

# **Filing Claims for Refund of Sales or Use Tax**

**Includes information on:**

- **Who may file claims for refund**
- **Which form to use**
- **Time limitations for filing**
- **Interest**
- **Penalties**

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## APPENDIX

Form S-220, Form BCR, *Buyer's Claim for Refund of Wisconsin State, County and Stadium Sales Taxes*

Form S-220a, Schedule P, Attachment to Form BCR, *Buyer's Claim for Refund of Wisconsin State, County and Stadium Sales Taxes*

**IMPORTANT CHANGES**

**Seller's Requirement to Refund Sales or Use Tax to its Customers**

Generally, a seller is required to refund taxes and related interest to the buyers from whom the tax was collected if the seller files a claim for refund with the Wisconsin Department of Revenue, for taxes that the seller has collected from buyers, and receives such refund.

A seller is now required to refund such taxes and related interest to buyers in two additional situations.

These changes first apply to notices of refunds or notices of amounts due dated, offsets taken, and the discovery of amounts collected erroneously from buyers as taxes on October 28, 2005. The changes apply even if the notices, offsets, and amounts relate to sales that occurred as far back as September 1, 1994.

See Parts VI.D. on page 11, and VII.B. on page 12.

**Situations Not Requiring a Seller to File a Claim for Refund**

In certain situations, a seller is allowed to make adjustments to their current sales and use tax return rather than file a claim for refund for sales or use taxes paid with returns previously filed. See Part VIII. on page 12 for additional information.

**I. INTRODUCTION**

This publication explains who may file a claim for refund of Wisconsin state, county, and stadium sales or use tax. It also includes information relating to forms, time limitations for filing, interest, and penalties.

**CAUTION**

The information in this publication reflects the positions of the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of February 1, 2008. Laws enacted after that date, new administrative rules, and court decisions may change the interpretations in this publication.

For purposes of this publication, the following definitions apply:

“Seller” means a person selling, leasing, or renting tangible personal property or selling, performing, or furnishing services.

“Buyer” means a person who acquires possession, ownership, enjoyment, or use of tangible personal property or services for a consideration.

A person may be a buyer in some transactions and a seller in other transactions.

“Claim for Refund,” as used in this publication, refers to a written request for a refund of sales or use taxes by a buyer or seller pursuant to secs. 77.59(4) or (8m), Wis. Stats. (2005-06).

**Note:** In certain situations, a seller is allowed to make adjustments to their current sales and use tax return rather than file a claim for refund for sales and use taxes paid with returns previously filed. See Part VIII. on page 12 for additional information.

**II. WHO MAY FILE CLAIMS FOR REFUND**

**A. Sellers**

A seller may file a claim for refund of sales or use taxes paid in error to the Department of Revenue.

**Caution:** If a seller is refunded tax and interest by the Department of Revenue for tax collected from a buyer, the seller **must** return the tax **and** interest to the buyer or to the Department of Revenue within 90 days after the date of the refund or offset. Failure to return the tax and related interest to the buyer or the Department of Revenue within the 90

day period results in a penalty of 25% of the amount not returned, or may result in a penalty of 100% if due to fraud.

## B. Buyers

1. **Tax Paid to Department of Revenue:** A buyer may file a claim for refund of use tax the buyer paid in error to the Department of Revenue.

*Example:* A manufacturer (buyer) purchased equipment for \$50,000 from an out-of-state seller. The seller did not charge sales tax to the buyer on the equipment.

On a consumer use tax return, the buyer reported and paid \$2,500 of use tax to the Department of Revenue on the equipment. At a later date, the buyer realized that its purchase of the equipment qualified for exemption from sales and use tax since it is used exclusively and directly by the buyer in manufacturing.

The manufacturer (buyer) may file a claim for refund with the Department of Revenue for the \$2,500 of use tax paid in error to the Department of Revenue.

2. **Tax Paid to a Seller:**

A buyer may file a claim for refund of sales and use tax paid in error to a seller under any of the following four conditions:

- a. The claim for refund totals \$50 or more of tax.

“\$50 or more of tax” means that the total tax relating to all transactions contained in the claim for refund filed with the Department of Revenue is \$50 or more.

*Example:* Buyer A erroneously paid \$40 of sales tax to Seller B and \$30 of sales tax to Seller C. Buyer A may file a claim for refund with the Department of Revenue for the \$70 of overpaid sales tax.

**Important:** For conditions (b), (c), and (d) below, the \$50 requirement [as in condition (a) above] does *not* apply.

- b. Seller has ceased operating business.

If at the time of filing the claim the seller has ceased business, the buyer may file a claim for refund with the Department of Revenue.

*Example:* Buyer D erroneously paid \$45 of sales tax to Seller E in January 2004. In April 2006, Seller E terminated the business. Buyer D may file a claim for refund with the Department of Revenue for the \$45 of overpaid sales tax.

If the buyer also paid sales or use tax in error to sellers who have *not* ceased business, only the seller may file a claim for refund with the Department of Revenue for such tax, unless the buyer meets one of the other conditions described in (a), (c), or (d).

- c. Buyer is being field audited.

If a buyer being field audited by the Department of Revenue paid sales or use tax in error to sellers or to the Department of Revenue, the buyer may file a claim for refund with the Department of Revenue.

*Example:* Buyer F is being field audited for the period of January 2003 through December 2006. Buyer F erroneously paid \$1,000 of sales tax to Seller G in November 2005.

While Buyer F is being field audited, Buyer F may file a claim for refund for the \$1,000 of sales tax erroneously paid in November 2005. The auditor will include this overpayment in the audit determination.

- d. Periods covered in the claim for refund are within the statute of limitations for buyer, but are closed to seller.

*Example:* In September 2007, Buyer H discovers that it erroneously paid sales tax to Seller I in March 2003. Seller I reported the sales tax on its March 2003 sales and use tax return and paid the tax to the Department of Revenue in April 2003.

Seller I files its Wisconsin corporate franchise tax return on a fiscal year basis, with its fiscal year ending April 30. Buyer H files its Wisconsin corporate franchise tax return on a calendar year basis.

The statutory deadline for Seller I to file a claim expired on July 15, 2007, which is four years from the unextended due date (that is, July 15, 2003) of its corporate franchise tax return for the period of May 1, 2002 through April 30, 2003.

Buyer H may file a claim for refund of tax it paid to Seller I in March 2003. Buyer H must file this claim by March 15, 2008, which is four years from the unextended due date (that is, March 15, 2004) of Buyer H's 2003 corporate franchise tax return.

**Note:** If the buyer also paid sales or use tax to sellers in error which pertains to a period which is within the statute of limitations for both the buyer and seller, only the seller may file a claim for refund with the Department of Revenue for such tax, unless the buyer meets one of the other conditions described in (a), (b), or (c).

### III. WHICH FORM TO USE

#### A. Sellers

Sellers claiming a refund of sales or use tax paid to the Department of Revenue may use Form ST-12, Wisconsin Sales and Use Tax Return, as an amended return. Form ST-12 and instructions are available from any Department of Revenue office, or online, at: [www.revenue.wi.gov](http://www.revenue.wi.gov). Refer to page 6 of the instructions for Form ST-12 for more information on how to use Form ST-12 as an amended return to file a claim for refund. Amended returns should be sent to: Wisconsin Department of Revenue, P. O. Box 930389, Milwaukee, WI 53293-0389.

In lieu of Form ST-12, a seller may file a claim for refund by sending a letter to the Department of Revenue. Claims submitted in this manner must indicate the claimant's name and address, seller's tax

account number, amount of the claim, reporting period for which the overpayment was made, and a reason for the claim. A chronological listing of all invoices included in the claim and copies of applicable exemption certificates received from buyers should be attached to the letter. Claims for refund filed in this manner should be submitted to: Wisconsin Department of Revenue, Mail Stop 5-144, P.O. Box 8906, Madison, WI 53708-8906.

#### B. Buyers

##### 1. Tax Paid to a Seller:

Buyers claiming a refund of sales or use tax paid to a seller are required to use Form S-220, *Buyer's Claim for Refund of Wisconsin State, County, and Stadium Sales Taxes*, (also known as Form BCR), and Form S-220a, *Schedule P, Attachment to Buyer's Claim for Refund of Wisconsin State, County, and Stadium Sales Taxes*, which are available from any Department of Revenue office. (See Forms S-220 and S-220a at the end of this publication.)

**Note:** A separate Schedule P must be completed and attached to Form S-220 for each seller to whom the buyer paid sales or use tax in error.

##### 2. Tax Paid to Department of Revenue:

Buyers claiming a refund of use tax paid directly to the Department of Revenue may use Form ST-12.

Refer to page 6 of the instructions for Form ST-12, available from any Department of Revenue office or on-line at [www.revenue.wi.gov](http://www.revenue.wi.gov), for more information on how to use Form ST-12 as an amended return to file a claim for refund. Amended returns should be sent to: Wisconsin Department of Revenue, Mail Stop 5-144, P. O. Box 8906, Madison, WI 53708-8906.

In lieu of Form ST-12, a buyer may file a claim for refund by sending a letter to the Department of Revenue. The letter must indicate the claimant's name and address, tax account number, amount of the claim, reporting period for which the overpayment was made, and reason for the

claim. A chronological listing of all invoices included in the claim should be attached to the letter. Claims for refund submitted in this matter should be submitted to: Wisconsin Department of Revenue, P. O. Box 930389, Milwaukee, WI 53293-0389.

### 3. *Tax Paid to Another State Agency:*

Buyers claiming a refund of use tax paid to another state agency, such as the Department of Transportation (DOT) or the Department of Natural Resources (DNR), must submit their request directly to: Wisconsin Department of Revenue, Mail Stop 5-144, P. O. Box 8906, Madison, WI 53708-8906

**Note:** This applies to situations where the buyer is required to pay use tax to the agency prior to registering or titling property such as a motor vehicle, boat, snowmobile, mobile home not exceeding 45 fee in length, trailer, semitrailer, all-terrain vehicle or aircraft in Wisconsin.

In situations where the buyer paid sales tax to a state agency as the retailer of the property or taxable service purchased, the buyer should follow the procedure under B.1 of this Part III.

The written request should include the following:

- A description of the transaction and reason for the refund;
- A copy of the application that the buyer originally completed (for example, a Form MV1, *Wisconsin Title & License Plate Application*); and
- A copy of the cancelled check (if available).

*Example:* Buyer X purchased an automobile from a private party. When registering the automobile with DOT, Buyer X overpaid the use tax by \$200. Buyer X may request a refund of the overpayment in tax from the Department of Revenue by sending a written request, including an explanation, a copy of the original Form MV1, and the cancelled check verifying payment.

## IV. TIME LIMITATIONS FOR FILING

A claim for refund of a buyer or seller is timely filed if it is either:

- received in person by a Department of Revenue employee on or before the due date, or
- mailed (including the delivery by a delivery service designated under sec. 7502(f) of the Internal Revenue code) (1) in a properly addressed envelope, with postage duly prepaid, (2) the envelope is postmarked, or marked or recorded electronically as provided under sec. 7502(f)(2)(c) of the IRC, before midnight of the last day of the limitation period, and (3) the claim is actually received by the Department of Revenue within five days after the last day of the limitation period.

**Note:** For purposes of this publication, a “determination” means the net result (that is, refund or tax due) of a Department of Revenue audit. For example, the Department of Revenue may audit a claim for refund and find additional tax and interest due on unreported purchases of tangible personal property. If the refund claimed, including interest, is greater than the amount of tax and interest due, the net result is a refund. The taxpayer may file a claim for refund regarding the tax paid (that is, assessed during audit and offset against refund) within two years of that refund determination, as long as the taxpayer did not file of petition for redetermination.

### A. Sellers

As indicated in Parts IV.A.1 to 4 on pages 4-7, the time limitations for a seller to file a claim for refund of sales or use tax depend on whether the seller was audited by the Department of Revenue for the period of the claim.

#### 1. *Claims for Refund — No Office Audit Determination Was Made for the Transaction and No Field Audit Determination Was Made for Period of the Claim*

If the transaction in the claim for refund (1) was not included in a prior office audit determination and (2) was not in the periods or years included in a prior field audit determination

(neither (1) nor (2) occurred), claims for refund may be filed as follows:

- Within four years after the unextended due date of the seller's Wisconsin income or franchise tax return, or,
- If exempt from filing Wisconsin income or franchise tax returns, within four years of the 15th day of the 4th month of the year following the close of the calendar or fiscal year.

*Example:* Seller J, an individual, overpaid sales tax to the Department of Revenue on her January 2007 sales and use tax return. The unextended due date of Seller J's 2007 income tax return is April 15, 2008.

Seller J has until April 16, 2012 to file a claim for refund for the overpaid sales tax reported on her January 2007 sales and use tax return. (April 15, 2012 falls on a Sunday. The due date is the following business day.)

**2. Claims for Refund — Office Audit Determination Was Made for the Transaction**

Claims for refund of the tax assessed by an office audit may be filed within two years of the issuance of the notice of determination of sales or use tax assessed by office audit, if the seller paid the tax and the tax was not protested by filing a petition for redetermination.

*Example:* In an office audit determination dated and issued July 17, 2007, the Department of Revenue assessed Seller K \$800 of sales tax on equipment Seller K sold to Buyer L in June 2005. Seller K paid the \$800 of sales tax on July 31, 2007, and did not file a petition for redetermination.

In January 2008, Buyer L provides Seller K with an exemption certificate, claiming the manufacturing exemption on the equipment.

Seller K has until July 17, 2009 (two years from the date the notice of office audit determination was issued) to file a claim for refund with the Department of Revenue for the \$800 of tax,

since the overpaid tax was part of the July 17, 2007 office audit determination.

**3. Claims for Refund — Field Audit Determination Was Made for Period of Claim**

If the transaction occurred during the period or years included in a prior field audit determination, the time limitations for filing a claim for refund for such transaction are as follows:

**a. Transaction Not Assessed in Field Audit Determination**

1) *Field Audit Not Appealed to Department's Resolution Unit*

Seller has until the earliest of the following to file a claim for refund:

- Four years from the unextended due date of the seller's income or franchise tax return or if exempt from filing Wisconsin income or franchise tax returns, within four years of the 15th day of the 4th month of the year following the close of the calendar or fiscal year (or date extended by waiver under sec. 77.59(3m), Wis. Stats. (2005-06)).
- Date the amount of the notice of determination is paid.
- 60 days after the date the seller received the notice of determination.

2) *Field Audit Determination Appealed to the Department's Resolution Unit, But Not to Wisconsin Tax Appeals Commission*

Seller has until the earliest of the following to file a claim for refund:

- Four years from the unextended due date of the seller's income or franchise tax return or if exempt from filing Wisconsin income or franchise tax returns, within four years of the 15th day of the 4th

month of the year following the close of the calendar or fiscal year (or date extended by waiver under sec. 77.59(3m), Wis. Stats. (2005-06)).

- Date the amount of the notice of determination is paid (this does not include deposits of tax under sec. 77.59(6)(c), Wis. Stats. (2005-06), while appeal is pending).
- 60 days after the date the seller received the Resolution Unit's notice of redetermination.

3) *Seller Appeals Field Audit Determination to Wisconsin Tax Appeals Commission or Court*

Seller has until the earliest of the following to file a claim for refund:

- Four years from the unextended due date of the seller's income or franchise tax return or if exempt from filing Wisconsin income or franchise tax returns, within four years of the 15th day of the 4th month of the year following the close of the calendar or fiscal year (or date extended by waiver under sec. 77.59(3m), Wis. Stats. (2005-06)).
- Date the amount of the notice of determination is paid (this does not include deposits of tax under sec. 77.59(6)(c), Wis. Stats. (2005-06), while appeal is pending).
- 60 days after the date the seller received the Resolution Unit's notice of redetermination, even though seller files the appeal with the Wisconsin Tax Appeals Commission before the 60 days have expired.

**b. Transaction Assessed in Field Audit Determination**

Claims for refund of the tax assessed by a field audit may be filed within two years of

the issuance of the notice of determination of sales or use tax assessed by field audit, if the seller paid the tax and the tax was not protested by filing a petition for redetermination.

*Example:* Seller O is field audited by the Department of Revenue for the period January 2003 through December 2006, and is assessed \$5,000 of sales tax on sales made by Seller O. The notice of determination is dated and issued April 6, 2007.

Seller O pays the \$5,000 of sales tax on April 20, 2007, and does not file a petition for redetermination.

Seller O has until April 6, 2009, to file a claim for refund with the Department of Revenue for all or part of the \$5,000 of sales tax assessed.

4. ***Claims for Refund — A Field Audit Determination Was Made and Customer Files Valid Claim With Seller***

Even though a seller has been field audited, claims for refund may be filed within four years after the unextended due date of the seller's Wisconsin income or franchise tax return, or if exempt from filing Wisconsin income or franchise tax returns, within four years of the 15th day of the 4th month of the year following the close of the calendar or fiscal year, if the seller's customers have filed valid claims for refund with the seller.

*Example:* Seller Q, a sole proprietor, is field audited by the Department of Revenue for the period January 2001 through December 2004. Seller Q is assessed \$2,000 of use tax on equipment purchased by Seller Q from vendors located outside Wisconsin. The notice of field audit determination is dated and issued June 10, 2005. Seller Q does not file a petition for redetermination.

Seller Q files its income tax return on a calendar year basis.

In November 2007, Seller Q receives a request from a church for a refund of \$500 of sales tax which it charged to the church on landscaping services provided by Seller Q in July 2003. The church has provided Seller Q with its certificate of exempt status number. Seller Q reported the \$500 of tax on its July 2003 sales and use tax return.

Since Seller Q reported the \$500 of tax on its July 2003 sales and use tax return, Seller Q has until April 15, 2008 (four years from the unextended due date of its 2003 income tax return), to file a refund claim with the Department of Revenue for the \$500 of sales tax.

## B. Buyers

As indicated in Part IV.B. on pages 7-10, the time limitations for a buyer to file a claim for refund of sales or use tax depend on whether the buyer was audited by the Department of Revenue for the period of the claim.

### Tax Paid to the Department of Revenue:

#### 1. *Claims for Refund — No Office Audit Determination Was Made for the Transaction and No Field Audit Determination Was Made for Period of the Claim*

If the transaction in the claim for refund (1) was not included in a prior office audit determination and (2) was not in the periods or years included in a prior field audit determination (neither (1) nor (2) occurred), claims for refund may be filed as follows:

- Within four years after the unextended due date of the buyer's Wisconsin income or franchise tax return, or,
- If exempt from filing Wisconsin income or franchise tax returns, within four years of the 15th day of the 4th month of the year following the close of the calendar or fiscal year (or date extended by waiver under sec. 77.59(3m), Wis. Stats. (2005-06).

*Example:* Buyer J, an individual, overpaid use tax to the Department of Revenue on his January 2004 sales and use tax return.

The unextended due date of Buyer J's 2004 income tax return is April 15, 2005.

Buyer J has until April 15, 2009 to file a claim for refund for the overpaid use tax reported on the January 2004 sales and use tax return.

#### 2. *Claims for Refund — Office Audit Determination Was Made for the Transaction*

Claims for refund of the tax assessed by an office audit may be filed within two years of the issuance of the notice of determination of sales or use tax assessed by office audit, if the buyer paid the tax and the tax was not protested by filing a petition for redetermination.

*Example:* In an office audit determination dated and issued July 17, 2006, the Department of Revenue assessed Buyer K \$800 of use tax on equipment Buyer K purchased in June 2004. Buyer K paid the \$800 of use tax on July 31, 2006, and did not file a petition for redetermination.

Buyer K has until July 17, 2008 (two years from the date the notice of office audit determination was issued) to file a claim for refund with the Department of Revenue for the \$800 of tax, since the tax was part of the July 17, 2006 office audit determination.

#### 3. *Claims for Refund — Field Audit Determination Was Made for Period of Claim*

If the transaction occurred during the period or years included in a prior field audit determination, the time limitations for filing a claim for refund for such transaction are as follows:

##### a. **Transaction Not Assessed in Field Audit Determination**

- 1) *Field Audit Not Appealed to Department's Resolution Unit*

Buyer has until the earliest of the following to file a claim for refund:

- Four years from the unextended due date of the buyer's income or franchise tax return or if exempt from filing Wisconsin income or franchise tax returns, within four years of the 15th day of the 4th month of the year following the close of the calendar or fiscal year (or date extended by waiver under sec. 77.59(3m), Wis. Stats. (2005-06)).
- Date the amount of the notice of determination is paid.
- 60 days after the date the buyer received the notice of determination.

2) *Field Audit Determination Appealed to the Department's Resolution Unit, But Not to Wisconsin Tax Appeals Commission*

Buyer has until the earliest of the following to file a claim for refund:

- Four years from the unextended due date of the buyer's income or franchise tax return or if exempt from filing Wisconsin income or franchise tax returns, within four years of the 15th day of the 4th month of the year following the close of the calendar or fiscal year (or date extended by waiver under sec. 77.59(3m), Wis. Stats. (2005-06)).
- Date the amount of the notice of determination is paid (this does not include deposits of tax under sec. 77.59(6)(c), Wis. Stats. (2005-06), while appeal is pending).
- 60 days after the date the buyer received the Resolution Unit's notice of redetermination.

3) *Buyer Appeals Field Audit Determination to Wisconsin Tax Appeals Commission or Court*

Buyer has until the earliest of the following to file a claim for refund:

- Four years from the unextended due date of the buyer's income or franchise tax return or if exempt from filing Wisconsin income or franchise tax returns, within four years of the 15th day of the 4th month of the year following the close of the calendar or fiscal year (or date extended by waiver under sec. 77.59(3m), Wis. Stats. (2005-06)).
- Date the amount of the notice of determination is paid (this does not include deposits of tax under sec. 77.59(6)(c), Wis. Stats. (2005-06), while appeal is pending).
- 60 days after the date the buyer received the Resolution Unit's notice of redetermination, even though the buyer files the appeal with the Wisconsin Tax Appeals Commission before the 60 days have expired.

**b. Transaction Assessed in Field Audit Determination**

Claims for refund of the tax assessed by a field audit may be filed within two years of the issuance of the notice of determination of sales or use tax assessed by field audit, if the buyer paid the tax and the tax was not protested by filing a petition for redetermination.

*Example:* Buyer O is field audited by the Department of Revenue for the period January 2003 through December 2006, and is assessed \$5,000 of use tax on purchases made. The notice of determination is dated and issued April 2, 2007.

Buyer O pays the \$5,000 of use tax on April 20, 2007, and does not file a petition for redetermination.

Buyer O has until April 2, 2009, to file a claim for refund with the Department of Revenue for all or part of the \$5,000 of use tax assessed.

**Tax Paid to Seller:**

**1. Claims for Refund — No Field Audit Determination Was Made for Period of the Claim**

If the transaction in the claim for refund was not in the periods or years included in a prior field audit determination, claims for refund may be filed as follows:

- Within four years after the unextended due date of the buyer’s Wisconsin income or franchise tax return, or,
- If exempt from filing Wisconsin income or franchise tax returns, within four years of the 15th day of the 4th month of the year following the close of the calendar or fiscal year (or date extended by waiver under sec. 77.59(3m), Wis. Stats. (2005-06).

*Example:* Buyer J, an individual, overpaid sales tax of \$100 to Seller K in January 2004. The unextended due date of Buyer J’s 2004 income tax return is April 15, 2005.

Buyer J has until April 15, 2009 to file a claim for refund for the overpaid sales tax paid to Seller K in January 2004.

**2. Claims for Refund — Field Audit Determination Was Made for Period of Claim**

If the transaction occurred during the period or years included in a prior field audit determination, the time limitations for filing a claim for refund for such transaction are as follows:

**a. Field Audit Not Appealed to Department’s Resolution Unit**

Buyer has until the earliest of the following to file a claim for refund:

- Four years from the unextended due date of the buyer’s income or franchise tax return or if exempt from filing Wisconsin income or franchise tax returns, within four years of the 15th day of the 4th month of the year following the close of the calendar or fiscal year (or date extended by waiver under sec. 77.59(3m), Wis. Stats. (2005-06)).
- Date the amount of the notice of determination is paid.
- 60 days after the date the buyer received the notice of determination.

**b. Field Audit Determination Appealed to the Department’s Resolution Unit, But Not to Wisconsin Tax Appeals Commission**

Buyer has until the earliest of the following to file a claim for refund:

- Four years from the unextended due date of the buyer’s income or franchise tax return or if exempt from filing Wisconsin income or franchise tax returns, within four years of the 15th day of the 4th month of the year following the close of the calendar or fiscal year (or date extended by waiver under sec. 77.59(3m), Wis. Stats. (2005-06)).
- Date the amount of the notice of determination is paid (this does not include deposits of tax under sec. 77.59(6)(c), Wis. Stats. (2005-06), while appeal is pending).
- 60 days after the date the buyer received the Resolution Unit’s notice of redetermination.

**c. Buyer Appeals Field Audit Determination to Wisconsin Tax Appeals Commission or Court**

Buyer has until the earliest of the following to file a claim for refund:

- Four years from the unextended due date of the buyer’s income or franchise

tax return or if exempt from filing Wisconsin income or franchise tax returns, within four years of the 15th day of the 4th month of the year following the close of the calendar or fiscal year (or date extended by waiver under sec. 77.59(3m), Wis. Stats. (2001-02)).

- Date the amount of the notice of determination is paid (this does not include deposits of tax under sec. 77.59(6)(c), Wis. Stats. (2005-06), while appeal is pending).
- 60 days after the date the buyer received the Resolution Unit's notice of redetermination, even though the buyer files the appeal with the Wisconsin Tax Appeals Commission before the 60 days have expired.

## V. INTEREST

When sales or use tax is refunded, interest at 9% per year is paid with the refund, computed as follows:

### A. Refunded to Seller

The period for which interest is computed begins on the unextended due date of the seller's sales and use tax return for the period in which the sale was made, and ends on the date the refund is paid.

*Example:* On July 15, 2005, Seller U files its June 2005 sales and use tax return, and pays the tax due of \$500 reported on the return. The unextended due date of Seller U's June 2005 sales and use tax return is August 1, 2005. (July 31, 2005, the normal due date, falls on Sunday. The due date is the next business day.)

Subsequently, Seller U determines that it overreported its gross receipts on its June 2005 sales and use tax return, resulting in a \$100 overpayment of sales tax.

On August 20, 2007, Seller U files a claim for refund for the \$100 of overpaid sales tax. The Department of Revenue pays the refund to Seller U on October 31, 2007.

The period for which interest is computed is August 1, 2005 to October 31, 2007 (27 months). The interest portion of the refund is computed as follows:

$$\frac{27 \text{ months}}{12 \text{ months}} \times .09 \times \$100 = \$20.25$$

### B. Refunded to Buyer

1. **Tax Paid to Department** — The period for which interest is computed begins on the unextended due date of the buyer's sales and use tax return (or the buyer's consumer use tax return) for the period in which the purchase was made, and ends on the date the refund is paid.

*Example:* On January 22, 2007, Buyer V files its December 2006 sales and use tax return. The unextended due date of Buyer V's December 2006 sales and use tax return is January 31, 2007.

Subsequently, Buyer V determines that it overpaid its use tax by \$500 and files a claim for refund with the Wisconsin Department of Revenue for the \$500 of overpaid use tax. The Department of Revenue pays the refund to Buyer V on October 1, 2007.

The period for which interest is computed is January 31, 2007 to October 1, 2007 (eight months). The interest portion of the refund is computed as follows:

$$\frac{8 \text{ months}}{12 \text{ months}} \times .09 \times \$500 = \$30.00$$

2. **Tax Paid to Seller** — Interest is computed from the last day of the month following the month in which the tax was paid by the buyer to the seller, to the date the refund is paid.

*Example:* On September 15, 2006, Buyer W pays \$1,000 of sales tax to Seller X on a purchase of equipment.

Subsequently, Buyer W determines that the equipment purchased qualifies for exemption from sales and use tax. On December 10, 2006, Buyer W files a claim for refund with the Wis-

consin Department of Revenue for the \$1,000 of sales tax. The Department of Revenue pays the refund to Buyer W on April 30, 2007.

Since Buyer W paid the tax to Seller X in September 2006, the period for which interest is computed is October 31, 2006 (the last day of the month following the month in which the tax was paid by the buyer to the seller) to April 30, 2007 (six months). The interest portion of the refund is computed as follows:

$$\frac{6 \text{ months}}{12 \text{ months}} \times .09 \times \$1,000 = \$45.00$$

## VI. OTHER

### A. Buyer and Seller May Not Both Obtain Refunds of Tax

Refunds will not be allowed to both the buyer and seller for the tax on the same transaction. If refund claims for the same transaction are filed by both the seller and buyer, and both claims are approved by the Department of Revenue, the Department of Revenue will decide whether the buyer or seller will receive the refund.

### B. Offsetting a Refund Against Any Debts

The Department of Revenue may offset a sales or use tax refund against any delinquent taxes and unpaid child support or maintenance owed by the buyer or seller who filed the claim for refund.

### C. Department of Revenue to Act on Claim

A claim for refund shall be regarded as a request for determination. The determination shall be made by the department within one year after the claim for refund is received by the department, unless the buyer or seller making the claim has consented in writing to an extension of the one-year time period prior to its expiration.

### D. Seller to Refund Tax and Interest to Buyers or the Department of Revenue

A seller is required to refund taxes and related interest to the buyers from whom the taxes were collected, in the following situations:

- (a) The seller files a claim for refund with the Wisconsin Department of Revenue, for taxes that the seller has collected from buyers, and receives such refund.
- (b) The seller files a claim for refund with the Wisconsin Department of Revenue, for taxes that the seller has collected from buyers, and the seller is entitled to a refund of such taxes, but the refund is offset against deficiencies of the seller due and owing on the books of the Wisconsin Department of Revenue.
- (c) The seller collects amounts as taxes erroneously from buyers, but the seller does not remit such amounts to the state.

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

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

Paragraphs (a), (b), and (c), above, apply to notices of refunds or notices of amounts due dated, offsets taken, and the discovery of amounts collected erroneously as taxes on or after October 28, 2005, even if the notices, offsets, and amounts relate to sales that occurred as far back as September 1, 1994.

For notices of refunds or notices of amounts due dated, offsets taken, and the discovery of amounts collected erroneously as taxes prior to October 28, 2005, paragraph (a) applies, and paragraphs (b) and (c) do not apply.

## VII. PENALTIES

### A. Incorrect Claim for Refund

*Negligence Penalty:* A buyer or seller who negligently files an incorrect and excessive claim for a refund of sales or use tax is subject to a penalty of 25% of the difference between the amount claimed and the amount that should have been claimed.

*Fraud Penalty:* A buyer or seller who fraudulently files an incorrect claim for a refund of sales or use tax is subject to a penalty of 100% of the difference between the amount claimed and the amount that should have been claimed.

### B. Failure to Return Tax to Buyer or Department

*Negligence Penalty:* If a seller is refunded tax and interest by the Department of Revenue for tax collected from a buyer, and the seller fails to return the tax and interest to the buyer or the department within 90 days after the date of refund or offset, the seller is subject to a penalty of 25% of the amount not returned.

*Fraud Penalty:* If a seller is refunded tax and interest by the Department of Revenue for tax collected from a buyer, and the seller fails to return the tax and interest to the buyer or the department within 90 days after the date of the refund or offset due to fraud, the seller is subject to a penalty of 100% of the amount not returned.

**Note:** An “offset” is the amount of a seller’s claim for refund of sales and use taxes and related interest to which the seller is entitled, but which is applied against delinquencies of the seller due and owing on the books of the Wisconsin Department of Revenue. The amount of the offset is included in determining the amount of the refund which the seller must refund to the buyer or the Department of Revenue.

## VIII. SPECIAL SITUATIONS NOT REQUIRING THE SELLER TO FILE A CLAIM FOR REFUND

A seller does not need to file a claim for refund in the following situations:

### A. Sale Returns and Price Adjustments

The seller has refunded, in cash or credit, all or a portion of the sales price as a result of property returned or adjustments in the sales price after the sale has been completed, provided:

- 1) the seller has included the refunded receipts in the current period’s return or a prior period return of the seller, and paid the tax on those receipts; and
- 2) the seller has refunded the tax to the buyer.

In this situation, the seller may claim a deduction from gross receipts for the amount of the purchase price refunded to the buyer on Line 4 (Sales returns, allowances, and bad debts) of Form ST-12, *Wisconsin Sales and Use Tax Return*, for the period in which the refund of the purchase price was made to the buyer.

### B. Bad Debts

In the case of accounts which are found to be worthless and charged off for income or franchise tax purposes, a retailer who has previously paid the sales tax on such accounts may take a deduction from gross receipts on Line 4 (Sales returns, allowances, and bad debts) of Form ST-12, *Wisconsin Sales and Use Tax Return*, for the amount found to be worthless. This deduction must be taken from the measure of the tax in the period in which the account is found to be worthless or within a reasonable time thereafter. If any such accounts are thereafter collected in whole or in part by the seller, the amount collected must be included in gross receipts for the first return filed after such collection, and the tax paid with the return.

### C. Tax Paid on Purchase of Leased Property

If a lessor of tangible personal property reimbursed the vendor for sales tax on the sale of the property by the vendor to the lessor, the tax due from the lessor on the rental receipts may be offset by a credit equal to, but not exceeding, the tax otherwise due on the rental receipts from this property for the reporting period. The credit expires when the cumulative rental receipts equal the sales price upon which the vendor paid sales taxes to the Department

of Revenue. The credit is claimed by taking a deduction on Line 5 (Other subtractions) of Form ST-12, *Wisconsin Sales and Use Tax Return*, for the amount of rental receipts from this property included in gross receipts on Line 1 of Form ST-12 by the lessor during the period covered by the return.

**D. Tax-Paid Purchases Resold**

If a purchaser of tangible personal property reimbursed the vendor of the property for sales tax on the sale and subsequently, prior to making any use of the property other than retention, demonstration or display while holding it for sale or rental, makes a taxable sale of the property, the tax due on the taxable sale may be offset by the tax reimbursed. The offset is claimed by taking a deduction on Line 5 (Other subtractions) of Form ST-12, *Wisconsin Sales and Use Tax Return*, for the amount of the purchase price paid for the property resold. The offset is claimed on the same return which includes the gross receipts for the property resold.

**Note:** In situations C and D, do not take a credit or offset on Form ST-12 for tax-paid purchases resold as **non-taxable** sales. You **must** request a refund of the tax paid from the vendor who sold you the property, or file a Buyer’s Claim for Refund with the Department of Revenue.

**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

Fax . . . (608) 267-1030

E-Mail . . . [sales10@revenue.wi.gov](mailto:sales10@revenue.wi.gov)

Visit our web site . . . [www.revenue.wi.gov](http://www.revenue.wi.gov)

Call Or Stop In . . .

**Offices Providing Daily Assistance (Monday-Friday)**

Location	Address	Telephone
Appleton	265 W. Northland	(920) 832-2727
Eau Claire	718 W. Clairemont	(715) 836-2811
Madison	2135 Rimrock Rd.	(608) 266-2776
Milwaukee	819 N. Sixth St.	(414) 227-4000

The above offices providing assistance daily are open 7:45 a.m. to 4:30 p.m. The offices listed below generally are open on Monday only from 7:45 a.m. to 1:00 p.m., although offices in Green Bay, Kenosha, and Waukesha are open on additional mornings. Contact that office for specific hours.

**Other Offices Providing Assistance**

Location	Address	Telephone
Baraboo	1000 Log Lodge Ct.	(608) 356-3472
Beaver Dam	220 Seippel Blvd.	(920) 356-6090
Elkhorn	715 W. Walworth St.	(262) 723-4098
Fond du Lac	845 S. Main St.	(920) 929-3985
Grafton	1930 Wisconsin Ave.	(262) 375-7948
Green Bay	200 N. Jefferson St.	(920) 448-5179
Hayward	100 Ranch Rd.	(715) 634-8478
Hudson	2100 O’Neil Rd.	(715) 381-5060
Janesville	2524 Morse St.	(608) 758-6190
Kenosha	4911 88th Ave.	(262) 653-7088
Lancaster	130 W. Elm	(608) 723-2641
Marinette	1926 Hall Ave.	(715) 732-7565
Oshkosh	515 S. Washburn	(920) 424-2100
Rhineland	2187 N. Stevens St.	(715) 365-2666
Sheboygan	807 Center Ave.	(920) 459-3101
Superior	1225 Tower Ave.	(715) 392-9785
Waukesha	141 NW Barstow	(262) 521-5310
Wausau	710 3rd St.	(715) 842-8665
Wisconsin Rapids	1681 2nd Ave. S.	(715) 421-0500

# FORM BCR

## BUYER'S CLAIM FOR REFUND OF WISCONSIN STATE, COUNTY AND STADIUM SALES TAXES

**INSTRUCTIONS:** A buyer may use this form to request a refund from the Wisconsin Department of Revenue of state, county and stadium (baseball and football) sales tax paid in error to a seller, if the claim for refund of sales tax totals \$50 or more, or the claim for refund of sales tax totals less than \$50 and one or more of the following conditions apply:

- The seller has ceased business operations,
- The buyer is being field audited, or
- The periods covered in the claim for refund are within the statute of limitations for the buyer and are closed to the seller.

**CAUTION – Do not use this form:**

- To claim a refund of tax you paid directly to the Wisconsin Department of Revenue.
- If the claim for refund totals less than \$50 of sales tax, and none of the above conditions apply. In this case, the buyer must request the refund from the seller.

Attach a separate **Schedule P** to this form for each seller to whom you paid Wisconsin sales tax in error and include on line 3 below all amounts from Section 1, line 2 of all Schedule Ps attached to this form.

### REFUND CLAIM INFORMATION (Buyer's Information)

Name	Federal I.D. Number (FEIN) / Social Security No.	
Address	Wisconsin Sales/Use Tax Account Number	
City	State	Zip
Telephone Number (      )      -	Best Time to Call (Weekdays, Daytime Hours)	
<p>1. Period covered by this refund claim: From: _____ To: _____</p> <p>2. Number of <b>Schedule P(s)</b> attached . . . . . _____</p> <p>3. Total amount of refund requested . . . . . \$ _____ (This total should equal the sum of all amounts entered on line 2 of all Schedule Ps attached.)</p>		
<p><i>Under penalties of law, I declare that the amount of sales tax for which I am submitting this claim for refund has NOT been refunded or credited to me by the department or by the seller to whom the tax was previously paid. I will immediately send payment for any such duplicate refund to the Wisconsin Department of Revenue, PO Box 8902, Madison, WI 53708-8902.</i></p>		
Print Your Name	Title	
Signature of Claimant (Buyer)	Date	

**Please mail your refund claim to:**

Wisconsin Department of Revenue  
 Sales Tax Refund Request  
 Mail Stop 5-144  
 P.O. Box 8906  
 Madison, WI 53708-8906

**Questions:**

Telephone: (608) 266-2776  
 TDD: (608) 267-1049  
 FAX: (608) 267-0834  
 Website: www.dor.state.wi.us  
 E-mail: sales10@dor.state.wi.us

# SCHEDULE P

(Attachment to Form BCR, Buyer's Claim for Refund of Wisconsin State, County and Stadium Sales Taxes)

This schedule details purchases on which Wisconsin sales tax was paid to the seller and a refund of the tax is being claimed from the Wisconsin Department of Revenue. **The buyer should complete Sections 1 and 3, and have the seller complete Section 2.** Use a separate Schedule P for each seller. Schedule P should be returned by the seller to the buyer and the buyer should attach it to Form BCR as documentation of the refund claim.

## SECTION 1 – BUYER INFORMATION

_____ (Buyer's Name)		
_____ (Buyer's Address)	( ) (Area Code)	— (Telephone No.)
_____ (City)	_____ (State)	_____ (Zip)
1. Period covered by this refund claim: From: _____ To: _____		
2. Total state, county and stadium tax paid in error . . . . . \$ _____ (Total of Columns 7, 8, 9, and 10 from Section 3) Include this amount in the total on line 3, Form BCR.)		

## SECTION 2 – SELLER INFORMATION

The above-named buyer has entered in Section 3 (on the back of this page) information concerning transactions for which they are claiming a refund of sales tax from the Department of Revenue. Please examine the information entered in Section 3 and, if you have **not** previously received or requested a refund of the sales tax listed in Columns 7 through 10, complete Section 2 below and return this document to your customer.

Enter your Wisconsin Seller's Permit Number, Use Tax Number or Tax Account Number: _____	
Enter your Federal Employer's Identification Number: _____	
_____ (Seller's Legal Name)	
_____ (Seller's Business/Trade Name)	
_____ (Seller's Business Address)	
_____ (City)	_____ (State)      _____ (Zip)
<input type="checkbox"/> Check this box if any of the items listed in Section 3 do not qualify for a refund, identify which items do not qualify, and explain why not (for example, tax paid was not Wisconsin tax): _____ _____ _____	
<i>I declare under penalties of law that I have read and examined this document and attest to the fact that the items listed in Section 3 were sold by me and that Wisconsin state sales tax and, where applicable, county and/or stadium tax, was charged and reported to the Wisconsin Department of Revenue. I have not requested and will not request a refund, taken credit on any sales tax return, been allowed credit, or given the buyer credit for any sales tax listed in Section 3 (Columns 7-10). I further declare that I will not request a refund of tax for other sales to this purchaser for the periods in Section 1.</i>	
_____ (Print Seller's Name)	_____ (Title)
_____ (Seller's Signature)	_____ (Date)

