

Sales and Use Tax Treatment of Landscaping Services

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IMPORTANT CHANGES

- **Fine grading unrelated to landscaping services.** Information has been added to illustrate that fine grading not related to providing a landscaping service is not taxable. See Part IV.B., on page 2.
- **Examples of landscaping services and services that are not landscaping services.** Specific examples have been added of services that are landscaping services and services that are not landscaping services. See Part V., beginning on page 3.
- **Where a sale takes place.** Information and examples have been added to explain where a sale takes place. Part V.III.B., on page 7.

I. INTRODUCTION

This publication explains the Wisconsin sales and use tax treatment of landscaping and lawn maintenance services. It gives examples of taxable and nontaxable sales and the tax treatment of purchases. If you have any questions after reading this publication, contact any Wisconsin Department of Revenue office for assistance.

CAUTION

The information in this publication reflects the positions of the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature and in effect as of May 1, 2011. Laws enacted and in effect after this date, new administrative rules, and court decisions may change the interpretations in this publication. The examples and lists are not all-inclusive. They merely set forth common examples.

II. WISCONSIN LAW

The sale of landscaping and lawn maintenance services, including any tangible personal property transferred with such services, is subject to Wisconsin sales and use tax, unless an exemption applies.

III. WHAT ARE LANDSCAPING SERVICES?

The following are landscaping and lawn maintenance services, regardless of whether performed in residential, business, commercial and industrial areas, cemeteries, golf courses, athletic fields, and stadiums, or along highways, streets, and walkways. (This list is not all-inclusive.)

- A. Designing or planning a lawn or garden as to the type and location of grass, sod, flowers, trees, shrubs, and other plant material.
- B. Removing and clearing sod, brush, trees, and other vegetation, even though related to a real property improvement such as constructing a highway, parking lot, sidewalk, patio, underground swimming pool, basement, or foundation of a building.
- C. Planting, weeding, edging, spraying, fertilizing, thatching, raking, top-dressing, and mowing of lawns.

Example: Company A contracts with a customer to fertilize the customer's lawn and spray for weeds for \$100. This fee includes the labor and all materials. The \$100 is subject to sales tax.

- D. Laying, installing, or cutting sod, including sod retentions around a sand trap on a golf course. (See Item VI.F. for an exception.)

Example: Company A contracts with a customer to lay sod at the customer's residence. The invoice given to the customer includes a \$100 charge for the sod and a \$200 charge for labor. The entire invoice price of \$300 is subject to sales tax.

- E. Planting, trimming, spraying, fertilizing, moving, removing, pruning, bracing, and surgery of trees, stumps, plants, shrubs, hedges, and flowers. (See Items IV.E., and J., and VI.A., B., C., D., and E., for exceptions.)
- F. Planting, plowing, rototilling, weeding, spraying, and fertilizing gardens and flower beds.
- G. Modification of the planting material, (e.g., topsoil), as a preparation of that material for seeding, planting, or laying sod, including modification by plowing, discing, rototilling, pulverizing, dragging, leveling,

fertilizing, or adding soil amendments such as lime, sand, or peat.

Example: Contractor A, using soil previously piled at a construction site, spreads and rough grades the material onto a lot. Subcontractor B then applies fertilizer, rototills, finish grades and lays sod on the lot. Contractor A is performing a service to real property that is not subject to Wisconsin sales or use tax. Contractor B's activities of fertilizing, rototilling, finish grading and laying sod on the lot, each constitute the performance of a landscape service. Contractor B's receipts from its sales of these services and the sod are subject to Wisconsin sales or use taxes, unless an exemption applies.

- H. Planting grass, ivy, and other plants, regardless of whether they control erosion.
- I. Installing jute mesh (filtering mesh) to prevent erosion when planting grass.
- J. Installing edging, laying plastic, and installing rocks, stones, boulders, bark, and wood chips, around plants, trees, and shrubs, to retard the growth of weeds and other plant material.
- K. Weed cutting performed by a governmental unit under a weed control ordinance that is billed to the property owner.
- L. Removing a diseased tree by a governmental unit where the property owner is billed for the removal.
- M. Modifying the final layer of topsoil and installing sod or planting seed on that topsoil where trenches have been dug or where sump pump, transmission or other lines have been buried. (See also, Part III.G.)
- N. Turf grass advisory services for a golf course.
- O. Modification of green mixes on golf courses in preparation of planting. (See also, Part III.G.)

Although some of the services described above involve realty improvements, the services are still taxable landscaping and lawn maintenance services (unless an exemption applies), regardless of whether performed by landscapers, architects, construction contractors, or any other persons.

IV. WHAT ARE NOT LANDSCAPING SERVICES?

The following services are real property improvements that are not landscaping or lawn maintenance services. Therefore, the charges for these services (labor and materials) are not subject to Wisconsin sales tax.

- A. Rough grading, including digging, hauling, leveling, moving, or removing earth, sand, gravel, stones, and rocks.

Exception: Rough grading does not include the stripping off of plant material, including plant material with topsoil. It also does not include the modification of the final planting material (e.g., top soil), in preparation of planting seed, sod, or other plant material. (See Items III.B., G., M., and O.)

- B. Fine grading unrelated to the alteration, removal or installation of plant material, including seeding or laying sod.

Example: A contractor fine grades a road bed in preparation of laying asphalt over the road bed. This fine grading is not a landscape service.

- C. Installing rocks, stones, boulders, bricks, wood timbers, and wood ties as retaining walls, regardless of whether they are for decorative or ornamental purposes. (See Item III.J.)

Example: A contractor installs a boulder retaining wall that is decorative and holds back soil. The invoice includes charges of \$1,000 for materials and \$1,200 for labor. The invoice price of \$2,200 is not subject to sales tax. The contractor is subject to Wisconsin sales or use tax on its purchase price of boulders and other materials used in making the real property improvement.

- D. Installing fences, patios, steps, decks, driveways, parking lots, walks, swimming pools wholly or partially underground, ponds, tennis courts, sprinkler systems, and outdoor lighting.

Note: The installation of silt fencing is neither a landscaping service nor a real property improvement. Silt fencing remains tangible personal property when installed. Therefore, the sale and installation are

taxable, unless the installer is required to remove the silt fencing or an exemption applies.

- E. Tree and shrub trimming and spraying performed on a utility's right-of-way to prevent interference with the utility lines or to make the utility lines inaccessible to children.
- F. Digging trenches and laying drain pipes or tiles in the trenches.
- G. Constructing window wells and culverts.
- H. Burying a sump pump line.

Example: Company A installs and buries a sump pump line for a customer for \$500. This is not subject to tax. However, any charges for spreading topsoil, seeding or sodding over the backfilled trench is subject to tax.

- I. Plowing or removing snow.
- J. Spraying for weeds in lakes and ponds.
- K. Installing sand in a sand trap on a golf course.

V. SPECIFIC EXAMPLES OF LANDSCAPING SERVICES AND SERVICES THAT ARE NOT LANDSCAPING SERVICES

A. Grading Services

In general, grading services are services to real property and not subject to tax. However the portion of a grading service that is fine or finish grading or leveling performed to the planting material as a preparation of that material for planting plants or seeds, or laying sod, or to the extent that the service involves the removal of the existing layer of plant material, including topsoil removed with this layer, is a landscape service.

The following examples illustrate when a retailer's charges for providing grading services are landscaping services:

- Contractor A hires Subcontractor B to spread and rough grade black dirt previously stockpiled at the construction site. Contractor A hires Company C to

prepare the black dirt into a suitable seedbed and plant grass seed at the site. Subcontractor B is performing a nontaxable service to real property. Company C is performing a landscaping service subject to Wisconsin sales or use tax.

- Contractor A is hired to furnish topsoil, spread and rough grade the topsoil, and "fine grade" the topsoil as a preparation of the topsoil for the purchaser to install sod. The furnishing, spreading, and rough grading of the topsoil is a nontaxable real property improvement. The activity of "fine grading" the topsoil, that is, modifying the topsoil as a preparation for the laying of sod, is a landscape service subject to Wisconsin sales or use tax.
- Contractor A hires Subcontractor B to furnish, spread and rough grade topsoil at a site. When Subcontractor B finishes the work, the site is not yet ready for planting. Additional modifications of the soil will be made to prepare the site for planting. Subcontractor B is performing a nontaxable service to real property.

B. Clearing and Removal of Plant Materials

- Company A hires Contractor G to clear a 10 acre site of vegetation, and to remove the top 6 inches of soil and stockpile it as directed by Company A. Contractor G is performing a landscaping service with respect to the activity of removing the vegetation, including any topsoil removed with the vegetation, and its charges for this service are subject to Wisconsin sales or use tax. Contractor G is performing a nontaxable service to real property with respect to removing and stockpiling the 6-inch layer of soil remaining after the vegetation is removed.
- Individual A is in the business of farming. Individual A has a stream which meanders through his farm property. Individual A uses the land on either side of the stream to grow crops, and currently crops the land to within 25 feet of the stream on either side of it. Individual A is to install a riparian buffer 50 feet wide on either side of the stream. Individual A hires Contractor B to clear the existing vegetation 25 feet from either bank of the stream on either side of it. Individual A will rework this area and plant seeds to establish the riparian buffer strips. Contractor B's charges to Individual A are for providing a nontaxable custom farming service.

C. Seeding, Planting, and Laying of Sod

- Homeowner A hires Contractor B remove sod at an area at his homesite, and plant a mixture of native plant seeds in place of the sod. After removing the sod, Contractor B rototills the soil, rakes and levels the site, plants the native plant seeds, and covers the planted area with a layer of straw. Contractor B's services are landscaping services subject to Wisconsin sales or use tax.
- Company A operates a commercial apple orchard. Company A hires Contractor B to plant 100 apple trees that Company A has purchased from a tree nursery. Contractor B is not performing a landscaping service. The planting of fruit trees for a customer who will use the trees in the business of farming (operation of a commercial apple orchard) is a custom farming service. Charges for performing a custom farming service are not subject to tax.
- Individual A recently purchased 40 acres of land in a rural area. The land had previously been used by the seller in the business of farming. Individual A is not in the business of farming. Individual A enrolls 35 acres of his 40-acre parcel of land in the federal Conservation Reserve Program (CRP). Individual A hires Company T to furnish the native plant seeds and plow and plant the seeds on the 35 enrolled acres to conform with Individual A's CRP plan. Company T is performing a landscape service for Individual A and is also making a retail sale of the seeds to Individual A. Company T's charges to Individual A for the landscaping services and seeds are subject to Wisconsin sales or use tax.

D. Soil, Dirt, or Other Materials Transferred to the Purchaser

In a situation where a person sells soil, dirt, or other materials, such as sand, peat, or mulch, and the customer picks up the materials at the seller's location or the seller delivers it in a pile at the customer's location, the seller is making a taxable sale of tangible personal property.

- Individual M orders 15 yards of black dirt to be delivered (dumped) onto his driveway from Company Z. Individual M will then spread the dirt over his yard. Company Z's sale to Individual M is a taxable sale of tangible personal property.

When a person furnishes topsoil, black dirt, or other planting material along with spreading or grading the materials for the customer, the seller may be using the material to make a nontaxable real property improvement or selling the material to the customer as tangible personal property along with providing a taxable landscaping service. This is illustrated in the following examples.

- *Top Dressing Lawn.* Homeowner G hires Contractor T to "top dress" their lawn. Contractor T furnishes and spreads the top dressing, which could be topsoil, or any combination of items such as topsoil, sand and peat, over Homeowner G's lawn. Contractor T has performed a landscape service and sold tangible personal property (the top dressing) to Homeowner G. The entire charge by Contractor T to "top dress" the lawn is taxable.
- *Soil Modifications For Planting.* Homeowner D hires Company T to implement a landscape plan at Homeowner D's residence. The plan involves the removal of the existing foundation plants and planting new plants. It also involves modifying the soil by adding sand or peat to accommodate the new plants. Company T removes the existing plants, furnishes and installs the soil amendments, and furnishes and plants the new plants. Company T provides taxable landscape services along with the taxable sale of tangible personal property (the plants and soil amendments).
- *All Functions Done By One Contractor – Using Customer's Topsoil.* Homeowner G hires Contractor A to: (1) spread and rough grade 6 inches of black dirt previously stockpiled at the construction site (the black dirt is not furnished by Contractor A), (2) fine grade the black dirt in preparation for planting, (3) furnish grass seed and straw, (4) plant the grass seed, and (5) spread the straw over the seeded area. Contractor A is performing a nontaxable service to real property with respect to the service of spreading and rough grading the black dirt. Contractor A is performing landscaping services subject to Wisconsin sales or use tax when performing the fine grading of the black dirt in preparation for planting, seeding the area, and applying the straw. Contractor A is making a separate taxable sale of tangible personal property with respect to the grass seed and straw it physically transfers to the purchaser in conjunction with performing the taxable landscaping services.

- *All Functions Done By One Contractor – Contractor Provides Topsoil.* Contractor A hires Subcontractor B to: (1) furnish all topsoil, (2) spread and rough grade the furnished topsoil at a 6-inch depth, (3) fine grade the topsoil in preparation for planting, (4) furnish grass seed and straw, (5) plant the grass seed, and (6) spread the straw over the seeded area. Subcontractor B is performing a nontaxable service to real property with respect to the service of furnishing, spreading, and rough grading the topsoil. Subcontractor B is the consumer of the topsoil it furnishes in conjunction with performing this nontaxable service to real property, and must pay Wisconsin sales or use taxes on its purchase of the topsoil. Subcontractor B is performing landscaping services subject to Wisconsin sales or use tax when performing the fine grading of the topsoil in preparation for planting, seeding the area, and applying the straw. Subcontractor B is making a separate taxable sale of tangible personal property with respect to the grass seed and straw it physically transfers to Contractor A in conjunction with performing the taxable landscaping services.
- *One Contractor Provides All Topsoil and Rough Grading; Different Contractor Performs Landscaping Services.* Contractor A hires Subcontractor C to: (1) furnish all topsoil, and (2) spread and rough grade the furnished topsoil to a 6-inch depth. After Subcontractor C is done, the site is not ready for planting grass seed. Contractor A hires Subcontractor D to: (1) furnish grass seed, fertilizer, and straw, (2) fine grade and apply fertilizer to the site in preparation of planting, (3) plant the grass seed, and (4) cover the site with straw. Subcontractor C is performing a nontaxable service to real property with respect to the service of furnishing, spreading, and rough grading the topsoil. Subcontractor C is the consumer of the topsoil it furnishes in conjunction with performing this nontaxable service to real property, and must pay Wisconsin sales or use taxes on its purchase of the topsoil. Subcontractor D is performing landscaping services subject to Wisconsin sales or use tax when performing the fine grading of the topsoil in preparation for planting, seeding the area, and applying the straw. Subcontractor D is making a separate taxable sale of tangible personal property with respect to the grass seed and straw it physically transfers to Contractor A in conjunction with performing the taxable landscaping services.
- *All Functions Done By One Contractor – Contractor Provides Topsoil, Contractor Separately Spreads Topsoil For Fine Grading.* Contractor A hires Subcontractor E to: (1) furnish all topsoil, (2) spread and rough grade a portion of the furnished topsoil to a 6-inch depth, (3) spread and fine grade an additional 2-inch depth of topsoil in preparation for planting, (4) furnish grass seed and straw, (5) plant the grass seed, and (6) spread straw over the seeded area. Subcontractor E is performing a nontaxable service to real property with respect to the service of furnishing, spreading, and rough grading the topsoil to a 6-inch depth. Subcontractor E is the consumer of the topsoil it furnishes in conjunction with performing this nontaxable service to real property, and must pay Wisconsin sales or use taxes on its purchase of this topsoil. Subcontractor E is performing landscaping services subject to Wisconsin sales or use tax when spreading and fine grading the topsoil in preparation for planting, seeding the area, and applying the straw. Subcontractor E is making a separate taxable sale of tangible personal property with respect to the 2 inches of topsoil that was spread and fine graded, the grass seed, and the straw it physically transfers to Contractor A in conjunction with performing the taxable landscaping services.
- *One Contractor Provides Topsoil and Rough Grading; Different Contractor Provides Topsoil For Planting and Performs Landscaping Services.* Homeowner D hires Contractor F to: (1) furnish all topsoil, and (2) spread and rough grade the furnished topsoil to a 6-inch depth. After spreading and rough grading the topsoil, the site is not ready for planting grass seed. Homeowner D hires Contractor G to (1) furnish, spread and fine grade an additional 2-inch depth of topsoil in preparation for planting, (2) furnish fertilizer, grass seed, and straw, (3) apply the fertilizer and plant the grass seed, and (4) spread straw over the seeded area. Contractor F is performing a nontaxable service to real property with respect to the service of furnishing, spreading, and rough grading the topsoil to a 6-inch depth. Contractor F is the consumer of the topsoil it furnishes in conjunction with performing this nontaxable service to real property, and must pay Wisconsin sales or use taxes on its purchase of the topsoil. Contractor G is performing landscaping services subject to Wisconsin sales or use tax when performing the fine grading of the topsoil in preparation for planting, applying fertilizer, seeding the area, and applying the straw. Contractor G is making a separate taxable sale of tangible personal property with respect to the 2 inches of topsoil that was spread

and fine graded, the fertilizer, the grass seed, and the straw it physically transfers to Homeowner D in conjunction with performing the taxable landscaping services.

VI. EXEMPT SALES OF LANDSCAPING AND LAWN MAINTENANCE SERVICES

The following landscaping and lawn maintenance services are exempt from Wisconsin sales tax, provided the purchaser gives the seller a properly completed exemption certificate (this list is not all-inclusive):

A. Planting trees and shrubs for resale.

Example: The charge for planting trees that will be later transferred to customers with landscaping services is not taxable. This service is for resale.

B. Trimming or pruning Christmas trees for a commercial grower who will sell the trees.

C. Planting, fertilizing, spraying, or trimming trees for a commercial orchard.

Example: A landscaper contracts with a commercial orchard to fertilize and spray the orchard's trees. The landscaper charges the orchard \$500, which includes labor and materials. The charge is exempt from sales tax.

D. Cutting down trees in a forest for pulpwood, lumber or other business purposes.

E. Plowing, planting, fertilizing, or harvesting a farmer's field or land upon which crops are raised.

F. Cutting sod on a sod farm for a person who is in the business of growing, selling, and/or installing sod.

G. Collecting deposits from contractors, developers, or property owners by a governmental unit, which will use the funds for planting trees and shrubs in a development, or on an owner's property. However, any charge by the governmental unit to the property owner or developer for planting trees is taxable.

H. Landscaping for a Wisconsin or federal governmental unit that is billed to the governmental unit.

VII. PURCHASES

A. Nontaxable Purchases

A person may purchase without sales or use tax any property it physically transfers to the customer in providing the landscaping and lawn maintenance services in Parts III. and V. The person must give its supplier a properly completed exemption certificate claiming resale.

Example: Company A supplies the fertilizer in providing lawn care services to a customer. Company A may purchase the fertilizer without sales tax by giving its supplier a valid, properly completed exemption certificate claiming resale.

B. Taxable Purchases

A person is required to pay Wisconsin sales or use tax on property it purchases and transfers to the customer in providing the real property improvements in Parts IV. and V., unless an exemption applies. In addition, all purchases of machinery and equipment, including tools, used in providing both taxable and nontaxable services are subject to sales tax.

Examples: 1) Company C sprays herbicide on a utility's right-of-way. This is a service to real property, not a landscaping service. Company C must pay sales or use tax on its purchase of herbicide and equipment used in providing the service.

2) Company D installs and buries a sump pump line for a customer. This is a real property improvement, and except for the leveling of topsoil and planting of seed and sod, is not a landscaping service. Company D must pay sales or use tax on its purchase of the sump pump it installs.

VIII. SPECIAL SITUATIONS

A. Mixed Transactions

A person providing both taxable services and tangible personal property, and nontaxable services and real property improvements, must indicate on the invoice the portion of the sale that is taxable and the portion of the sale that is not taxable. Sales tax should be charged on the taxable portion.

Example: Company A contracts with a utility to fertilize and spray the lawn at the utility's corporate headquarters and to spray herbicide on the utility's right-of-way. Company A charges the utility \$300 for fertilizing and spraying the lawn and \$500 for spraying herbicide on the utility's right-of-way for a total invoice price of \$800. Sales tax must be charged on the \$300 charge for fertilizing and spraying the lawn.

B. County and Stadium Tax

The types of services and tangible personal property that are subject to the state 5% sales and use tax are also subject to the 0.5% county and 0.1% and 0.5% stadium sales and use taxes. To be subject to a county tax or stadium tax, the sale of taxable services or tangible personal property must be sourced to (i.e., take place in), that taxable county or the stadium district.

Landscaping services are sourced to the location where they are received by the customer.

Sales of tangible personal property are sourced to the location where the purchaser takes possession of the property.

Examples: 1) Company E contracts with purchaser to furnish and plant trees and shrubs at their personal residence, which is in a county that has a 0.5% county sales and use tax. The landscape services are received by the purchaser at the location where the trees and shrubs are planted, which is within a taxable county, and the charges for the landscape services are subject to the county tax, regardless of Company E's business location. The tangible personal property (the trees and shrubs) physically transferred to the purchaser in conjunction with the performance of the landscape service is sold separately by Company E to the purchaser. The purchaser takes possession of the trees and shrubs at the location where they are planted by Company E, which is in a taxable county, and the charges for trees and shrubs are subject to the county tax, regardless of Company E's business location.

2) Company F is in the business of landscape planning and has an office in a county that does not have the county tax. Company F contracts with a customer to redesign the landscaping at the customer's residence located in a county that has the county tax. Company F visits the customer's residence and then

has the plans drawn up at Company F's office. Company F delivers the plans to the customer at the customer's residence.

The service is subject to the county tax. The sale of this service is considered to take place where the customer receives possession of the plans from Company F. If the customer had gone to Company F's office (located in a county that has no county tax) to pick up the plans, the service would not have been subject to the county tax.

Additional information about the county and stadium taxes is found in [Wisconsin Publication 201](#), which may be obtained from any Department of Revenue office or the department's web site.

IX. IF YOU HAVE QUESTIONS

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

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

Call . . . (608) 266-2776

Fax . . . (608) 267-1030

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

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

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Important: If you grow, sell, or otherwise deal in nursery stock, you may need a license from the Wisconsin Department of Agriculture. For more information, write to WDATCP, Nursery Program, P.O. Box 8911, Madison, WI 53708-8911 or call (608) 224-4574.