

Cemetery Monument Dealers

How Do Wisconsin Sales and Use Taxes Affect You?

I. INTRODUCTION

This publication explains how Wisconsin sales and use taxes apply to cemetery monument dealers. (For purposes of this publication, “monument dealer” means any person or business selling cemetery monuments, including churches.)

II. SELLING REAL PROPERTY VS. TANGIBLE PERSONAL PROPERTY

To determine whether a sale is subject to Wisconsin sales tax, a monument dealer must first determine if it is:

- A. Selling tangible personal property, or
- B. Selling real property.

The monument dealer's sales and purchases are taxed differently under each of these two situations.

III. SALE OF REAL PROPERTY

There is no Wisconsin sales tax on the sale, service, or repair of real property. The following examples illustrate a monument dealer's sale, service, or repair of real property.

- A. A monument dealer sells a monument for \$1,500 to a customer. This \$1,500 includes installing the monument to the cement foundation at the cemetery. Is this \$1,500 sale taxable?

Answer: No. The sale of real property is not taxable.

- B. Same facts as in “A” above, except that the sale is to a church which has a Certificate of Exempt Status (CES) number from the Department of Revenue. Is this \$1,500 sale to the church taxable?

Answer: No. The sale of real property is not taxable.

- C. A customer buys a monument for \$1,500 from Company A (no installation involved). Company B is then hired by the customer to install the monument at the cemetery for \$300.

Is the \$1,500 sale of the monument by Company A to the customer taxable?

Answer: Yes. This transaction is a sale of tangible personal property.

Is the installation charge of \$300 by Company B taxable?

Answer: No. The installation of the monument is a real property improvement, the sale of which is not taxable.

- D. A monument dealer sells a monument to a customer for \$750, which includes installation of the monument and lettering on the monument for a deceased spouse. On a separate invoice, the monument dealer charges \$75 for lettering to be placed on the same monument at a later date when the surviving spouse dies.

Is the \$750 sale taxable?

Answer: No. The sale of real property is not taxable.

Is the \$75 charge for lettering subject to sales tax?

Answer: No. This transaction is for the servicing of real property, the charge for which is not taxable.

- E. Company A sells a monument, including installation, to a customer for \$1,500. Company A contracts with a monument dealer in Chicago (Company B) to provide and install the monument in Wisconsin for \$1,200.

Is the \$1,500 sale by Company A to the customer taxable?

Answer: No. The sale of real property is not taxable.

Is the \$1,200 payment by Company A to Company B taxable?

Answer: No. The sale of real property is not taxable.

IV. SALE OF TANGIBLE PERSONAL PROPERTY

The sale, repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of tangible personal property are taxable. If a monument dealer sells, services, repairs, etc., tangible personal property, the dealer must obtain a seller's permit, file sales tax returns, and remit the tax to the Department of Revenue.

The following examples illustrate sales of tangible personal property.

- A. A monument dealer sells a monument to Company A for \$750. No installation is furnished by the monument dealer. The monument dealer contracts with a common or contract carrier to have the monument delivered to Company A's warehouse. The monument dealer charges Company A \$750 for the monument plus \$150 for freight.

What amount is taxable?

Answer: The total of \$900 (\$750 for monument plus \$150 for freight) is taxable. This is a sale of tangible personal property that is taxable. For sales and use tax purposes, delivery charges (\$150 in this example) made and collected by the seller are taxable if the property sold is taxable.

- B. Same facts as in “A” above, except that Company A contracts with a common or contract carrier to transport the monument. Company A pays the carrier \$150.

What amount is taxable?

Answer: The \$750 sale of the monument to Company A is taxable because it is a sale of tangible personal property.

The \$150 charged by the carrier to Company A is **not** taxable because it was not charged and collected by the seller of the monument.

- C. A monument dealer sells a monument (no installation involved) for \$750 to a church.

Is this \$750 sale taxable?

Answer: No, because sales of tangible personal property to organizations operated exclusively for religious, charitable, scientific, or educational purposes are exempt from sales tax. However, to qualify for the exemption, the church must give the monument dealer a *Wisconsin Sales and Use Tax Exemption Certificate* (Form S-211), *Streamlined Sales and Use Tax Exemption Certificate – Wisconsin* (Form S-211-SST), or its CES number. The monument dealer must then record the CES number on its copy of the sales invoice.

Note: See Item B. in Part III regarding the sale of real property to a church.

V. PURCHASES

- A. For items purchased and later resold as tangible personal property:

The monument dealer may purchase the items **without** tax by giving to the seller a properly completed *Wisconsin Sales and Use Tax Exemption Certificate* (Form S-211) or *Streamlined Sales and Use Tax Exemption Certificate - Wisconsin* (Form S-211-SST), claiming resale. (**Note:** The monument dealer must charge sales tax when it later resells the items as tangible personal property, unless an exemption applies.)

- B. For items purchased and later consumed in the sale of real property:

The monument dealer must pay sales or use tax to the seller when purchasing the tangible personal property. If the tax is not paid by the monument dealer to the seller, the dealer must pay use tax directly to the Department of Revenue. This is true even for sales of real property to exempt entities such as churches.

Example: A monument dealer purchases a monument for \$1,000. The monument dealer later sells the monument, including installation, to a customer for \$1,500. The monument dealer owes sales or use tax on its \$1,000 purchase price of the monument.

- C. For items purchased which may be resold as tangible personal property or real property:

If the monument dealer doesn't know at the time of purchase whether items (such as monuments) will be sold as a sale of tangible personal property or a sale of real property, the dealer has two options.

1. Purchase the items without tax by giving the seller a properly completed *Wisconsin Sales and Use Tax Exemption Certificate* (Form S-211) or *Streamlined Sales and Use Tax Exemption Certificate – Wisconsin* (Form S-211-SST), claiming resale, and then remit use tax to the Department of Revenue on those items used in making real property improvements, and remit sales tax to the Department of Revenue on those items sold as tangible personal property.
2. Purchase the items with tax and then claim a deduction on the monument dealer's sales and use tax return for the dealer's cost of those items sold as tangible personal property.

Example: A monument dealer paid \$700 (plus \$35 sales tax) for a monument, and later sells the monument as tangible personal property for \$1,000. On the return for the period in which the taxable sale is made, the monument dealer would enter on its sales and use tax return (Form ST-12) (a) \$1,000 (its selling price of the monument) on line 1 and (b) \$700 (its cost of the monument) as a deduction on line 5.

VI. COUNTY TAX

- A. Sale of Real Property

The 0.5% county tax is imposed upon a monument dealer engaged in real property construction activities in a taxable county. The basis for the tax is the monument dealer's purchase price of tangible personal property used in constructing, altering, repairing, or improving real property in a taxable county.

A monument dealer is also subject to the 0.5% county use tax on tangible personal property stored in a taxable county that will be used to construct, alter, repair, or improve real property in or outside that county.

If a monument dealer has already properly paid state and local sales or use taxes in another state on the purchase price of such tangible personal property, the monument dealer is allowed a credit for the other state's state and local sales and use taxes against Wisconsin's state and county taxes.

If a monument dealer has already properly paid a Wisconsin county or stadium sales or use tax on tangible personal property purchased or stored in a taxable county or stadium district, and subsequently uses that tangible personal property in constructing, altering, repairing, or improving real property in another taxable county, a credit is allowed against the county use tax, for the county or stadium sales or use tax previously paid.

Example: A monument dealer sells a monument (including installation) for \$1,500 to a customer. The monument is installed by the dealer at a cemetery located in Dane County (a taxable county). The monument dealer purchased this monument for \$1,100 from Company XYZ, picking it up at Company XYZ's location outside Wisconsin. Company XYZ properly collected 4.5% state sales tax for the other state. The dealer also purchased \$75 of cement for the cement foundation, paying the 5.5% Wisconsin state and local sales tax on the purchase of the cement.

There is **no** 5% Wisconsin sales tax or 0.5% county tax on the \$1,500 sale by the dealer to the customer because this is a sale of real property.

The monument dealer is liable for the 5% Wisconsin state use tax and 0.5% Dane County use tax on its \$1,100 purchase price of the monument; however, the dealer is allowed a credit of \$49.50 (\$1,100 x 4.5%) against the 5.5% Wisconsin state and county use tax due. The dealer does not owe use tax on the cement, since it already paid the 5.5% Wisconsin state and county sales tax on its purchase of the cement.

- B. Sale of Tangible Personal Property

Sales of tangible personal property by a monument dealer are subject to a county's sales tax if the sales are sourced to (i.e., take place in) that

county in accordance with sec. 77.522, Wis. Stats. Generally, the sale of a monument is sourced to the location where the purchaser receives possession of the monument.

Example: A monument dealer sells a monument (no installation involved) for \$750 and delivers it in the dealer's own truck to a customer located in Polk County (a taxable county). The Polk County tax applies because the sale is sourced to Polk County since that is where the purchaser received possession of the monument. The state and county taxes are computed as follows:

Wisconsin 5% Sales Tax (\$750 x 5%)	\$37.50
Polk County Sales Tax (\$750 x 0.5%)	<u>3.75</u>
Total State and County Sales Taxes	<u>\$41.25</u>

VII. STADIUM TAX

A 0.1% baseball stadium tax is imposed in the following five counties: Milwaukee, Ozaukee, Racine, Washington, and Waukesha. A 0.5% football stadium tax is imposed in Brown County. These stadium taxes are imposed in the same manner as the county tax.

VIII. QUESTIONS

If you have questions about Wisconsin sales and use tax, please call the department at (608) 261-6261, e-mail to sales10@revenue.wi.gov, visit the department's web site at www.revenue.wi.gov, or write to the Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949.

CAUTION

The information in this publication reflects position of the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of September 1, 2011. Laws enacted and in effect after this date, 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.