a wiener. The casing is discarded after the wiener is produced and before the wiener is packaged for sale. The meat processor may purchase the casing material without tax under sec. 77.54(6)(am)2m., even though the casing is not used to transfer merchandise to customers.

Section [Tax 11.15](#), Wis. Adm. Code, provides additional information relating to these exemptions.

C. Type of Item Which May Qualify for the Exemption

In addition to the items listed in the statute, containers include barrels, bottles, cartons, chemical carboys, and kegs. Packaging and shipping materials include property used inside a package in order to shape, form, preserve, stabilize, or protect the contents, including, but not limited to, batting, cardboard fillers, cotton, dry ice, excelsior, ice, separators, and shredded paper. Packaging and shipping materials also include such items as crates and crating material, gummed tape, mailing tubes, pallets, rope, rubber bands, skids, twine, and wrapping paper.

D. Examples of Items and Uses Which Qualify for the Exemption

- Cans in which canned goods, paints, and other commodities are contained; medicine bottles; boxes in which jewelry, candy, suits, dresses, and hats are delivered to purchasers, ice cream cartons.
- Bottles, bottle caps, and cases used by breweries, dairies, wineries, or soda water beverage producers to transfer the product to customers.
- Barrels, half-barrels, kegs, and similar containers used by breweries to transfer draft beer to customers.
- Shipping labels with directions printed thereon, such as "Fragile" or "Handle with Care", which are attached to shipping containers used to transfer merchandise to customers.
- Food dividers used to separate sections of containers which are used to transfer merchandise to customers.
- Bags purchased by bakeries, grocery stores, clothing stores or other sellers and used by the seller to transfer merchandise customers.
- Feed bags purchased by feed mills that use the bags to transfer merchandise sold to customers.
- Ice used to preserve the contents of containers during shipment to customers.
- Tanks used by a chemical manufacturer to transfer chemicals to customers, which are returned to the manufacturer each time the contents are exhausted.

E. Examples of Items and Uses Which Do Not Qualify for the Exemption

- Wrapping equipment, such as paper holders, tape dispensers, staplers, and string holders.
- Counter display cards which are used for advertising and display purposes.
- Computer produced gummed label mailing lists used to address envelopes. (However, labels for envelopes used to transfer tangible personal property to purchasers are exempt.)
- Containers or other packaging and shipping materials used merely for storage or to transfer merchandise owned by the same person from one location to another. For example, string, strap and other wrapping and packaging materials used to deliver bundles of newspapers to delivery employees, who remove and discard the materials before delivering the newspapers to home subscribers, are not exempt.
- Price tags and advertising matter used in connection with the sale of tangible personal property.
- Shopping carts or baskets and similar equipment.
- Lumber or other material used for bracing, blocking, skidding or shoring items while in transit, and cardboard and paper used to line boxcars, that are not transferred to customers.
- Tanks on trucks used to deliver merchandise to customers.
- Bags, boxes, hangers, and other containers transferred to customers by laundries, dry cleaners, and other persons providing services rather than selling merchandise.

F. Tax on Separate Charge for Packaging and Shipping Materials

If a separate charge is made by a seller or lessor of machinery, equipment, or other merchandise to a purchaser for packaging materials used in connection with the shipment of the machinery, equipment or other merchandise, the charge for such packaging materials is taxable if the property shipped is taxable. If the property is exempt from tax, the separate charge for the packaging material is also exempt.

G. Treatment of Deposits on Returnable Containers

Deposits received on returnable containers and packaging materials in connection with a taxable sale should be reported in the same way on the sales tax return as they are recorded on the seller's books of account. For example, returnable container deposits received upon the sale of tangible personal property and refunds of such deposits should be excluded from the computation of taxable gross receipts, if they are excluded from gross receipts on the books of account. If the books of account include container deposits in gross receipts, and refunds of such deposits are deducted from gross receipts, the seller should use this method of reporting taxable gross receipts on the sales tax return. When the deposit is refunded, the applicable tax should also be returned to the purchaser.

8. FUEL AND ELECTRICITY

A. Statutory Language

Section [77.54\(30\)\(a\)6.](#), Wis. Stats., provides an exemption from Wisconsin sales and use taxes for:

"Fuel and electricity consumed in manufacturing tangible personal property, or items or property under s. 77.52 (1) (b) or (c), in this state."

Section [77.54\(2m\)](#), Wis. Stats., provides an exemption from Wisconsin sales and use taxes for:

"The sales price from the sales of and the storage, use, or other consumption of tangible personal property or services that are used exclusively and directly by a manufacturer in manufacturing shoppers guides, newspapers, or periodicals and that become an ingredient or component of shoppers guides, newspapers, or periodicals or that are consumed or lose their identity in the manufacture of shoppers guides, newspapers, or periodicals, whether or not the shoppers guides, newspapers, or periodicals are transferred without charge to the recipient. In this subsection, 'shoppers guides,' 'newspapers,' and 'periodicals' have the meanings under sub. (15). The exemption under this subdivision does not apply to advertising supplements that are not newspapers."

Section [77.54\(30\)\(a\)4](#), Wis. Stats., provides an exemption for:

"Any residue that is used as 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, bark and wood pellets manufactured primarily from wood or primarily from wood residue."

Section [77.54\(6\)\(am\)3.](#), Wis. Stats., provides an exemption for:

"Fuel converted to electric energy, gas or steam by utilities and that portion of the amount of fuel converted to steam for purposes of resale by persons other than utilities."

Section [77.54\(26\)](#), Wis. Stats., provides, in part, an exemption for:

"...chemicals and supplies used or consumed in operating a waste treatment facility..." (**Note:** As used in this subsection, "supplies" includes fuel and electricity. See Part 9.C. for additional information).

B. Definitions of Fuel and Utility

Fuel is a material used to produce heat or power by burning, or something that feeds a fire. Gases such as acetylene or oxygen are, in most instances, used as a fuel. When oxygen is used to enrich the fuel mixture in an industrial furnace, or when oxygen and acetylene are used in a welding process, they are used as fuels. Coke used by a foundry is considered a fuel except for that portion of the coke (generally between 5% and 15%) which actually becomes an ingredient or component part of the grey-iron produced.

A utility is a company authorized by law to perform a service for the public in a particular area and is subject to Public Service Commission regulation. A corporation which produces electricity or steam primarily for its own consumption is not a utility.

C. Exemption Under Sec. 77.54(30)(a)6., Wis. Stats.

Section [77.54\(30\)\(a\)6.](#), Wis. Stats., provides an exemption for fuel or electricity consumed in manufacturing tangible personal property in Wisconsin.

(1) Must be consumed by a manufacturer

This exemption is allowed to individuals, partnerships, estates and trusts, corporations, and limited liability companies engaged in manufacturing in Wisconsin. For an explanation of what constitutes manufacturing, see Part 4.

(2) Must be consumed in manufacturing

Fuel and electricity consumed in manufacturing means 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.

Purchasers (other than purchasers holding a direct pay permit) are not allowed to claim 100% exempt usage for fuel or electricity when they know at the time of purchase that the exempt usage will be less than 100%. The exemption percentage claimed should represent the purchaser's best estimate of the exempt usage and should be calculated and claimed on a meter-by-meter basis for each meter that is measuring electricity and/or natural gas consumption.

Coke purchased and used as fuel in manufacturing tangible personal property in Wisconsin and as an ingredient or component part of iron destined for sale may be purchased without sales or use tax. Coke purchased and used for fuel in manufacturing tangible personal property in Wisconsin and as an ingredient or component part of iron not destined for sale is exempt only with respect to that portion of the coke used for fuel. An engineering analysis should be used to determine the percentage of coke becoming an ingredient or component part of iron produced, if applicable.

(3) When Fuel or Electricity is Sold or Purchased

Electricity and natural gas are considered sold or purchased at the time of billing as provided in sec. 77.54(30)(b), Wis. Stats. If the billing is being made by mail, the time of billing is the day on which the billing is mailed. For example, electricity and/or natural gas that is metered prior to January 1, 2023, but which is billed on January 20, 2023, is considered to have been sold on January 20, 2023.

Sales or purchases of fuels other than natural gas are considered to occur when possession of the fuel is transferred from the seller or seller's agent to the purchaser or purchaser's agent, as provided in sec. [77.585\(8\)](#), Wis. Stats.

See [Fact Sheet 2111](#), *Sales and Use Tax Exemption for Fuel and Electricity Consumed in Manufacturing* for additional information.

D. Exemption Under Sec. 77.54(2m), Wis. Stats.

Purchases of fuel and electricity consumed, destroyed or losing its identity in the manufacture of shopper's guides, newspapers or periodicals, are exempt from Wisconsin sales and use taxes.

Fuel and electricity consumed, destroyed or losing its identity in the manufacture of shopper's guides, newspapers or periodicals means only fuel and electricity used to operate machines and equipment used directly in the step-by-step manufacturing process. Fuel and electricity 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 do not qualify for exemption.

E. Exemption Under Sec. 77.54(30)(a)4., Wis. Stats.

Residue resulting from the harvesting of timber or the production of wood products, including slash, sawdust, shavings, edgings, slabs, leaves, wood chips, bark and wood pellets manufactured primarily from wood or primarily from wood residue and which are used as a fuel in a business activity are exempt from Wisconsin sales and use taxes. The exemption is not limited to qualifying products being consumed in a manufacturing process. The exemption applies to any qualifying product used as a fuel in any business activity.

F. Exemption Under Sec. 77.54(6)(c), Wis. Stats.

Fuel converted to electric energy, gas or steam by utilities and that portion of the amount of fuel converted to steam for purposes of resale by persons other than utilities are exempt from Wisconsin sales and use taxes.

G. The Franchise or Income Tax Credit

The sales and use tax exemption in sec. 77.54(30)(a)6., Wis. Stats., applies to purchases of fuel and electricity occurring after December 31, 2005. For purchases of fuel and electricity consumed in manufacturing tangible personal property in Wisconsin which occurred prior to January 1, 2006, and not otherwise exempt from Wisconsin sales and use taxes, a manufacturer may claim a credit against its income or franchise tax liability for Wisconsin sales or use taxes paid during the year on fuel and electricity consumed in manufacturing tangible personal property in Wisconsin.

The manufacturer's sales tax credit may not be claimed for taxable years that begin after December 31, 2005, or for purchases of fuel and electricity which occur after December 31, 2005. The treatment of manufacturer's sales tax credits claimed but unused for taxable years that begin before January 1, 2006, depends on the amount of unused credits.

Taxpayers having \$25,000 or less of unused credits as of January 1, 2006, may use up to 50% of the credit in each of the taxable years beginning in 2006 and 2007. Any remaining credits may be used in future taxable years within the 20-year carryforward period.

Taxpayers having more than \$25,000 of unused credits as of January 1, 2006, may deduct in each of the taxable years beginning after December 31, 2005, and before January 1, 2008, 50% of the amount of unused credit that the taxpayer had added back to income at the time the taxpayer first claimed the credit. For taxable years that

begin after December 31, 2007, a manufacturing investment credit is available to businesses certified by the former Department of Commerce. The credit is equal to the claimant's unused manufacturer's sales tax credits. It must be amortized over 15 years, starting with the taxable year beginning after December 31, 2007. The amortized amount may be offset against the claimant's franchise or income tax, including the alternative minimum tax, due. Unused credits may be carried forward for 15 taxable years.

For additional information relating to claiming the manufacturer's sales tax credit for tax years beginning prior to January 1, 2006, refer to secs. [71.07\(3s\)](#) and [71.28\(3\)](#), Wis. Stats., and sec. [Tax 2.11](#), Wis. Adm. Code.

9. WASTE TREATMENT

Section [77.54\(26\)](#), Wis. Stats., provides an exemption for waste treatment facilities, which reads as follows:

"The sales price from the sales of and the storage, use, or other consumption of tangible personal property and items and property under secs. 77.52 (1) (b) and (c) which becomes a component part of an industrial waste treatment facility that is exempt under s. [70.11 \(21\)](#) or that would be exempt under s. [70.11 \(21\)](#) if the property were taxable under [ch. 70](#), or tangible personal property and items and property under s. 77.52 (1) (b) and (c) which becomes a component part of a waste treatment facility of this state or any agency thereof, or any political subdivision of the state or agency thereof as provided in s. [40.02 \(28\)](#). The exemption includes replacement parts therefore, and also applies to chemicals and supplies used or consumed in operating a waste treatment facility and to purchases of tangible personal property and items and property under s. 77.52 (1) (b) and (c) made by construction contractors who transfer such property to their customers in fulfillment of a real property construction activity. This exemption does not apply to tangible personal property and items and property under s. 77.52 (1) (b) and (c) installed in fulfillment of a written construction contract entered into, or a formal written bid made, prior to July 31, 1975."

A. Property Must Meet Requirements

(1) Industrial waste treatment facilities

The sales and use tax exemption is contingent on the industrial waste treatment facility property meeting the requirements for exemption from property taxes under sec. [70.11\(21\)](#), Wis. Stats.

(2) Requirements specific to public utilities subject to tax under [Chapter 76](#), Wis. Stats.

The sales and use tax exemption is contingent on the industrial waste treatment facility property being formally approved by the Department of Revenue as meeting the requirements for exemption from property taxes under sec. [70.11\(21\)](#), Wis. Stats.

Public utilities subject to tax under [Chapter 76](#), Wis. Stats., include all railroad companies, all conservation and regulation companies, all sleeping car companies, all air carriers and all pipeline companies.

See sec. [Tax 6.40](#), Wis. Adm. Code, for additional information.

(3) Governmental waste treatment facilities

Government waste treatment facilities include (a) wastewater treatment facilities, (b) material recovery facilities (c) sanitary landfills, and (d) groundwater facilities.

Construction materials which become a component part of a government waste treatment facility may be purchased without tax by contractors pursuant to the standards set forth in sec. [Tax 11.11\(3\)](#), Wis. Adm. Code.

B. Contractors and Subcontractors

The sales and use tax exemption applies to purchases of tangible personal property by a contractor-installer who (a) incorporates this property into a qualifying waste treatment facility as part of a real property construction activity or (b) resells the property as tangible personal property which qualifies as a waste treatment facility as installed by the contractor. The contractor-installer should certify the intended exempt use of the item to the seller in order to relieve the seller of the duty of collecting and reporting the tax on the sale. Form S-211, *Wisconsin Sales and Use Tax Exemption Certificate* may be used for this purpose.

A contractor-installer's purchases of items used or consumed in the performance of the contract where such items do not become a component part of an exempt waste treatment facility are taxable. This includes purchases of industrial gases, form lumber, tunnel shields, supplies used by the contractor during construction, and equipment purchased or leased to perform a construction or installation job relating to the exempt waste treatment facility. It also includes tangible personal property purchased by the contractor-installer who incorporates this property into real property which is related to but not a component part of the exempt waste treatment facility itself.

C. Repair Services and Chemicals and Supplies

Charges for repair, service, alteration, fitting, cleaning, painting, coating, inspection and maintenance of exempt waste treatment facilities are not taxable. Charges for repair and replacement parts for an exempt waste treatment facility are exempt. Chemicals and supplies used or consumed to carry out the treatment process are also exempt. Supplies include fuel and electricity.

D. Claiming the Sales Tax Exemption

A purchaser of construction or repair materials for an exempt waste treatment facility, or chemicals and supplies used to operate an exempt waste treatment facility, is responsible for furnishing the seller of such items a fully completed exemption certificate, identifying the proposed exempt use of the items purchased. In the absence of accepting a fully completed exemption certificate from a purchaser, the seller remains liable for Wisconsin sales tax on its sales of tangible personal property.

10. WASTE REDUCTION OR RECYCLING

A. Statutory Language

Section [77.54\(5\)\(c\)](#), Wis. Stats., exempts the sales price from the sale of and the storage, use or other consumption of:

"Motor vehicles which are not required to be licensed for highway use and which are exclusively and directly used in conjunction with waste reduction or recycling activities which reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste or recover energy from solid waste. For purposes of this paragraph, 'solid waste' means garbage, refuse, sludge or other materials or articles, whether these materials or articles are discarded or purchased, including solid, semisolid, liquid or contained gaseous materials or articles resulting from industrial, commercial, mining or agricultural operations or from domestic use or from public service activities."

Section [77.54\(26m\)](#), Wis. Stats., provides a sales and use tax exemption for:

"The sales price from the sale of and the storage, use or other consumption of waste reduction or recycling machinery and equipment, including parts therefor, exclusively and directly used for waste reduction or recycling activities which reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste or recover energy from solid waste. The exemption applies even though an economically

useful end product results from the use of the machinery and equipment. For purposes of this subsection, 'solid waste' means garbage, refuse, sludge or other materials or articles, whether these materials or articles are discarded or purchased, including solid, semisolid, liquid or contained gaseous materials or articles resulting from industrial, commercial, mining or agricultural operations or from domestic use or from public service activities."

Note: The exemption includes parts for the machinery and equipment but does not include fuel and other supplies for the equipment.

B. Directly and Exclusively Used Requirement

To qualify for the exemption, machinery, equipment, and motor vehicles not required to be licensed for highway use must be used exclusively and directly in the waste reduction and recycling activities which reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste.

Any machinery, equipment, or motor vehicle not required to be licensed for highway use which is not used to reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste is not exempt, even though such machinery, equipment or motor vehicle may be indirectly related to waste reduction or recycling. For example, a baler and a conveyor which transports scrap paper trimmings from a paper manufacturing process to the baler, which bales the scrap paper before it is disposed of in a landfill, are not exempt waste reduction or recycling machinery or equipment. However, such machinery or equipment may be exempt as manufacturing machinery or equipment under sec. 77.54(6)(am)1., Wis. Stats., if the scrap paper is resold or is otherwise given value as a by-product rather than being disposed of in a landfill. See Part 5.

Containers used to collect and transport recyclable materials to a recycling plant are not used directly in the waste reduction or recycling process. Similar taxable items include a can crusher used in a household, a paper shredder in an office used to destroy confidential records, a freon recovery unit used to collect and store freon gas recovered from air conditioning units, and a milling machine used to grind a roadway smooth when the ground up materials are not reused.

Items that qualify for the exemption include equipment that produces fuel cubes by shredding paper and adding chemical agents, a refrigerant recovery unit used to recover refrigerant from air conditioning units and put the recovered refrigerant back into an air conditioning unit, a milling machine that is used to grind old pavement when the ground up materials are reused in constructing new roadways, equipment used to remove impurities from lubrication oil used in manufacturing machines so that the oil can continue to be used by the manufacturer, and a system used exclusively to burn used oil to produce heat for hot water.

11. MOBILE MIXING UNITS

Section [77.54\(5\)\(d\)](#), Wis. Stats., exempts the gross receipts from the sale of and the storage, use or other consumption of:

"Mobile units used for mixing and processing and the motor vehicle or trailer on which the unit is mounted, including accessories, attachments, parts, supplies and materials for those vehicles, trailers and units."

12. PRINTING

The Department of Revenue offers two publications specifically relating to the printing industry:

- [Publication 233: Newspaper Publishers – How Do Wisconsin Sales and Use Taxes Affect Your Operations?](#)

- [Publication 234: Printers – How Do Wisconsin Sales and Use Taxes Affect Your Operations?](#)

Publication 233 relates specifically to the printing of newspapers and advertising supplements for newspapers.

Publication 234 covers all other sales and use tax topics relating to printing except for material covered in Publication 233 for newspaper publishing.

13. PROPERTY USED IN FERTILIZER BLENDING, FEED MILLING AND GRAIN DRYING OPERATIONS

A. Statutory Language

Sections [77.54\(6\)\(am\)4.](#) and [5.](#), Wis. Stats., provides exemptions for the following:

"Machines and specific processing equipment used exclusively and directly in a fertilizer blending, feed milling, or grain drying operation, including holding structures used for weighing and dropping feed or fertilizer ingredients into a mixer, wet corn holding bins, grain dryers, mixers, conveying equipment, and grinding, mixing, and saturation bins, regardless of whether such items become an addition to, a component of, or a capital improvement of real property. The exemption under this subdivision applies to repair parts, replacements, and safety attachments for such machines and equipment."

"Building materials acquired solely for and used solely in the construction or repair of holding structures used for weighing and dropping feed or fertilizer ingredients into a mixer or for storage of grain, if such structures are used in a fertilizer blending, feed milling, or grain drying operation."

Section [77.54\(6\)\(bn\)](#), Wis. Stats., provides for the following with respect to the exemptions under secs. [77.54\(6\)\(am\)4.](#) and [5.](#), Wis. Stats.:

"The exemptions under par. [\(am\) 4.](#) and [5.](#) apply only to items located on the same parcel of property where the fertilizer blending, feed milling, or grain drying operation activities are conducted, or on an adjoining parcel, including parcels that are separated only by a public road. The exemptions under par. [\(am\) 4.](#) and [5.](#) apply only to persons who are primarily engaged in fertilizer blending, feed milling, or grain handling operations which include grain drying operations, or primarily engaged in any combination of fertilizer blending, feed milling, or grain handling operations which include grain drying operations, and to contractors providing real property construction activities to such persons."

Section [77.54\(6\)\(cn\)](#), Wis. Stats., provides that the exemptions under secs. [77.54\(6\)\(am\)4.](#) and [5.](#), Wis. Stats., shall be strictly construed.

B. What is Exempt?

- (1) Machines and specific processing equipment used exclusively and directly in a fertilizer blending, feed milling, or grain drying operation, including holding structures used for weighing and dropping feed or fertilizer ingredients into a mixer, wet corn holding bins, grain dryers, mixers, conveying equipment, and grinding, mixing, and saturation bins, regardless of whether such items become an addition to, a component of, or a capital improvement of real property. The exemption under this subdivision applies to repair parts, replacements, and safety attachments for such machines and equipment.
- (2) Building materials acquired solely for and used solely in the construction or repair of holding structures used for weighing and dropping feed or fertilizer ingredients into a mixer or for storage of grain, if such structures are used in a fertilizer blending, feed milling, or grain drying operation.

The exemptions apply only to items located on the same parcel of property where the fertilizer blending, feed milling, or grain drying operation activities are conducted, or on an adjoining parcel, including parcels that are separated only by a public road.

C. Who May Claim the Exemption?

The exemptions described in Part 13.B., may only be claimed by:

- Persons who are primarily engaged in fertilizer blending, feed milling, or grain handling operations which include grain drying operations, or primarily engaged in any combination of fertilizer blending, feed milling, or grain handling operations which include grain drying operations, or
- Contractors providing real property construction activities to such persons.

14. PROPERTY USED IN QUALIFIED RESEARCH

A. Statutory Language

Section [77.54\(57d\)\(b\)](#), Wis. Stats., provides an exemption for the following:

"The sales price from the sale of and the storage, use, or other consumption of machinery and equipment, including attachments, parts, and accessories, and other tangible personal property or items or property under s. 77.52 (1) (b) or (c) that are sold to any of the following and that are consumed or destroyed or lose their identities while being used exclusively and directly in qualified research:

- (1) A person engaged in manufacturing in this state at a building assessed under s. 70.995.
- (2) A person engaged primarily in biotechnology in this state.
- (3) A combined group member who is conducting qualified research for another combined group member and that other combined group member is a person described under subd. 1. or 2."

B. What is Exempt?

Machinery and equipment, including attachments, parts, and accessories, and other tangible personal property or items or property under secs. 77.52 (1) (b) or (c) that are sold to any of the following and that are consumed or destroyed or lose their identities while being used exclusively and directly in qualified research:

A person engaged in manufacturing in Wisconsin on real property assessed under sec. 70.995.

- (1) A person engaged primarily in biotechnology in this state.
- (2) A combined group member who is conducting qualified research for another combined group member and that other combined group member is a person described in (1) or (2).

C. Additional Information

For additional information on the exemption for property purchased and used in qualified research, see [Fact Sheet 2101-2](#), *Sales and Use Tax Exemption for Qualified Research on and After July 2, 2013* and [Publication 131](#), *Tax Incentives for Conducting Qualified Research in Wisconsin*.

15. WHEN AND WHERE A SALE OCCURS

A. When a Sale Occurs

- (1) A sale or purchase involving transfer of ownership of tangible personal property or items or property under s. 77.52(1)(b) or (c), is completed at the time when possession is transferred by the seller or the seller's agent to the buyer or the buyer's agent. A common carrier or the U.S. Postal Service is the agent of a seller, regardless of any f.o.b. point and regardless of the method by which the freight is paid.
- (2) Except when purchased by subscription, a sale or purchase of a digital good listed in s. 77.52(1)(d), is completed at the time when possession is transferred by the seller or the seller's agent to the purchaser or the purchaser's agent or when the digital good is first used, whichever comes first.
- (3) A sale or purchase of a digital good sold by subscription is completed at the time when the payment for the subscription is due the seller. Subscription means an agreement with the seller that grants the consumer the right to obtain products transferred electronically from within in one more product categories having the same tax treatment, in a fixed quantity or for a fixed period of time, or both.

B. Where a Sale Occurs ("Sourcing")

The location where a sale, license, lease, or rental takes place is the location where the transaction is sourced.

"Receive" means taking possession of tangible personal property or items or property under s. 77.52(1)(b) or (c); taking possession or making first use of a good described in s. 77.52(1)(d), whichever comes first; or making first use of services. "Receive" does not include a shipping company taking possession of tangible personal property or items or property under s. 77.52(1)(b) or (c) on a purchaser's behalf.

"Transportation equipment" means any of the following:

- Locomotives and railcars that are used to carry persons or property in interstate commerce.
- Trucks and truck tractors that have a gross vehicle weight rating of 10,001 pounds or greater, trailers, semitrailers, and passenger buses, if such vehicles are registered under the international registration plan under [s. 341.405](#) and operated under the authority of a carrier that is authorized by the federal government to carry persons or property in interstate commerce.
- Aircraft that are operated by air carriers that are authorized by the federal government or a foreign authority to carry persons or property in interstate or foreign commerce.
- Containers that are designed for use on locomotives and railcars, trucks and truck tractors, trailers and semitrailers, passenger buses, and aircraft that are "transportation equipment" and component parts attached to or secured on such vehicles.

Note: The general sourcing rules that follow **do not** apply in the case of sales of direct mail, sales of telecommunications services, and sales by florists. In the case of sales of direct mail, see [Publication 234](#), Parts V.E., and G., and sec. [Tax 11.945\(3\)](#), Wis. Adm. Code. In the case of sales of telecommunications services, see sec. [Tax 11.66\(3\)](#), Wis. Adm. Code. In the case of sales by florists, see sec. [Tax 11.945\(5\)](#), Wis. Adm. Code.

A license of property, items, or goods shall be treated as a lease or rental of such property, items, or goods, as explained in Parts 15.B.(2), (3), and (4), that follow:

- (1) A sale (but not a license, lease, or rental) occurs at the location determined using the following hierarchy:
 - (a) If a purchaser receives the product at a seller's business location, the sale is sourced to that business location.
 - (b) If a purchaser does not receive the product at a seller's business location, the sale is sourced to the location where the purchaser, or the purchaser's designated donee, receives the product, including the location indicated by the instructions known to the seller for delivery to the purchaser or the purchaser's designated donee.

- (c) If the location of a sale of a product cannot be determined under a. and b., the sale is sourced to the purchaser's address as indicated by the seller's business records, if the records are maintained in the ordinary course of the seller's business and if using that address to establish the location of a sale is not in bad faith.
- (d) If the location of a sale of a product cannot be determined under a. to c., the sale is sourced to the purchaser's address as obtained during the consummation of the sale, including the address indicated on the purchaser's payment instrument, if no other address is available and if using that address is not in bad faith.
- (e) If the location of a sale of a product cannot be determined under a. to d., including the circumstance in which the seller has insufficient information to determine the locations under a. to d., the location of the sale is determined as follows:
 - (1) If the tangible personal property or item or property under s. 77.52(1)(b) or (c) the sale is sourced to the location from which the property or item is shipped.
 - (2) If the item sold is a digital good under s. 77.52(1)(d) or computer software delivered electronically, the sale is sourced to the location from which the digital good or computer software was first available for transmission by the seller, not including any location that merely provided the digital transfer of the product sold.
 - (3) If a service is sold, the sale is sourced to the location from which the service was provided.
- (2) Except as provided in (3) and (4) below, with regard to the first or only payment on the lease or rental, the lease or rental of property, items, and goods is sourced to the location determined under Part 15.B.(1). Subsequent periodic payments on the lease or rental are sourced to the property's, item's, or good's primary location as indicated by an address for the property, item, or good that is provided by the lessee and that is available to the lessor in records that the lessor maintains in the ordinary course of the lessor's business, if the use of such an address does not constitute bad faith. The location of a lease or rental as determined under this paragraph shall not be altered by any intermittent use of the property, item, or good at different locations.
- (3) The lease or rental of motor vehicles, trailers, semitrailers, and aircraft, that are not transportation equipment, is sourced to the primary location of such motor vehicles, trailers, semitrailers, or aircraft as indicated by an address for the property that is provided by the lessee and that is available to the lessor in records that the lessor maintains in the ordinary course of the lessor's business, if the use of such an address does not constitute bad faith, except that a lease or rental under this paragraph that requires only one payment is sourced to the location determined under Part 15.B.(1). The location of a lease or rental as determined under this paragraph shall not be altered by any intermittent use of the property at different locations.
- (4) The lease or rental of transportation equipment is sourced to the location determined under Part 15.B.(1).

Example 1: At an auction held in Winona, Minnesota, a lathe is sold to an individual from Sauk County, Wisconsin. The buyer takes delivery of the lathe in Winona, Minnesota, and transports it to a location in Sauk County, Wisconsin. The location of the auction is the business location of the auctioneer.

The sale occurs at the time possession of the lathe is transferred by the seller to the buyer. The sale is "sourced to" or occurs in Minnesota, as prescribed in Part 15.B.(1)(a), as the buyer received the lathe at the seller's business location in Winona, Minnesota. Because the sale occurred in Minnesota, it is not subject to Wisconsin sales tax. However, since the lathe, subsequent to the sale in Minnesota, is stored, used, or consumed in Wisconsin by the purchaser, the purchaser is subject to Wisconsin state use tax (5.0%) and Sauk County use tax (0.5%), unless an exemption applies.

Example 2: A manufacturer located in La Crosse County, Wisconsin, sells a product it manufactures to a retail customer in Milwaukee County, Wisconsin. The manufacturer delivers the product to the customer at its Milwaukee County location, using a common carrier.

The sale occurs when the manufacturer's agent, the common carrier, transfers possession of the product to the customer at the customer's location in Milwaukee County. The sale is sourced to or occurs in Milwaukee County, as prescribed in Part 15.B.(1)(b), as the customer receives the product at that location. The sale is subject to Wisconsin state sales tax (5.0%), Milwaukee County sales tax (0.9%), unless an exemption applies.

16. BUNDLED TRANSACTIONS

If at least one of the products sold in a bundled transaction is taxable, the entire sales price of the bundled transaction is taxable, unless the sales or purchase price of the taxable product or service is 10% or less than the total sales or purchase price of all the bundled products.

Exception: At the retailer's option, if the retailer can identify, by reasonable and verifiable standards from the retailer's books and records that are kept in the ordinary course of its business for other purposes, including purposes unrelated to taxes, the portion of the price that is attributable to products that are not taxable, that portion of the sales price is not taxable. **Note:** This exception does not apply to a bundled transaction that contains food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, prosthetic devices, or medical supplies.

For additional information about bundled transactions, see Part 10.C. in [Publication 201](#).

17. EXEMPTION CERTIFICATES – SELLERS' AND PURCHASERS' RESPONSIBILITIES

A. Basic Consideration

- (1) The sales tax law provides a presumption that all receipts a retailer receives from its sales of taxable products and services are taxable until the contrary is established. The use tax law provides a presumption that taxable products and services sold by any person for delivery into Wisconsin are sold for storage, use or consumption in Wisconsin until the contrary is established. For both sales and use tax purposes, the burden of proving that a sale or purchase is not at retail or is otherwise exempt from tax, is upon the person who makes the sale, unless that person making the sale accepts, from the purchaser, an electronic or paper certificate, in the manner prescribed by the Department of Revenue, to the effect that the product or service is purchased for resale or is otherwise exempt.
- (2) The certificate relieves the seller of the tax otherwise applicable only if the seller obtains a fully completed exemption certificate, or the information required to prove the exemption, from a purchaser no later than 90 days after the date of the sale of the taxable products or services. In lieu of an exemption certificate, the following information may be captured and maintained by the seller's accounting system to prove an exemption:
 - Name and business address of the purchaser.
 - Purchaser's state tax identification number and state of issue. If the purchaser does not have a state tax identification number then the purchaser's federal employer identification number is needed. If the purchaser does not have a federal employer identification number then the purchaser's personal driver's license number and state of issue is needed.
 - Purchaser's type of business.
 - The reason for the claimed exemption.

- (3) The certificate must provide information that identifies the purchaser and must indicate the basis for the claimed exemption. A paper certificate must be signed by the purchaser. The certificate must be in such form as the department prescribes by rule.
- (4) The certificate does not relieve the seller of the tax otherwise applicable if:
 - The seller fraudulently fails to collect the tax.
 - The seller solicits the purchaser to claim an unlawful exemption.
 - The seller accepts an exemption certificate from a purchaser who claims to be an entity that is not subject to Wisconsin sales and use taxes if the subject of the transaction sought to be covered by the exemption certificate is received by the purchaser at a location operated by the seller in Wisconsin and the exemption certificate clearly and affirmatively indicates that the claimed exemption is not available in Wisconsin.
- (5) No certificate is required for the sale of taxable products or services that are exempt under secs. 77.54(5)(a)3., (7), (7m), (8), (10), (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), (52), (64), (66), (67), and (72), Wis. Stats.
- (6) If the seller has not obtained a fully completed exemption certificate or the information required to prove the exemption, the seller may, no later than 120 days after the department requests that the seller substantiate the exemption, either provide proof of the exemption to the department by other means or obtain, in good faith, a fully completed exemption certificate from the purchaser. A seller accepts an exemption certificate in this situation in good faith if:
 - It was an exemption authorized by law on the date of the transaction in the jurisdiction where the transaction is sourced.
 - It could be applicable to the property, item, good, or service being purchased.
 - It is reasonable for the purchaser's type of business.
- (7) A certified service provider is relieved from liability for the tax otherwise applicable to the same extent as the seller, who is the certified service provider's client, is relieved from liability for the sales and use tax otherwise applicable.

B. Use of an Exemption Certificate by a Manufacturer

A seller who accepts a properly completed *Wisconsin Sales and Use Tax Exemption Certificate* ([Form S-211](#) or [S-211E](#)) marked for single use may only make the sale to the manufacturer without tax for the transaction covered by the certificate. A seller accepting a certificate marked for "continuous" use may make all sales to the manufacturer without tax.

A seller who accepts a properly completed *Wisconsin Streamlined Sales and Use Tax Agreement Exemption Certificate* ([Form S-211-SST](#)) with line 2 completed indicating the certificate is a "single purchase" certificate, may only accept that certificate for the purchase order indicated. If line 2 is not completed, the seller accepts the certificate as a "blanket certificate."

Continuous or blanket 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.

A supplier who accepts a fully completed exemption certificate claiming a manufacturing exemption marked for "continuous" use or a "blanket" certificate 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" or "blanket" 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.

If a purchaser provides a continuous or blanket exemption certificate, the purchaser may not issue "this time only" purchase orders or similar documents cancelling the continuous or blanket exemption certificate for the one transaction only. In addition, the notation taxable on a purchase order is not sufficient to relieve a purchaser of the responsibility for a previously issued continuous or blanket certificate. The seller is not liable for the tax on transactions covered by a valid exemption certificate. If a purchaser does not want a continuous or blanket exemption certificate to apply, it must notify the seller in writing that it is rescinding a previously issued continuous or blanket exemption certificate.

C. The Certificate's Form

While it is not required to use the department's [Form S-211](#), [S-211E](#), or the [Form S-211-SST](#), any information or documentation a seller receives from the purchaser to prove an exemption must contain all of the data elements described in Part 17.A.(2).

In addition, a seller may accept a properly completed exemption certificate received electronically, such as via FAX or email, from the purchaser. Exemption certificates accepted electronically are not required to be signed by the purchaser.

D. Direct Pay Permits

The holder of a direct pay permit may purchase certain taxable products or services without Wisconsin sales or use tax. If the taxable products or services purchased using the direct pay permit are stored, used, or consumed in Wisconsin in a taxable manner, the purchaser must report and pay Wisconsin use tax based on the purchase price of the taxable property, item, good, or service.

Information on who is eligible and how to apply for a direct pay permit is found in sec. [Tax 11.13](#), Wis. Adm. Code.

When purchasing items using a direct pay permit, the purchaser must furnish the seller with (a) a copy of its direct pay permit or (b) a statement that the purchaser holds a direct pay permit, the permit number, and the date the permit was issued.

A seller who accepts a direct pay permit may make sales to the permit holder without tax, except for those items specifically excluded from direct pay by secs. [Tax 11.13\(6\)\(a\)](#) and [\(b\)](#), Wis. Adm. Code. If a manufacturer uses an item purchased using a direct pay permit in a taxable manner, the manufacturer is subject to Wisconsin use tax on the purchase price of the item.

E. Misuse of Exemption Certificates

A purchaser who certifies to a seller that the sale of a taxable product or service is exempt, knowing at the time of purchase that it is not exempt, for the purpose of evading the tax applicable to the transaction, is guilty of a misdemeanor.

A purchaser who uses an exemption certificate in a manner that is prohibited by or inconsistent with Wisconsin law or who provides incorrect information to a seller or certified service provider relating to an exemption being claimed will be subject to a penalty of \$250 for each invoice or bill of sale related to the prohibited or inconsistent use to which the incorrect information applies.

18. WISCONSIN USE TAX

A. Imposition and Liability

Section [77.53\(1\)](#), Wis. Stats., imposes the Wisconsin use tax. The use tax is an excise tax on the storage, use or other consumption in this state of taxable products and services, purchased from any retailer.

Section [77.53\(2\)](#), Wis. Stats., imposes the liability for the use tax on every person storing, using or otherwise consuming in this state taxable products or services, purchased from a retailer.

The use tax serves to complement the sales tax. Use tax applies to purchases of taxable products and services for which no Wisconsin sales tax has been paid and the product or service is stored, used or consumed in Wisconsin. As such, a Wisconsin retailer who is liable for the state's 5% sales tax on its sale is not at a competitive disadvantage with respect to an out-of-state retailer who is not subject to the state's sales tax on its sale of the same product or service to a Wisconsin purchaser.

B. Definition of "Storage" and "Use"

Section [77.51\(18\)](#), Wis. Stats., provides that:

" 'Storage' includes any keeping or retention in this state of tangible personal property or items, property, or goods under s. 77.52(1)(b), (c), or (d) purchased from a retailer for any purpose except sale in the regular course of business."

Sections [77.51\(22\)\(a\)](#), [\(b\)](#), and [\(bm\)](#), Wis. Stats., provide that:

"(a) 'Use' includes the exercise of any right or power over tangible personal property, or items, property, or goods under s. 77.52(1)(b), (c), or (d), or taxable services incident to the ownership, possession or enjoyment of the property, items, goods, or services, or the results produced by the services, including installation or affixation to real property and including the possession of, or the exercise of any right or power over tangible personal property, or items, property, or goods under s. 77.52(1)(b), (c), or (d), by a lessee under a lease, except that "use" does not include the activities under sub. (18).

(b) In this subsection 'enjoyment' includes a purchaser's right to direct the disposition of property or items, property, or goods under s. 77.52(1)(b), (c), or (d), whether or not the purchaser has possession of the property, items, or goods. 'Enjoyment' also includes, but is not limited to, having shipped into this state by an out-of-state supplier printed material which is designed to promote the sale of property, or items, property, or goods under s. 77.52(1)(b), (c), or (d), or services, or which is otherwise related to the business activities, of the purchaser of the printed material or printing service."

(bm) "In this subsection, 'exercise of any right or power over tangible personal property, or items, property, or goods under s. 77.52(1)(b), (c), or (d), or taxable services' includes distributing, selecting recipients, determining mailing schedules, or otherwise directing the distribution, dissemination, or disposal of tangible personal property, or items, property, or goods under s. 77.52(1)(b), (c), or (d), or taxable services, regardless of whether the purchaser of such property, items, goods, or services owns or physically possesses, in this state, the property, items, goods, or services."

C. Common Application

A common application of the use tax involves taxable products or services purchased from out-of-state sellers for storage, use or consumption in Wisconsin. It is presumed that taxable products or services sold for delivery in this state are sold for storage, use, or consumption in this state until the contrary is established. Wisconsin purchasers who receive deliveries of products from out-of-state sellers or who purchase products out-of-state for storage, use, or consumption in Wisconsin must, unless they qualify for an exemption, report and pay to this

state the tax based upon the sales price of such products even though the products may subsequently be shipped outside Wisconsin.

Out-of-state sellers who are not required to register to collect and remit Wisconsin tax on sales that are sourced to this state under sec. 77.522, Wis. Stats., but who desire to collect use tax for the convenience of Wisconsin purchasers, may register with the department to collect the Wisconsin use tax. If they are collecting the Wisconsin tax, the tax must be shown as a separate item on the invoice. Payments to out-of-state sellers registered with the department and evidenced by a receipt from each seller with the tax separately stated, relieve the purchaser from liability for the tax. However, when the Wisconsin tax is not billed separately on the invoice issued by the out-of-state seller, the purchaser should report the tax directly to the department and should not add or pay the tax when paying the seller. See Part 4.A. in Publication 201 for information about when out-of-state sellers are required to register to collect and remit Wisconsin sales or use tax.

D. Other Applications

If a taxable product or service is purchased for resale and an exemption certificate claiming resale is issued by the purchaser, the tax applies if there is any use of the product other than demonstration or display while holding it for sale in the regular course of business. Thus, a seller who appropriates any part of an inventory for personal use must report and pay the use tax based on the purchase price of appropriated property even though it may later be resold.

Manufacturers who are also contractors, such as manufactured home builders or operators of redi-mix plants, who are involved in real property construction activities, must report and pay the use tax on that portion of their purchases of ingredients or component parts which are used or consumed in their real property construction activities, unless Wisconsin sales tax was previously paid with respect to these purchases.

If products are purchased without tax using a direct pay permit, use tax applies if the property is used in a taxable manner. The use tax liability accrues at the time the property is first stored, used, or consumed in Wisconsin in a taxable manner.

E. Use Tax Registration

Who Needs to Register?

- If a manufacturer is not required to hold a seller's permit (see Parts 2.A. and 14.A., B., and C.), but regularly has a use tax obligation because purchases are made without tax, the manufacturer should apply for a consumer's use tax registration certificate.
- Manufacturers from other states whose only activity in Wisconsin is real property construction also must obtain a consumer's use tax registration certificate.
- Manufacturers from other states engaged in both real property construction and the sale, installation, repair, or other service of personal property in Wisconsin must obtain a use tax registration certificate.

A consumer's use tax certificate is required for every business that regularly purchases or leases taxable products or services for storage, use, or consumption in Wisconsin upon which a Wisconsin sales or use tax was not paid. This certificate is not required if a business already holds a seller's permit or use tax registration certificate.

A use tax registration certificate is required for every out-of-state retailer who is not otherwise required to hold a Wisconsin seller's permit, but who is engaged in business in Wisconsin and makes taxable sales in Wisconsin.

To obtain a consumer's use tax registration certificate or a use tax registration certificate described above, an online application can be made using the department's [Online Business Tax Registration](#).

F. Credit for Sales or Use Taxes Paid to Another State

In some cases, purchases of products or services which are subject to Wisconsin's use tax are first purchased in another state where that other state imposes sales or use taxes relating to the purchase. If the purchaser paid a sales or use tax properly due to the state where the product was purchased, the purchaser is entitled to a credit against the Wisconsin use tax imposed on the same purchase, in an amount not in excess of the taxes paid to the other state.

For purposes of this credit, "sales or use taxes paid to the other state" includes both that state's sales or use tax plus any sales or use taxes imposed by local jurisdictions within that state, and "Wisconsin use taxes" includes the state's use tax plus any use tax imposed by a county or city in Wisconsin.

In order to claim the credit, the taxes paid to the other state must: (1) reflect taxes legally owed to the other state, and (2) have actually been paid to the other state. Taxes paid in error to the other state cannot be used to offset the Wisconsin use taxes imposed. A purchaser paying sales or use taxes in error to another state should contact either the seller or that state's revenue agency to obtain a refund of the taxes paid in error.

The [instructions](#) for [Form ST-12](#), *Wisconsin Sales and Use Tax Return*, provides examples demonstrating how to properly report the credit for taxes paid to another state on Form ST-12.

Additional information on claiming the credit for taxes paid to another state is available in a tax release, *Credit for Sales and Use Taxes Paid to Other States and Their Local Units of Government*, published in [Wisconsin Tax Bulletin 157](#) (July 2008).

19. SALES BY MANUFACTURERS

A. Sales at Retail Require a Seller's Permit

The requirement that all sales of products and services are taxable until the contrary is established applies to manufacturers as well as other sellers. Manufacturers are required to obtain a seller's permit and pay the sales tax on the portion of their sales price which is from taxable retail sales. Such retail sales include, but are not limited to, sales of meals to employees or visitors, sales of used equipment or scrap materials, and sales to other manufacturers or distributors who have not supplied the seller with a valid exemption certificate.

B. Sales to Real Property Construction Contractors

Sales of materials to contractors who use such materials in real property construction activities are taxable sales at retail. The seller must charge the tax on such sales unless the contractor involved provides the seller a properly completed exemption certificate claiming a valid exemption from tax.

C. Sales in Interstate Commerce

A sale by a Wisconsin manufacturer which is sourced under sec. 77.522, Wis. Stats., to a location outside Wisconsin is not subject to Wisconsin sales tax. Manufacturers who make such sales should keep records and bills of lading showing that delivery is made outside Wisconsin or is otherwise properly sourced to a location outside of Wisconsin.

Caution: If a seller knows that the taxable product or service is intended for storage, use or consumption in Wisconsin, the seller is required to collect the sales or use tax on such product or service.

D. Conversion From Exempt to Taxable Use

If a purchaser certifies in writing to a seller that the product purchased will be used in a manner or for a purpose entitling the seller to regard the sales price from the sale as exempted by this subchapter from the computation of the amount of the sales tax and uses the product in some other manner or for some other purpose, the purchaser is liable for payment of the sales tax. The tax shall be measured by the sales price of the product to the purchaser (sec. 77.57, Wis. Stats.).

E. Modular Homes

Sections 77.51(15b)(b)8., and (12m)(b)8., Wis. Stats., provide that the sales price or purchase price from the sale of a modular home, as defined in sec. 101.71(6), Wis. Stats. (see definition below), that is tangible personal property when sold, may be *reduced by* one of the following:

Option A: 35% of the gross receipts or sales price.

Option B: An amount equal to the sales price or purchase 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 under Option A or Option B in computing the taxable sales price or purchase.

Once a seller chooses Option A or Option B for the first modular home sold under this provision, the seller must continue to use that option for all sales of modular homes, that are tangible personal property when sold, until such time as the department 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:

- (1) 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
- (2) 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 any manufactured home under sec. 101.91 or any building of open construction which is not subject to 2. above.

Example: Building Manufacturer sells a modular home, as defined in sec. 101.71(6), Wis. Stats., in Wisconsin to Dealer for \$65,000. Dealer will affix the manufactured building to real property in Wisconsin for Purchaser under a contract between Dealer and Purchaser. This is the first modular home, as defined in sec. 101.71(6), Wis. Stats., sold by Building Manufacturer pursuant to a contract entered into on or after December 1, 1997. The cost of materials purchased by Building Manufacturer that become an ingredient or component part of the modular home is \$40,000.

The amount subject to sales tax on the sale of the modular home to Dealer is one of the following:

Option A: \$42,250 [\$65,000 selling price reduced by \$22,750 (35% of the \$65,000 selling price)].

Option B: \$40,000 [\$65,000 selling price reduced by \$25,000 (\$65,000 selling price minus the \$40,000 cost of materials)].

If Building Manufacturer chooses Option A for computing gross receipts from the sale of this modular home, it must use Option A for computing gross receipts from all future sales of modular homes, until the department approves in writing the use of Option B.

Note: Section 77.54(5)(am), Wis. Stats., provides an exemption from Wisconsin sales and use tax for modular homes, as defined in sec. 101.71(6), and manufactured homes, as defined in sec. 101.91(2), that are used in real property construction activities outside this state.

20. ADDITIONAL INFORMATION

Department of Revenue Assistance

If you have a question about sales and use taxes, call, write, or email the department.

Visit our website . . . revenue.wi.gov

Email . . . DORSalesandUse@revenue.wi.gov

Write . . .
Mail Stop 5-77
Wisconsin Department of Revenue
P.O. Box 8902
Madison, WI 53708-8902

Telephone . . . (608) 266-2776

Fax . . . (608) 267-1030

SCOPE OF MANUFACTURING IN SPECIFIC SITUATIONS

1. CHEESE PLANT

The manufacturing process in a cheese plant where raw milk is converted into cheese includes the aging of and the cutting and wrapping of the cheese it manufactures. Machines and processing equipment used exclusively and directly in either of these processes are exempt under sec. 77.54(6)(am)1., Wis. Stats.

2. DAIRY PLANT

The manufacturing process in a dairy plant starts after the stop valve on the passive storage or holding tank and ends with the conveyance of the finished product to the point of first storage on the plant premises. Machines and processing equipment used exclusively and directly in the intervening processes are exempt.

3. MEAT PACKING PLANT

The manufacturing process in a meat packing plant includes the slaughtering and dressing of the animals. Machines and processing equipment used exclusively and directly in such operations are exempt.

4. BOTTLING

The washing and sterilizing of bottles or other containers as part of a continuous step-by-step manufacturing process, which includes refilling the container, is within the *scope* of manufacturing. Machines and processing equipment used exclusively in such bottling operations are exempt.

5. HARD FREEZING

The manufacturer's hard freezing of a product as a direct and necessary step in the production of the finished product is within the *scope* of manufacturing, and machines and processing equipment used exclusively and directly in such freezing are exempt. However, the refrigeration or cold storage of a product after it has been manufactured is not within the *scope* of manufacturing and machines or processing equipment used therein are not exempt.

6. ASPHALT AND CONCRETE READY-MIX PLANTS

Manufacturing includes the operation of an asphalt plant or a concrete ready-mix plant used to produce materials for road building and surface lot construction if such equipment is used exclusively on a parcel of land that is leased to or owned by the manufacturer and is not otherwise used in a real property construction activity.

Effective June 1, 2024, an exemption is provided in sec. [77.54\(73\)](#), Wis. Stats., for portable machinery and equipment, including accessories, attachments, part, and supplies for such machinery and equipment, used primarily to crush, mill, produce, or pulverize asphalt, concrete, gravel, rock, or aggregate base for road or commercial surface lot construction or resurfacing. Portable asphalt and concrete ready-mix plants may qualify for this exemption.

7. COMPUTERS

Computers used by a manufacturer exclusively and directly to control the flow of materials on the production line are used directly within the *scope* of manufacturing and are exempt.

8. STEAM MANUFACTURING

A conveyor used exclusively to transfer crushed coal from a coal yard to a boiler that manufactures steam is used directly within the *scope* of manufacturing. The coal yard crane, crushers, and hoppers used prior to movement by conveyor to the boiler, are used prior to the manufacturing process.

9. FURNACES, BOILERS AND STANDBY GENERATORS

Furnaces, boilers, pumps and standby generators have a multiplicity of uses. When they are used by a manufacturer exclusively in the step-by-step production process they are exempt as machines used in manufacturing. However, when they are used primarily (i.e., more than 50%) to heat, light, or otherwise service the building or structure, they are not exclusively and directly used in manufacturing and are not exempt. In the latter situation, they are deemed realty improvements and the installer is the consumer and must pay the tax to the seller on purchases of such units.

10. CHEMICALLY TREATING WOOD

The manufacturing process of chemically treating wood to produce "flame proof fire retardant" wood includes placing lumber in a tank having a partial vacuum and releasing chemicals in the tank to penetrate the wood. In some cases, it is also necessary to kiln dry the treated lumber. The person treats their own lumber and also provides this service to other sellers of lumber. This process is within the *scope* of manufacturing. The tank and kiln used exclusively and directly in the manufacturing process qualify as exempt machinery or processing equipment, and the wood and chemicals qualify as exempt ingredients if the wood is destined for sale as tangible personal property under sec. 77.52(1)(a), Wis. Stats., or property under sec. 77.52(1)(c), Wis. Stats.

11. RAW MATERIALS TESTING

A manufacturer's receiving department sends newly received parts to its quality control department to verify the parts are within specifications. Parts that meet the manufacturer's specifications are sent to the inventory department for eventual withdrawal by the production department for use in the manufacturing process. Equipment used to test the raw materials prior to the start of the manufacturing process is used outside the *scope* of manufacturing and does not qualify for the exemption for machines and processing equipment used exclusively and directly in the manufacturing process.

12. PERFORMING SERVICES FOR MANUFACTURERS

A company that is not a manufacturer, that is performing a testing service exclusively on samples of products taken from the step-by-step manufacturing process of a manufacturer, may **not** claim exemption on its purchases of tangible personal property that is consumed, destroyed, or loses its identity in performing the testing service. In addition, persons performing services, who are not manufacturers, may **not** claim exemption from the Wisconsin sales or use tax on purchases of **machinery or equipment**, which must be exclusively and directly **used by a manufacturer** to be exempt.

13. ASSEMBLING AND PACKAGING PREVIOUSLY MANUFACTURED PRODUCTS

A company engaged in the retail mail-order business sells customized toys that include a base unit with a series of related accessories, all designed by the seller but manufactured by others. A purchaser can order a base unit alone, any accessories without the base unit, or any combination of base unit with accessories. The mail-order company is not engaged in manufacturing when it removes the manufacturer's protective material, inspects the toys, alters some slightly with hand tools, and assembles, boxes, labels, and invoices individual orders before mailing them. The assembly operation brings together items that have already been manufactured, and neither the packaging or assembly operations are within the *scope* of manufacturing.

14. NO POINT OF FIRST STORAGE FOR FINISHED GOODS

Company A processes and cans fresh vegetables. After the vegetables are cooked and canned, labels are applied to each can, the cans are packaged with 24 cans in each cardboard box, the boxes are stacked on pallets, the boxes are shrink-wrapped to the pallet, and the shrink-wrapped pallet is immediately conveyed by Company A, using a forklift, to a semitrailer owned by Customer B, who is purchasing the canned vegetables. In this case, there is no point of first storage at the plant for the finished goods. The manufacturing process ends with the conveyance of the finished goods to the customer's semitrailer, and Company A's use of the forklift to convey the finished goods from the shrink wrap station to the semitrailer is within the scope of the manufacturing process.

15. WIND FARM GENERATION FACILITY

The individual generators are located atop a tower and produce electricity at approximately 600 volts. The collection of this energy requires that the voltage be stepped up to a higher voltage of 34,500 volts at each wind generator. This is done by either a transformer located within the nacelle of the generator unit at the top of the tower or a pad mount transformer located at the base of the tower. The step up from 600 volts to 34,500 volts is to facilitate the flow of the electricity from the generators through the collection system to the substation. Underground collection cables connect the outputs of 12-15 generators and form a "circuit." The collector system runs from tower to tower connecting all of the generator outputs together and delivers the power to the substation. A wind farm may have many "circuits" flowing to a substation. Each circuit is protected by collection grounding system transformers and 34.5 kilovolt circuit breakers. The substation steps the voltage up for transmission over high voltage power cables. The substation includes its transformers, high voltage (grid) circuit breakers, and double ended breaker switches.

The individual generators, including blade assemblies and towers, cabling from the generator units to the substation, and transformers and grounding system transformers installed between the generator units and the substation are located on land leased by the utility. The substation is situated on land owned by the utility.

The difference between a wind farm and a central generating station is primarily that there is one or two large generators in a central generating facility, where there are many generators at a wind farm.

The scope of the manufacturing process for manufacturing electricity at the wind farm described ends at the point where the conductors, which carry the flow of electricity produced by a wind generator unit, attach to the generator.

The exemption under sec. 77.54(6)(am)1., Wis. Stats., applies to machinery and processing equipment used exclusively and directly in manufacturing electricity. Real property is not machinery or processing equipment. The following property qualifies for exemption under sec. 77.54(6)(am)1., Wis. Stats., provided it is used exclusively to manufacture electricity:

The generator unit, wind turbine blade assembly, wind turbine tower, and associated equipment which is used exclusively and directly in the operation and control of the wind turbine blade assembly and the generator unit.

The following property does not qualify for exemption under sec. 77.54(6)(am)1., Wis. Stats.:

Tangible personal property used to monitor and control the flow of electricity from the generator unit to the point where the electricity is transferred to the facilities of the independent transmission company as defined in sec. 196.485(1)(ge), Wis. Stats. This includes the conductors from the generator to the pad mount transformer, junction boxes, collector system grounding transformers, 34.5 kilovolt circuit breakers, substation transformers, high voltage (grid voltage) circuit breakers, double ended breaker switches, and any equipment used to monitor such property as well as the wind turbine blade assembly and the generator unit for purposes of repair or maintenance of such property. Real property improvements such as foundations for any of the equipment mentioned above, components of the underground collection system, roads which provide access to wind farm facilities and real property improvements to the substation and switch yard.

16. CHEMICAL MANUFACTURING PLANT

Tanks used by a chemical manufacturing plant to hold raw materials may or may not be used within the scope of the manufacturing process, depending on the facts and circumstances.

Note: Storage tanks that are assembled or constructed on-site are real property and do not qualify for exemption as machinery or processing equipment.

Tanks Used Within the Scope of the Manufacturing Process

The following tanks contain a chemical used in the production of a product by manufacturing.

Tank A

- The tank holds enough chemical for 3.5 days of production.
- Each bulk delivery of the chemical is enough for one-half day of production.
- The chemical must be heated to maintain a temperature of between 140 and 160 degrees Fahrenheit.
- The chemical must also be constantly agitated and this is accomplished through paddle-type mixers. The heating and agitation allow the chemical to flow to the manufacturing chemical reactor vessel where other chemicals are added in the manufacturing process. If the proper temperature and agitation are not maintained, the chemical cannot be pumped effectively, will not flow properly, and will degrade and become unusable.

Tank B

- The tank holds enough chemical for 53-90 days of production.
- The chemical in the tank must be constantly agitated.
- The agitation is through the use of a paddle-type mixer.
- If agitation is not maintained, the chemical will solidify on the top.
- The agitation also allows the chemical to flow to the reactor vessel where other chemicals are mixed during the manufacturing process.

Tanks Used Outside the Scope of the Manufacturing Process

Tank C contains fuel oil used as an alternative fuel for a boiler at a manufacturing plant and the fuel oil is used for no other purpose.

- The boiler's primary fuel is natural gas.
- The boiler manufactures steam which is used exclusively in a manufacturing process.
- Each bulk delivery of fuel oil is enough for 20 days of production.
- The fuel oil must be constantly heated to allow the fuel oil to flow from the tank to the boiler, and to burn properly in the boiler.

The following tanks contain a chemical used in the production of a product by manufacturing.

Tank D

- Chemical in the tank must be constantly heated above 105 degrees Fahrenheit.

- The temperature is required to allow the chemical to flow to the manufacturing reactor vessel where other chemicals are added in the manufacturing process.
- Each bulk delivery is enough for 1 day's production.
- The tank itself usually holds enough chemical for 14 days of production.
- If the required temperature of the chemical is not maintained, the chemical will not flow properly and will become solid and unusable.

Tank E

- Chemical in the tank must be constantly heated above 21 degrees Fahrenheit.
- Each bulk delivery of this chemical is enough for 83 days of production.
- If the required temperature of the chemical is not maintained, the chemical will not flow properly and will become solid and unusable.

Tank F

- Chemical in tank must be constantly heated above 90 degrees Fahrenheit.
- Each bulk delivery of this chemical is enough for 500 days of production.

If the required temperature of the chemical is not maintained, the chemical will not flow properly to the reactor vessels and will become solid and unusable.

APPENDIX B

EXAMPLES OF THE APPLICATION OF THE *DIRECTLY USED* REQUIREMENT FOR MANUFACTURING MACHINERY AND PROCESSING EQUIPMENT

(Note: To be exempt, equipment must be used *exclusively and directly* in manufacturing as referred to in Parts 5.D. and E.)

1. MEAT PROCESSING

Machinery and equipment, such as slicing machines, cutting tables, and packaging machines, used exclusively and *directly* in manufacturing meat products are exempt. No exemption would apply to meat scales used where meat is received, inspected, and accepted or rejected; equipment that blows a blanket of air on an air curtain put on an outside door to prevent air from entering or leaving the plant; or equipment used to clean manufacturing equipment and floors, walls, and other surfaces in the plant.

2. BAKERY

The production of baked goods generally begins with the removal of ingredients from storage for mixing and ends with the packaging of the baked goods in bags, boxes, etc., or placing the baked goods in display cases. Mixing bowls, mixers, rolling pins, prep tables, scoops, measures, cookie cutters, ovens, fryers, baking pans, shelves and racks used to temporarily store baked goods that are not yet completely manufactured, and other equipment used *directly* and exclusively in manufacturing baked goods are exempt. Sinks and pot and pan washers used to clean and sanitize such pots, pans, and other items are not used directly in the manufacturing process.

3. REPAIR OF MACHINERY AND EQUIPMENT PURCHASED INITIALLY FOR TAXABLE USE

Equipment initially purchased for use in a manufacturer's research and development department is taxable. If the same equipment is later converted for use *directly* and exclusively in the manufacturing process, repairs to the equipment while it is being used *directly* and exclusively in manufacturing are exempt. There is no requirement for equipment to be purchased exempt initially in order for the repair to be exempt.

4. CRANES USED TO REPAIR MANUFACTURING MACHINERY

A manufacturer uses a crane to unload manufacturing machines from transportation equipment, to set manufacturing equipment in place in the plant, and to lift manufacturing machinery out of the plant for repair purposes. The crane is not used *directly* in the manufacturing process.

5. MACHINERY AND PROCESSING EQUIPMENT USED INDIRECTLY

The exemption does not apply to machinery and equipment indirectly related to, but not used *directly* in the step-by-step manufacturing process. Examples of indirect use are tool storage facilities, water softening equipment, re-frigerated storage facilities, and catwalks that provide access to various parts of a building.

APPENDIX C

EXAMPLES OF THE APPLICATION OF THE *EXCLUSIVELY USED* REQUIREMENT FOR MANUFACTURING MACHINERY AND PROCESSING EQUIPMENT

(Note: To be exempt, equipment must be used *exclusively and directly* in manufacturing as referred to in Parts 5.D. and E.)

1. QUALITY CONTROL TESTING

Equipment used *exclusively* in testing products throughout the step-by-step manufacturing process is exempt. It is not necessary for the testing to be conducted at the same location where the manufacturing machinery is located. For example, during the step-by-step manufacturing process, a manufacturer ships all of its product to its quality control department for testing. The equipment used *exclusively* in testing during the manufacturing process is exempt. If the equipment is also used more than infrequently to test incoming raw materials which are stored until needed in manufacturing, the equipment is not used *exclusively* in a manufacturing process.

2. FORKLIFT

A forklift truck used on a production line to move products from machine to machine and used regularly or frequently in a warehouse to move and stock products is not used *exclusively* in a manufacturing process. However, if the forklift were only used infrequently or sporadically in the warehouse to move and stock products, it **would** be used *exclusively* in manufacturing.

3. COLOR COPIER USED IN ART DEPARTMENT

A company in the business of screen-printing and embroidering sportswear purchases a color copier to be used in its art department. The color copier will be used to scan pictures and enter them into a computer for additional design work to be done and as a printer when designs and sketches are sent back to it from the computer. The color copier is used in the development of designs and is not used *exclusively* in a manufacturing process.

4. TURBINES USED TO PRODUCE ELECTRICITY

A manufacturer produces steam in a steam plant to power turbines that produce electricity used to operate manufacturing machinery. The turbines in the power plant use the steam to run generators that produce the electricity. The turbines are used *exclusively* in the process of manufacturing electricity.

APPENDIX D

EXAMPLES RELATING TO ITEMS THAT BECOME AN INGREDIENT OR COMPONENT PART OF, OR ARE CONSUMED, DESTROYED, OR LOSE THEIR IDENTITY IN MANUFACTURING TANGIBLE PERSONAL PROPERTY**1. CONSUMABLES USED IN QUALITY CONTROL**

A company engaged in manufacturing tangible personal property destined for sale performs tests on product samples drawn from its production line in conjunction with its quality control process. Property that is consumed, destroyed, or loses its identity exclusively and directly in performing these tests is exempt.

However, a company that is not a manufacturer, that is performing a testing service exclusively on samples of products taken from the step-by-step manufacturing process of a manufacturer, may **not** claim exemption on its purchases of tangible personal property that is consumed, destroyed, or loses its identity exclusively and directly in performing the testing service.

2. WEARING APPAREL

Gloves, aprons, coats, and hairnets *consumed or destroyed* by employees and used exclusively and directly during the manufacture of meat products in a meat packing plant, to prevent contamination of the meat products, are exempt. However, cotton coats and hard hats worn by plant visitors for their own protection, rather than the protection of the meat products, are taxable.

3. BAKERIES

A bakery manufactures baked goods for sale by mixing *ingredients* such as flour, eggs, and other items together to produce cakes. The bakery decorates some cakes with edible decorations and other cakes with reusable decorations which the bakery does not charge its customers for but which must be returned to the bakery after the cake is eaten. The flour, eggs, and other items mixed together to make the cakes and the edible cake decorations are exempt as *ingredients* that are used exclusively and directly by a manufacturer in manufacturing tangible personal property destined for sale. The returnable cake decorations are not *ingredients* and the bakery must pay the tax on its purchase of those items.

4. CARDBOARD USED UNDER MANUFACTURING MACHINES

A company engaged in manufacturing and selling fiberglass boats purchases cardboard and places it on the floor of its plant to collect the fiberglass overspray. The overspray accumulates on the cardboard at the rate of one to two inches per week. The cardboard is then replaced with new cardboard. The cardboard does not qualify for the exemption for items used exclusively and directly by a manufacturer in manufacturing tangible personal property and that are consumed or destroyed in manufacturing tangible personal property destined for sale, because the cardboard is not used *directly* in the manufacture of the boat.

5. SHOPPERS GUIDES, NEWSPAPERS AND PERIODICALS

A printer of shoppers guides and newspapers powers its printing presses with electricity, and powers its forklift truck used exclusively in the manufacturing process with propane fuel. The fuel and electricity *consumed* during the manufacturing of the shoppers guides and newspapers is exempt under sec. 77.54(2m), Wis. Stats.

6. ARTWORK USED FOR PRINTING CATALOGS

A Wisconsin printer purchases paper and ink it will use in printing catalogs for a department store. The catalogs will be distributed without charge to the department store's customers in Wisconsin. The department store purchases finished artwork in a tangible format from an advertising agency. The department store furnishes this artwork to the printer for use in printing the catalogs. The department store's purchase of the finished artwork is exempt because it is *consumed*,

destroyed, or loses its identity in the printing of the catalogs *destined for sale* by the printer to the department store. If the department store furnishes paper and artwork in a tangible format to the printer for use in printing of the catalogs, the printer is providing a service, rather than selling catalogs. In this case, the sale of the artwork in a tangible format to the department store is taxable. The artwork is not consumed, destroyed or losing its identity in the manufacture of catalogs destined for sale.

7. TIRE RETREADING BUSINESS

A tire retreading company uses worn out tire carcasses to make new useable tires. During the retreading process, excess rubber is buffed off the tire carcass, and rubber and cement are applied with a heat application to vulcanize the new rubber to the old tire carcass and imprint the desired tread design. The tire is then cleaned, trimmed, painted, tested, and sold as a retreaded tire. The old tire carcasses, rubber, cement, and paint are used exclusively and directly by a manufacturer in manufacturing tires, and are *ingredients or component parts or items consumed, destroyed, or that lose their identity* in the manufacturing of tires destined for sale.

8. MANUFACTURER IS A CONTRACTOR

A company purchases items of tangible personal property (e.g., wood, nails, paint, sandpaper, etc.) that will be *consumed, destroyed, or will lose their identity* in the company's manufacturing of modular home components. The manufacturer will use the modular home components in making real property improvements (i.e., will permanently affix the components to the real estate at a job site). The manufacturer's purchases of tangible personal property that will be *consumed, destroyed, or will lose their identity* in the manufacture of the modular home components are taxable because the manufactured components are not destined for sale as tangible personal property.

9. WOOD PRODUCTS

A company *consumes* a combination of coal and wood residue pellets to fuel the boiler it uses to manufacture steam for use in its tool manufacturing operation. Both the coal and the wood pellets are fuels consumed in manufacturing tangible personal property (steam), and are exempt under sec. 77.54(30)(a)6, Wis. Stats.

10. BOILER CHEMICALS

- (a) If the steam boiler is used primarily (more than 50%) to provide service (e.g., heat) to any building and is essential to the use of the building, the exemption for boiler chemicals (i.e., consumable supplies) would not be allowed if the chemicals are not present in the steam. However, if the chemicals are present in the steam, the consumables exemption for the boiler chemicals is allowed for the percentage of steam used in manufacturing tangible personal property destined for sale.
- (b) If the steam boiler is used primarily (more than 50%) to produce steam that is used in manufacturing processes, the exemption for boiler chemicals applies to the percentage of the steam used in manufacturing processes producing tangible personal property destined for sale when the boiler chemical are present in the steam. If the boiler chemicals are not present in the steam no exemption is allowed for any of the boiler chemicals unless the steam becomes a physical part of the product that is destined for sale.
- (c) If a steam boiler is used in any percentage to produce steam that is used in a non-manufacturing processing function (e.g., dry cleaning clothes), the exemption for boiler chemicals would not apply to the portion of the steam used for this purpose since the destined for sale requirement is not met. The steam is used to perform a service to the clothes. Any chemicals present in the steam and transferred to the customer's clothing are transferred incidentally to providing the service, and not as tangible personal property sold to the customer in a sale separate from the sale of the service.

11. CHEMICALS USED FOR CLEANING WALLS AND FLOORS BY A FOOD MANUFACTURER

A company is engaged in the manufacture of various meat products destined for sale. The company uses various chemicals and cleaning agents to clean the walls, floors, floor drains, ceilings, windows, and doors in the rooms where the manufacturing takes place to meet strict sanitation standards required by state and federal regulatory agencies. The chemicals and the cleaning agents are not used directly in the manufacturing process, and do not qualify for exemption as tangible personal property used exclusively and directly by a manufacturer in the manufacture of tangible personal property and that is consumed, destroyed, or loses its identity in the manufacture of tangible personal property in any form destined for sale.