

# **Farm Suppliers And Farmers**

## **How Do Wisconsin Sales and Use Taxes Affect Your Operations?**

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### IMPORTANT CHANGES

**Updates for Streamlined Sales Tax.** The Wisconsin Legislature has passed the legislation necessary to conform Wisconsin's sales and use tax laws to the requirements of the Streamlined Sales and Use Tax Agreement as part of 2009 Wisconsin Acts 2 and 28. The conforming legislation, known as the Main Street Equity Act, became effective in Wisconsin on October 1, 2009. Changes effective on October 1, 2009 include:

- When and where a sale is deemed to occur. See Part IX. on pages 18 to 20.
- For sales of certain coins and stamps and leases of certain property, the sales tax is imposed separately from the sales tax on “tangible personal property.” Under prior law these items were taxed as sales or leases of tangible personal property. Therefore, these items are now listed separately in this publication. See Part I.A., second paragraph, on page 1, and Parts II.A., B., and C. on page 5.
- Wisconsin sales and use taxes apply to the sales of and the storage, use, or other consumption of “specified digital goods,” “additional digital goods,” and “digital codes” in Wisconsin. See Part II.D. on page 5.
- The exemption for tractors and machines, including accessories, attachments, and parts for such tractors and machines, lubricants, nonpowered equipment, and other tangible personal property used exclusively and directly, or consumed or losing its identity in the business of farming now also includes property, items, and goods described in Part II.B., C., and D. See Part V.B., beginning on Page 8.
- The definition of “farm livestock medication” is replaced with “farm livestock drug.” See Part V.H. on page 15.

**Retailers collecting Wisconsin state sales or use taxes are now required to collect all applicable county, stadium district, and exposition district taxes that apply to the sale (effective October 1, 2009).** Previously, only a retailer who was engaged in business in a county, stadium district, or

exposition district was required to collect that county, stadium district, or exposition district sales or use tax. See Part I.F. on pages 3-4.

**A retailer’s activities that create nexus for use tax collection include having a “related affiliate” in Wisconsin performing certain activities on behalf of the retailer (effective July 1, 2009).** See Part I.D., on page 2.

## I. INTRODUCTION

### A. General

This publication explains how Wisconsin state sales and use taxes affect farmers, farm supply companies, farm implement dealers, and farm cooperatives.

As used in this publication the terms “property, items and goods,” “property, items, or goods” or “property, item, good” refers to the property, items, and goods described in Parts II.A., B., C., and D.

As used in this publication, “digital goods” refers collectively to “specified digital goods,” “additional digital goods,” and “digital codes” described in Part II.D. Specific information about digital goods is available in [Publication 240: Digital Goods – How Do Wisconsin Sales and Use Taxes Apply to Sales and Purchases of Digital Goods](#), available online at [www.revenue.wi.gov](http://www.revenue.wi.gov).

Certain sales to farmers which are subject to the 5% state sales or use tax may also be subject to the (1) 0.5% county sales or use tax, (2) 0.1% baseball stadium sales or use tax, (3) 0.5% football stadium sales or use tax, and (4) local exposition taxes. Additional information about these taxes is contained in the following:

- (1) County tax: [Publication 201](#), *Wisconsin State and County Sales and Use Tax Information*, Part XVIII.
- (2) Baseball stadium tax: [Publication 201](#), *Wisconsin State and County Sales and Use Tax Information*, Part XVIII. Applies to sales and purchases made in Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties.
- (3) Football stadium tax: [Publication 201](#), *Wisconsin State and County Sales and Use Tax Information*,

Part XVIII. Applies to sales and purchases made in Brown County.

- (4) Local exposition taxes: [Publication 410](#), *Local Exposition Taxes*. These taxes apply to sales and purchases of certain lodging; candy, soft drinks, and prepared foods; alcoholic beverages for consumption on the seller's premises; and car rentals in municipalities located wholly or partially within Milwaukee County.

[Publications 201](#) and [410](#) are available on the Department of Revenue's web site at [www.revenue.wi.gov](http://www.revenue.wi.gov).

#### 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 that date, new administrative rules, and court decisions may change the interpretations in this publication.
- The examples and lists of taxable and nontaxable sales are not all-inclusive. They merely set forth common examples.

### B. Nature of Sales and Use Taxes

1. **Sales tax** is imposed on retailers who sell, license, lease, or rent any property, items, goods, or taxable services at retail, if the transaction is sourced (see Part IX.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 property, items, goods or taxable services, purchased from a retailer, if:
  - (a) the property, item, good, 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 property, item, good, or service.

The use tax is based on the purchase price of the property, item, good, or service paid by the purchaser to the retailer.

### C. Who Must Obtain a Seller's Permit

Every individual, partnership, corporation, or other organization making sales, licenses, leases, or rentals at retail of any property, items, goods, or taxable services at retail and sourced (see Part IX.B.) to Wisconsin is required to have a seller's permit, unless all sales licenses, leases, or rentals by the seller are exempt from sales or use tax.

### D. Who Must Obtain A Use Tax Registration Certificate

Although a retailer may have no location in Wisconsin from which sales, licenses, leases, or rentals of any property, items, goods, or taxable services at retail are made, the retailer is engaged in business in Wisconsin, for purposes of the use tax, if one or more of the following conditions exist:

- The retailer owns any real property in Wisconsin.
- The retailer licenses, leases, or rents out any property, items, or goods located or used in Wisconsin.
- The retailer maintains, occupies or uses, permanently or temporarily, directly or indirectly, or through a subsidiary, agent, or other person, an office, place of distribution, sales or sample room or place, warehouse, or storage place, or other place of business in Wisconsin. (See exception for foreign corporation publishers.)
- The retailer has any representative, agent, salesperson, canvasser, or solicitor operating in Wisconsin under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or taking orders for any property, items, goods, or taxable services.
- The retailer services, repairs, or installs, in Wisconsin, any property, items, or goods.
- The retailer delivers any property, items, or goods into Wisconsin in company operated vehicles.
- The retailer performs construction activities in Wisconsin.
- Any person who has an affiliate in this state, if the person is related to the affiliate and if the affiliate uses facilities or employees in this state to advertise, promote, or facilitate the establishment of or market for sales of items by the related person to purchasers in this state or for providing

services to the related person's purchasers in this state, including accepting returns of purchases or resolving customer complaints. For purposes of this paragraph, 2 persons are related if any of the following apply:

1. One person, or each person, is a corporation and one person and any person related to that person in a manner that would require a stock attribution from the corporation to the person or from the person to the corporation under section 318 of the Internal Revenue Code owns directly, indirectly, beneficially, or constructively at least 50% of the corporation's outstanding stock value.
2. One person, or each person, is a partnership, estate, or trust and any partner or beneficiary; and the partnership, estate, or trust and its partners or beneficiaries; own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or value of the other person or both persons.
3. An individual stockholder and the members of the stockholder's family, as defined in section 318 of the Internal Revenue Code, owns directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of both persons' outstanding stock value.

An out-of-state retailer with no Wisconsin location from which sales are made, but who is engaged in business in Wisconsin based on any of the above conditions, must apply to the Department of Revenue for a use tax registration certificate.

The retailer must report Wisconsin use tax on sales in Wisconsin or sales that are for storage, use, or other consumption in Wisconsin.

Refer to [sec. Tax 11.97, Wis. Adm. Code](#), " 'Engaged in business' in Wisconsin," for more information about use tax obligations of out-of-state retailers.

**Exception:** A publisher that is a foreign corporation (i.e., a corporation that is not organized under Wisconsin law) is not considered to be a retailer engaged in business in Wisconsin, and is not required to collect Wisconsin use tax on its sales or delivery of property, items, goods, or taxable services at retail if its activities in Wisconsin do not exceed:

1. The storage of the publisher's raw materials for any length of time in Wisconsin in or on property owned by a person other than the publisher and the delivery of the publisher's raw materials to another person in Wisconsin if that storage and delivery are for printing by that other person.
2. The purchase from a printer of a printing service or of printed materials in Wisconsin for the publisher.
3. The storage of the printed materials for any length of time in Wisconsin in or on property owned by a person other than the publisher.
4. Maintaining, occupying, and using, directly or by means of another person, a place that is in Wisconsin, that is not owned by the publisher and that is used for the distribution of printed materials.

#### **E. How to Obtain a Seller's Permit or Use Tax Registration Certificate**

A retailer may apply for a seller's permit or use tax registration certificate using one of the following methods:

- Use the Department of Revenue's online registration system and submit an application electronically. Go to: [www.revenue.wi.gov](http://www.revenue.wi.gov). Under "Electronic Services," click the link for "Business Tax Online Registration."
- Complete [Form BTR-101, Application for Business Tax Registration](#), and submit it to the Department of Revenue. [Form BTR-101](#) may be obtained online at: [www.revenue.wi.gov/forms/sales/index.html](http://www.revenue.wi.gov/forms/sales/index.html).

#### **F. Collecting State and Local Sales and Use Taxes**

Effective October 1, 2009, 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, baseball or football stadium, local exposition, and regional transit authority sales and use taxes that apply, based on the location where the sale takes place, as described in Part IX. (**Note:** As of May 1, 2011, no regional transit authority sales or use taxes have been imposed.)

**Example 1:** Retailer B is located in Iowa County. On or after October 1, 2009, Retailer B makes a taxable

sale of property to Customer A. Retailer B ships the product, using a common carrier, from its business location in Iowa County, to Customer B in Washington County. Washington County imposes the 0.5% county sales and use tax, and is located within the baseball stadium district. The sourcing rule in Part IX.B.1.b. applies, and the sale is sourced to Washington County. Retailer B is liable for the 5% Wisconsin state sales tax, the 0.5% Washington County sales tax, and the 0.1% baseball stadium district sales tax on its sale of this product.

**Example 2:** Retailer G is located in the State of Kansas, and holds a Wisconsin use tax registration certificate. On or after October 1, 2009, Retailer G licenses a digital good to Customer H for a one-time license fee. Using the rule in Part IX.B.2., Retailer G properly sources the sale as prescribed under Part IX.B.1.c., to the address Retailer G maintains for Customer H in the ordinary course of its business. That address is a location in Rock County, Wisconsin. Retailer G must charge and collect the 5% Wisconsin state use tax and the 0.5% Rock County use tax relating to Customer H's purchase of the license for the digital good.

## G. Filing Tax Returns and Payment of Tax

### 1. How Often Must a Return Be Filed?

If you have a seller's permit, use tax registration certificate, or consumer use tax registration certificate, you must file a return for each "reporting period," even if no tax is due for that period. Your "reporting period" will be either monthly, quarterly, or annually. For example, if your reporting period is monthly, you must file whether any tax is due for the month. Generally, your reporting period will be quarterly unless the Department of Revenue notifies you in writing that your returns must be filed monthly or annually. Wisconsin sales and use tax returns must be filed using one of the electronic filing methods listed in Part I.G.2. A seller that is unable to file electronically may request a waiver from the Department of Revenue. A waiver will be granted if the requirement to file electronically causes an *undue hardship*. An example of an undue hardship is the onset of a disabling illness or injury. Your request for a waiver must be **in writing**. The request should indicate the business name, tax account number, and the reason why your sales and use tax returns cannot be electronically filed. Requests can be:

- E-mailed to: [DORWaiverRequest@revenue.wi.gov](mailto:DORWaiverRequest@revenue.wi.gov);
- Faxed to: (608) 267-1030; or
- Mailed to: Wisconsin Department of Revenue, Mandate Waiver Request, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949.

Additional information is available at: [www.revenue.wi.gov/eserv/rule.html#sales](http://www.revenue.wi.gov/eserv/rule.html#sales); or you may contact the department by e-mail at: [sales10@revenue.wi.gov](mailto:sales10@revenue.wi.gov); or by telephone at (608) 261-6261.

If you have been granted a waiver, a return will be mailed to you shortly before the end of each reporting period. If you do not receive your return within 15 days after the end of the reporting period, phone the Department of Revenue at (608) 266-2776.

### 2. Electronic Filing and Payment Options Available for Sales and Use Tax Returns

#### a. My Tax Account

Beginning in February 2009, a new online service called "My Tax Account" became available to business taxpayers.

*My Tax Account* is a free Internet-based taxpayer service that allows you to file and pay your sales and use taxes electronically. It performs the necessary computations of tax based on information that you enter and allows you to make your tax payment via electronic funds transfer, credit card or paper check. *My Tax Account* allows you to view the filing and payment history of your account and identify any tax periods that need attention. You can also direct requests to the Department of Revenue to change your address, obtain an extension to file a return or inactivate your account.

To use *My Tax Account*, you will need to apply for and obtain a logon ID and password from the Department of Revenue. Please watch the Department of Revenue's web site at: [www.revenue.wi.gov](http://www.revenue.wi.gov) for more details on the transition to this new service, including

information about how to obtain your logon ID and password.

NOTE: One of the Department of Revenue's previous electronic filing options, Sales Internet Process (SIP), was taken out of service in June of 2009.

**b. Sales TeleFile**

You can file your Wisconsin sales and use tax return with any touch-tone telephone. This program accepts four payment types: Direct withdrawal (only available during the call in which you file your return), credit card, check, or money order. To use TeleFile, obtain a Sales TeleFile worksheet and payment voucher from the Department of Revenue's web site at:

<https://ww2.revenue.wi.gov/TeleSIP/application>. When you have completed the worksheet, call (608) 261-5340 to actually file your return.

**c. eFile Transmission**

This program is a service for taxpayers using approved private vendors' software or who have the technical expertise to create a file in XML format. eFile transmission places return data into a file format that can be directly processed into the Department of Revenue system. Using secure transmission over the Internet you can submit a payment at the same time that you file your return using ACH debit or ACH credit. You will receive an e-mail acknowledgement to confirm receipt of a successful file transmission. Information about file transmission can be found on the Department of Revenue's web site at:

[www.revenue.wi.gov/eserv/eftgen.html](http://www.revenue.wi.gov/eserv/eftgen.html).

**IMPORTANT CHANGE:** Electronic Funds Transfer (EFT) Payment and Registration Systems are no longer available for the tax programs covered by *My Tax Account*.

**d. Questions?**

More information on all of the above services can be found under the "Business" or "E-Services" sections of the Department of Revenue web site [www.revenue.wi.gov](http://www.revenue.wi.gov). If

you have questions about electronic filing or payments, contact the department by writing to Wisconsin Department of Revenue, Electronic Funds Transfer Assistance, Mail Stop 3-80, P.O. Box 8902, Madison, WI 53708-8902; calling (608) 266-2776; or e-mailing at [sales10@revenue.wi.gov](mailto:sales10@revenue.wi.gov).

**II. WHICH SALES ARE SUBJECT TO SALES AND USE TAXES?**

Sales, licenses, leases, and rentals of the following property, items, and goods are subject to the 5% Wisconsin state sales tax:

- A. Tangible personal property;
- B. Coins or stamps of the United States that are sold, licensed, leased, rented, or traded as collector's items above their face value;
- C. Leased property that is affixed to real 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;
- D. Specified digital goods, additional digital goods, and digital codes. These digital goods are characterized by the fact that they are transferred electronically to the purchaser (i.e., accessed or obtained by the purchaser by means other than tangible storage media). "Specified digital goods" means "digital audio works," "digital audiovisual works," and "digital books." "Additional digital goods" means greeting cards, finished artwork, periodicals, video or electronic games, and newspapers or other news or information products. See [Publication 240](#) for a description of the products that are included;

In addition, certain services are subject to Wisconsin sales and use taxes. For a list of taxable services, see Part X.B. of [Publication 201](#).

As used throughout this publication, the terms "property, items, and goods," "property, items, or goods," or "property, item, good," refers to the property, items, and goods described in Parts II.A., B., C., and D.

As used throughout this publication, the term "digital goods" refers collectively to products listed in Part II.D.

### III. DEFINITION OF FARMING

As used in this publication, “farming” means the business of producing food products or other useful crops by tilling and cultivating the soil or by raising cattle, sheep, llamas, poultry, domesticated rabbits, or other animals which produce a food product or which are themselves a food product.

“Farming” includes the business of:

- Feeding and raising cattle and other milk producing animals
- Raising earthworms, pheasants, foxes, fitch, nutria, marten, fisher, mink, chinchilla, rabbit, caracul, and bees
- Producing honey products by a beekeeper of 50 or more hives
- Raising fish for food
- Breeding and raising horses and llamas for sale
- Raising ginseng, mushrooms, and sod
- Holding livestock in a feed lot for 30 days or more
- Floriculture, which is the business of producing flowers, Christmas trees, or other decorative trees, plants, or shrubs, including such operations as greenhouses
- Horticulture, which is the business of producing vegetables, vegetable plants, fruits, and nursery stock, including the operation of commercial nurseries and orchards, but not businesses which hold products for purposes other than propagation or growth
- Silviculture, which is the business of raising trees for timber, lumber and other wood products, and includes the logging of timber when it is performed by a person engaged in the business of silviculture and the logging is conducted with respect to timber produced as a result of that person’s silviculture activity. Silviculture does not include pulp or sawmill operations. “Logging,” as used above, includes the following activities which occur while in the field: (1) the felling of trees, (2) the delimiting of felled trees, (3) the cutting of felled trees into logs, poles or other units, (4) the transportation of cut timber from the forest to a sawmill, and (5) activities conducted in the forest incidental to the felling, cutting, and removal of trees such as the clearing of the forest to allow access to and removal of the timber from the forest land.

**Note:** The logging of timber is a custom farming service when performed for a person engaged in the business of silviculture, for a fee.

- Custom farming services (see Part VI.B. on page 17).

**CAUTION**

**“Farming” does not include:**

- Home gardening and other similar noncommercial activities
- Breeding or raising dogs, cats, and other pets or animals intended for use in laboratories
- Operating sporting or recreational facilities, such as riding stables or shooting preserves
- Operating stockyards or slaughterhouses
- Pulpwood and sawmill operations
- Milling and grinding grain
- Pasteurizing or homogenizing milk or making butter, cheese, or ice cream
- Preparing sausage, canned goods, jellies, juices, or syrup
- Holding livestock in a feed lot for less than 30 days

### IV. TAXABLE SALES OF PROPERTY, ITEMS, AND GOODS TO FARMERS

Sales of property, items, or goods to farmers are subject to sales tax unless the sales meet one of the exemptions described in Part V. on pages 8 through 17.

Listed on pages 6 to 7 are examples of property, items, or goods which are taxable and which do not qualify for any of the exemptions in Part V.

#### Examples of Taxable Sales to Farmers:

- A. Motor vehicles licensed for highway use, including accessories, attachments, parts, and repairs for such motor vehicles. Taxable motor vehicles include, if licensed for highway use:**
- Automobiles
  - Buses
  - Motorcycles
  - Station wagons
  - Trucks

Accessories, attachments, parts, and repairs for vehicles licensed for highway use, including nurse tanks and trailers, are also taxable. Examples include:

- Stock trailers pulled behind highway trucks to take livestock to market
- Portable or built-in GPS navigation units used in vehicles licensed for highway use to navigate on highways
- Map updates for taxable GPS navigation units, whether purchased on a tangible storage medium or transferred electronically to the purchaser.

**B. Tools used in constructing buildings and fences or making other repairs to real estate, such as:**

- Electric drills
- Hammers
- Hand tools
- Planers
- Posthole diggers
- Sanders
- Saws
- Tool boxes
- Welders

**C. Building materials used in repairing or improving real estate, such as:**

- Barn curtains
- Barn door tracks
- Cement (Exception: Purchases of concrete that are used in constructing manure pits for animal waste are exempt from tax. See Part V.G.3., on page 15)
- Culvert pipe
- Dairy panels
- Drain tile
- Faucets
- Fence gates
- Fence handles for electric fence

- Fence post insulators for electric fence
- Fence posts
- Fencing
- Fill dirt, gravel, and topsoil (Taxable if seller dumps material in a pile, or if the seller provides a landscaping service in a farmer's lawn or garden. Nontaxable if seller spreads material in its final resting place in a driveway or farm field.)
- Gutter grates
- Light fixtures
- Lumber
- Nails
- Paint
- PVC pipe and fittings
- Silo chutes
- Sod
- Threaded rod
- Wire and netting used to construct pens on game farms

**D. Other Taxable Sales of Property, Items, or Goods**

- Anti-freeze used in a tractor or machine that does not meet the requirement stated in Part V.B.2.a. on page 8
- Automatic transmission fluid used in a tractor or machine that does not meet the requirement stated in Part V.B.2.a. on page 8
- Bandages for pets and horses used in racing, pleasure riding, or show
- Drugs for pets and horses used in racing, pleasure riding, or show
- Pet foods
- Tarps for highway vehicles
- Vitamins for pets and horses used in racing, pleasure riding, or show

**V. EXEMPT SALES OF PROPERTY, ITEMS, AND GOODS TO FARMERS**

**A. Introduction**

Sales of the following items are exempt from sales and use taxes if they meet the requirements as explained in Sections B through I of Part V.

Item	Section in Part V	Page
Tractors and Machines, Including Accessories, Attachments, and Parts, and Lubricants, Nonpowered Equipment and Other Property, Items, and Goods	B	8
Seeds for Planting and Plants	C	13
Feed	D	13
Fertilizer and Soil Conditioners	E	14
Sprays, Pesticides, and Fungicides	F	14
Containers for Fruits, Vegetables, Grain, and Animal Wastes	G	14
Farm Livestock Drugs	H	15
Animal Bedding, Baling Twine and Baling Wire, Electricity, Farm Work Stock, Mobile Cement Mixers, Fuel, Livestock and Poultry, and Semen for Artificial Insemination of Livestock	I	16

“Used exclusively,” as used in Part V.B. means used to the exclusion of all other uses except for other use not exceeding 5% of total use.

“Exclusively,” as used in Parts V.C. through I., means that the items are used solely in farming to the exclusion of all other uses, except that the sales and use tax exemption for such items will not be invalidated by an infrequent and sporadic use other than in farming.

**B. Tractors and Machines, Including Accessories, Attachments, and Parts, and Lubricants, Nonpowered Equipment, and Other Property, Items, and Goods**

1. General

Sales of tractors and machines, including accessories, attachments, and parts for such tractors and machines, lubricants, nonpowered equipment, and other property, items, and goods are exempt from sales and use taxes, if all of the requirements in a., b., c. and d. of Part V.B.2., below, are met:

“Machine” means an assemblage of parts that transmit force, motion, and energy from one part to another in a predetermined manner.

“Accessories” and “attachments” include devices designed to be mounted on a tractor or machine or to be pushed or pulled by a tractor or machine.

“Part” means a durable unit of definite, fixed dimensions. Fluids and oils are not “parts.”

2. Requirements for exemption

To qualify for exemption from sales and use taxes, a tractor or machine, including accessories, attachments, and parts, lubricants, nonpowered equipment, or other property, items, or goods must meet all four of the following tests:

- a. The property, item, or good must be used *exclusively* and *directly* in farming **or** be *consumed or lose its identity* in farming.
- b. The property, item, or good *must not be* an automobile, truck, or other motor vehicle for highway use or an accessory, attachment, or part for such an automobile, truck, or other motor vehicle.
- c. The property, item, or good *must not be* attached to, fastened to, connected to, or built into real property when sold, leased, or rented to the farmer.

**(Note:** There is an exception to the requirement in “c.” Under Wisconsin law, certain machines, and accessories, attachments, and parts for these machines, are considered tangible personal property and may qualify for the machine exemption regardless of the ex-

tent to which the machine is connected to or fastened to real estate. Those items which meet this exception are noted with an asterisk (\*) in the listing of machines that qualify for exemption in Part V.B.3., on pages 10 to 13.)

- d. The property, item, or good *must not be* used or consumed in the erection of buildings or in the alteration, repair, or improvement of real property.

Additional information about each of these three requirements is provided below.

- *Exclusive use in farming*

“Used exclusively” means used to the exclusion of all other uses except for other uses not exceeding 5% of total use.

**Example 1:** Farmer A uses his tractor only in his farm fields pulling cultivators, plows, farm wagons, spreaders, and other attachments to the tractor. Farmer A uses the tractor exclusively in farming.

**Example 2:** Farmer B uses an all-terrain vehicle (which is not licensed for highway use) 75% of the time on his farm to check fields and livestock. The all-terrain vehicle is used the other 25% of the time for recreational purposes. Because the recreational use exceeds 5% of total use, the all-terrain vehicle is not used exclusively in farming. Farmer B must pay sales or use tax on his purchase of the all-terrain vehicle, as well as lubricants used in the all-terrain vehicle.

**Example 3:** Farmer C purchases a water heater which will be used to heat water both for Farmer B’s residence (10% of use) and milk house (90% of use). Farmer C installs the water heater. Because the residential use exceeds 5% of total use, the water heater is not used exclusively in farming. Farmer C must pay sales or use tax when purchasing the water heater.

- *Direct use in farming*

Examples of items *used directly* in farming:

- Combines used in farming to harvest grain

- Emergency generators to supply power to farm machines
- Lubricants used for tractors, machinery, or nonpowered equipment used directly in farming.
- Milking machines used in farming to milk cows
- Mowers used to mow ditches along farmland
- Plows used in farming to plow corn fields
- Pressure washers used to clean barns
- Repair manuals used in the maintenance and repair of exempt machinery
- Rototillers used in pens on game farms
- Skid-steer loaders used to clean barns
- Trimmers used to cut brush in pens on game farms

Examples of items *not used directly* in farming:

- Computers used for tracking prices or inventories, or for word processing
- Computers used to keep feeding, production, and medical records relating to livestock
- Log splitters used to split wood for heating farm buildings
- Pressure washers used to clean exempt machines
- Tools used to repair exempt machines
- Trimmers used to trim weeds around buildings

- *Consumed or loses its identity* in farming means that the item is used only (that is, 100% of the time) in farming.

**Example:** Farmer J buys a pressure washer and uses it only to clean exempt farm machines. Farmer J makes no other use of the pressure washer. The pressure washer is consumed by Farmer J in farming. Farmer J’s purchase of the pressure washer qualifies for exemption.

- *Must not be* attached to, fastened to, connected to, or built into real property when sold, licensed, leased, or rented to the farmer. (See the note in Part V.B.2.c., on pages 8 and 9, for an exception to this requirement.)

**Example 1:** Supplier C sells and installs a water heater in Farmer D’s milk house, which is to heat water for use in farming. (The water heater does not heat water for use in Farmer D’s residence.) A water heater used for this purpose is tangible personal property, even after it is installed by Supplier C.

The sale of the installed water heater from Supplier C to Farmer D does not meet the requirements for farm machines in Part V.B.2.c., on pages 8 and 9, because the water heater is attached to real property when sold to Farmer D.

Farmer D may not claim an exemption on its purchase of the installed water heater. Supplier C’s charge to Farmer D is subject to sales tax.

**Example 2:** Retailer E sells a water heater, without installation, to Farmer F. Farmer F will use the water heater in his milk house, exclusively to serve the production area. Farmer F hires Contractor G to install the water heater.

The sale of the non-installed water heater from Retailer E to Farmer F meets the requirements in Part V.B.2., on pages 8 to 10, because: (a) the water heater will be used exclusively and directly in farming, (b) the property is not an automobile, truck, or other motor vehicle for highway use, or an accessory, attachment, or part for a motor vehicle for highway use, (c) the water heater is not attached to, fastened to, connected to, or built into real property when sold to Farmer F, and (d) the water heater will not become an addition to, component of, or capital improvement of real property once installed.

- Acid cleaners
- Aerators
- Air compressors for application of sprays, pesticides, etc.
- Air conditioners and humidity controls in barns
- Air tubes\*
- Alarm systems to monitor ventilation fans in barns or

temperature in barns, coolers, and freezers (See Part VI.B. on page 17 regarding monitoring services)

- All-terrain vehicles
- Anchors (earth)

Retailer E may claim a resale exemption on its purchase of the water heater from its supplier. Farmer F may claim a farmer’s exemption on his purchase of the water heater from Retailer E. Farmer F also may claim a farmer’s exemption on his purchase of installation services from Contractor G.

**Example 3:** Farmer H buys a milking machine, installed, from Supplier I. Under Wisconsin sales and use tax law, the milking machine retains its character as tangible personal property, regardless of the extent to which it is fastened to, connected to, or built into real property. In addition, the milking machine is one of machines a farmer may purchase without tax even though the farmer purchases it attached, to, fastened to, or built into real property when purchased. Therefore, Farmer H may claim a farmer’s exemption when buying the milking machine from Supplier I. Supplier I may claim a resale exemption on its purchase of the milking machine, because it is reselling the milking machine as tangible personal property.

### 3. Examples

Listed below and on pages 11 to 13 are examples of tractors and machines, accessories, attachments, and parts for such tractors and machines, and lubricants, nonpowered equipment, and other property, items, or goods which qualify for exemption from sales and use taxes if they meet the four tests in Part V.B.2., on pages 8 to 10.

“Farm machinery,” as used in this listing, means tractors and machines used exclusively and directly by the buyer in farming.

- \* May qualify for exemption, even if attached to, fastened to, connected to, or built into real property when sold, licensed, leased, or rented to farmer.

- Animal clippers
- Anti peck bits for game birds
- Antifreeze, if used in an exempt tractor or machine
- Applicators for fertilizers, sprays, insecticides, and pesticides
- Aprons
- Automatic transmission fluid, if used in an exempt tractor or machine
- Auxiliary power generators\*
- Bale loaders\*
- Baler belts
- Balers
- Balling guns
- Bandages
- Bar and chain oil for chain saws
- Barn brooms
- Barn cleaners\*
- Barn elevators\*
- Barn fans and blowers
- Barn lime spreaders
- Barn scrapers
- Basins
- Batteries for farm machinery
- Battery cables for farm machinery
- Battery terminals for farm machinery
- Belts for farm machinery
- Bleach
- Bolts for farm machinery
- Booties, coveralls, and masks for biosecurity purposes
- Brooders
- Brooms
- Brushes
- Buckets
- Bull rings
- Calf stalls - portable
- Castrators and castrator bands
- Cattle chutes
- Cattle markers
- Cattle prods, shockers, motors/batteries, parts
- Cattle tags
- Chain - roller, flat, gathering; for farm machinery
- Chain saws for orchard and logging use, but not for personal use
- Chopper knives for farm machinery
- Choppers
- Cloth udder towels
- Combines
- Conveyors\*
- Coolers and freezers, no walls of cooler or freezer are walls of building (e.g., free-standing coolers and freezers)
- Corn moisture testers
- Corn pickers
- Covers for farm machinery
- Cow lifts
- Cow mats
- Cow rings
- Cow shoes
- Cow trainers
- Crop conditioners
- Crop thinners
- Cultivator shields
- Cultivators
- Dairy scales
- Dairy utensil cleaner
- Dehorner
- Detergents
- Discs
- Disinfectants and sanitizers, such as iodine and chlorine
- Dispensers
- Drags
- Drinking cups
- Drugs for work stock
- Ear notchers
- Ear tags
- Egg baskets and flats used to carry eggs
- Egg wash
- Egg wash machines
- Electric fence chargers (not fencing or insulators)
- Electricity
- Electronic grounding systems
- End loaders
- Engine oil for an exempt tractor or machine
- Engines for farm machinery
- Exam gloves
- Farrowing crates
- Faucets
- Feed augers\*
- Feed elevators\*
- Feed for livestock or workstock
- Feed for riding horses (**Note:** Farmer's exemption for feed may be claimed if buyer is engaged in the commercial breeding and raising of horses for sale.)
- Feed scoops
- Feeders - stationary salt and mineral
- Feeders, powered, excluding platforms and troughs constructed from ordinary building materials\*
- Fence batteries for an electric fence
- Fence chargers for an electric fence
- Fire extinguishers
- Fluids - hydraulic and transmission, if used in an exempt tractor or machine
- Foggers
- Foot bath equipment
- Fork lifts
- Forks - hay, silage, etc.
- Fuel
- Fuel pumps for an exempt tractor or machine
- Fuel tanks for an exempt tractor or machine
- Gates for feed and grain wagons
- Gear oil used in an exempt tractor or machine
- Grain dryers\*
- Grain grinders\*
- Grain moisture testers
- Grain scales
- Grain scoops
- Grain temperature probes
- Gravity boxes/extensions
- Greases used in an exempt tractor or machine
- Grooming items
- Halters
- Harrows

- Harvesting combines
- Hay moisture testers
- Hay wagons
- Heat detectors
- Heat lamps/bulbs
- Heaters for barn, greenhouse or milkhouse
- Hoof trimmers
- Hormone growth stimulants (**Note:** Hormone growth stimulants do not qualify for exemption as a fertilizer. The difference between fertilizers and hormone growth stimulants is that fertilizers nourish plants whereas hormone growth stimulants act upon the cellular structure.)
- Huts used in game bird pens
- Hydraulic couplers for farm machinery
- Hydraulic cylinders for farm machinery
- Hydraulic hoses for farm machinery
- Hydraulic oil filters for farm machinery
- Hydraulic oil for farm machinery
- Hydraulic pumps for farm machinery
- Hydraulic reservoirs for farm machinery
- Hydraulic valves for farm machinery
- Identification bands and tags
- Incinerators
- Incubators
- Inflation cleaner
- Inflations and inflation plugs\*
- Insect strips
- Irrigation implements\*
- Jack stands, if used for farm machinery
- Jacks to be bolted or welded onto farm machinery
- Jacks, if used for farm machinery
- Jug and barrel pumps
- Kick stops
- Knife heads
- Lubricants, if used in an exempt tractor or machine
- Lumber for farm machinery
- Manual cleaners
- Manure spreaders
- Medicines for work stock
- Microscopes and other testing equipment
- Milk cans
- Milk coolers\*
- Milk filters
- Milk stools
- Milk strainer pads\*
- Milk transfer clear tubing\*
- Milker hoses\*
- Milker lid gaskets\*
- Milker pump oil
- Milking gloves
- Milking machine parts\*
- Milking machines, including piping, pipeline washers and compressors\*
- Milkstone remover
- Mouse traps
- Mowers
- Natural gas
- Neck chains and numbers
- Needles - hypodermic
- Nursing bottles and nipples
- Nuts for farm machinery
- Oil - hydraulic and motor, if used in an exempt tractor or machine
- Oil filters for farm machinery
- Oil pumps for farm machinery
- Pails
- Paint for farm machinery
- Paint sticks (animal markers)
- Paper towels
- Peepers, or “blindens,” to reduce fighting among game birds
- Pest controllers
- Pipeline cleaners
- Pipes attached to irrigation pumps\*
- Piping and pipeline washers and compressors for milking machines\*
- Pitch forks
- Planters
- Plaster of Paris used to set an animal’s broken bone
- Plows
- Pulleys for farm machinery
- Pulsator kits\*
- Pumps and associated piping for irrigation\*
- Pumps for farm machinery
- Radio or stereo for tractor cab
- Rat traps
- Repair manuals for farm machinery
- Rock pickers
- Rope and cable
- Rotary hoes
- Rubber floor mats for barn
- Saddles and bridles, for farm work stock
- Scales
- Self-treating stations (“oil-ers”)
- Shampoos
- Shovels
- Silo unloaders - top and bottom\*
- Sinks
- Skid-steer loaders
- Slow-moving vehicle signs for farm machinery
- Snowmobiles
- Soaps
- Space heaters for barn, greenhouse or milk house
- Sprayer tanks
- Sprayers
- Spreader aprons
- Spreader chain links
- Spreader chains
- Stalk shredders
- Stationary salt and mineral feeders
- Stock tank de-icers and heaters
- Stock tank float valves
- Stock tanks
- Stock waterers
- Storage tanks
- Strainers for milk cans or coolers
- Stray voltage meters

- Syringe needles
- Syringes
- Tag marking ink
- Tattoo ink
- Tattoo kits
- Teat dilators
- Teat dip dispensers
- Teat dips
- Test kits to test milk for contaminants
- Thermometers
- Thermostats for farm machinery
- Threaded rod for farm machinery
- Tiedown rings for farm machinery
- Tiedown straps for farm machinery
- Tire chains for farm machinery
- Tires for farm machinery
- Top and bottom silo unloaders\*
- Tractor cabs
- Tractors
- Trailer couplers
- Training videos, whether purchased on a tangible storage media or accessed or downloaded using the Internet
- Trucks not licensed for highway use
- Tune-up kits for farm machinery
- Udder creams and balms
- Udder sponges and cloth
- Udder supports
- Udder washes
- Ultrasonic pest repellents
- Vacuum pump oil
- Ventilating units
- Veterinary instruments
- Vitamins for livestock or workstock
- Wagon running gear
- Wagons
- Washup hoses and nozzles
- Water heaters for milk house
- Water pumps for milk house
- Water softener filters and parts for milk house
- Water softener salt
- Water softeners for milk house
- Waterers
- Weaners
- Welding rods
- Wheelbarrows
- Window cleaners
- Windrowers
- Windshield wash, if used in an exempt tractor or machine

### C. Seeds for Planting and Plants

Seeds for planting and plants are exempt from sales and use taxes, if used exclusively in farming.

“Seeds for planting and plants” includes:

- Bulbs
- Hay and pasture grass mix
- Plant parts capable of propagation
- Seeds for alfalfa, blue grass, canning peas, clover, field corn, field peas, rye grass, sweet corn, timothy, and vegetable seeds
- Herbs, shrubs, or young trees, slips, or saplings planted or ready to plant
- Tree seedlings

### D. Feed

Feed is exempt from sales and use taxes, if used exclusively in farming.

1. “Feed” includes:

- Medicated feed or drug carriers purchased for use as an ingredient of medicated feed, the primary purpose of which is the prevention of diseases in livestock or poultry.

• Milk replacers.

- Processed vegetable and animal products and essential minerals required for the normal nutritional needs of livestock, poultry, and domestic fur-bearing animals and other materials which are required for the normal nutritional needs of animals in some domestic environments, such as vitamins A, B-complex, D and E.

Essential minerals include phosphorous, calcium, sodium, chlorine, iodine, iron, copper, sulfur, potassium, magnesium, and zinc. Common feed additives containing these substances include cod liver oil, salt in granular or block form, ground limestone, fish oil, fish meal, oyster shells, and bone meal.

• Silage preservative.

2. Feed for feed lots.

“Feed lot” means a restricted area containing pens or lots where livestock are held and fed.

The sales and use tax treatment of feed for feed lots depends on the length of time the livestock is held.

*Livestock held for less than 30 days:*

A person who holds livestock in a feed lot for less than 30 days is not engaged in farming. Feed purchased for livestock held in a feed lot for less than 30 days is taxable.

*Livestock held for 30 days or more:*

A person who holds livestock in a feed lot for 30 days or more is engaged in farming and the feed purchased for the livestock is exempt.

**Note:** If a person holds some livestock in a feed lot for less than 30 days and some livestock for 30 days or more and purchases feed for both types at the same time, an allocation of the feed costs may be made so that tax is paid on the feed consumed by livestock held for less than 30 days and is not paid on feed consumed by livestock held for 30 days or more.

#### **E. Fertilizer and Soil Conditioners**

Fertilizer and soil conditioners are exempt from sales and use taxes, if used exclusively in farming.

“Fertilizer” means any substance containing nitrogen, phosphoric acid, potash, or any recognized plant food element or compound which is used primarily for its plant food content to improve the soil’s agricultural qualities. “Fertilizer” and “soil conditioners” include:

- Agricultural minerals
- Carbon dioxide for application to land
- Compost
- Fertilizer and insecticide combinations
- Liquid spray mixtures of minerals and plant nutrients
- Lime
- Manure
- Peat moss
- Sewage sludge
- Soy bean straw
- Urea

#### **F. Sprays, Pesticides, and Fungicides**

Sprays, pesticides, and fungicides are exempt from sales and use taxes, if used exclusively in farming.

“Sprays,” “pesticides,” and “fungicides” include:

- Chemicals used for crop disease and pest and weed control, including insecticides and rodenticides
- Dewormers
- Disinfectant sprays
- Dust bag kits that include pest repellent
- Fly bait
- Fly belts
- Fly control blocks
- Fly repellent
- Fly sprays
- Fly sticks
- Fly tape
- Insect strips
- Insecticide ear tags
- Mouse and rat repellents
- Poison (for rodents)
- Other preparations used to destroy insects, mites, nematodes, slugs, or other invertebrate animals injurious to plants and animals
- Products used to sanitize and clean dairy equipment are exempt, if they are: (1) registered with the U.S. Environmental Protection Agency (EPA) as pesticides, (2) advertised and sold as pesticides, and (3) each bottle, can, or other container containing the pesticide has an EPA pesticide registration number on it
- Screw worm aerosol

#### **G. Containers for Fruits, Vegetables, Grain, Hay, Silage, and Animal Wastes**

Containers for fruits, vegetables, grain, hay, silage, and animal wastes are exempt from sales and use taxes, if used exclusively in farming.

1. “Containers for fruits, vegetables, grain, hay, silage, and animal wastes” includes any kind of

personal property which is purchased exclusively for holding or storing fruit, vegetables, grain, hay, silage, or animal wastes.

Examples of containers which qualify if used exclusively in farming include:

- Plastic bags, plastic sleeves, and plastic sheeting used to store or cover hay or silage
- Plastic netting used to bale hay
- Bale feeders used to hold hay
- Feed carts used to hold feed which contains grain
- Silo caps (plastic sheeting used to cover silage inside silo)

2. Real property improvements.

- *Installed by farmer.* A farmer may purchase a complete corn crib or grain bin “knocked-down” in kit form, do any necessary installation work, and the corn crib or grain bin will qualify for exemption as a container.
- *Installed by supplier.* A supplier who contracts with a farmer to both provide and install the corn crib or grain bin permanently into real estate, is the consumer of the corn crib or grain bin. Therefore, the supplier is liable for sales or use tax on its purchase of the corn crib or grain bin. The charge to the farmer for labor and materials is not taxable because it is a real property improvement.

3. Animal waste containers.

Farmers or contractors may purchase animal waste containers, or the component parts of animal waste containers, exempt from tax.

**Example:** Purchases of concrete that is used in constructing manure pits for animal waste are exempt from tax, regardless of whether purchased by a farmer or a contractor.

**Notes:** (1) Materials for building silos are not included in the exemption for containers for fruits, vegetables, grain, hay, silage, or animal wastes. A farmer or contractor buying materials used in building a silo must pay sales or use tax on the purchase price of such materials.

(2) Materials for building bunker silos (i.e., walls and floor of silo are constructed of concrete) are not included in the exemption for containers for fruits, vegetables, grain, hay, silage, or animal wastes. A farmer or contractor buying materials used in building a bunker silo must pay sales or use tax on the purchase price of such materials.

## H. Farm Livestock Drugs

Drugs used on farm livestock (not including farm work stock) are exempt from sales and use taxes.

“Farm livestock drug” means any substance or preparation used in the diagnosis, cure, mitigation, treatment or prevention of disease in farm livestock. “Farm livestock drug” does not include drugs for work stock, riding horses used in racing, pleasure riding or show or small domestic animals, including dogs and cats. It also does not include laboratory equipment used by a veterinarian, non-medicated shampoos, non-medicated pet foods, and non-medicated bandages, or plaster of paris that is used to set an animal’s broken bone.

“Farm livestock drug” includes medicated bandages, and the following in the form of boluses, capsules, feed additives, fluids, pills, powders, ointments and salves intended for use to farm livestock:

- Animal foot bath disinfectant
- Antibiotics
- Cow magnets
- Dehorning pastes
- Dewormers
- Disinfectants
- Drinking water solutions
- Flea powder
- Flea spray
- Foot rot and ring worm liquids
- Foot rot treatments
- Infertility treatments
- Mastitis treatments
- Shampoos, medicated
- Sutures
- Teat dips

- Udder washes
- Vaccines
- Vitamins

## I. Other Exempt Sales to Farmers

Other items which are exempt from sales and use taxes when sold to farmers for exclusive use in farming include:

### 1. Animal bedding.

“Animal bedding” means disposable loose materials, including straw, shavings, sawdust, leaves, sand, shredded paper, and wood chips used where an animal may lie, to promote cleanliness and absorb urine or liquid manure.

### 2. Baling twine and baling wire.

### 3. Drugs for farm work stock, as defined 5., below.

### 4. Electricity.

### 5. Farm work stock, such as draft horses and mules.

“Farm work stock” means animals, such as draft horses and mules and horses used to check on or herd livestock, which are used exclusively in farming.

“Farm work stock” does not include dogs, horses used for racing, pleasure riding, or show, or laboratory animals.

### 6. Mobile cement mixers (exempt from sales and use taxes even if not sold to a farmer for exclusive use in farming).

### 7. Natural gas and other fuel sold for use in farming.

### 8. Livestock and poultry, which includes:

- animals, the products of which are normally used as food for human consumption,
- domestically raised fur bearing animals or animals which are a source of wool, such as llamas, including those purchased for breeding, and
- game bird eggs and chicks that are hatched, raised, and sold to hunting preserves.

**Note:** If the farmer also operates a hunting preserve, and uses the mature birds in the preserve, the farmer’s purchases of the game bird eggs or chicks are taxable.

**Example:** Company C operates both a pheasant farm and a hunting preserve. Company C buys chicks and raises them on its farm. When the birds are mature, they are released for hunting. The fees charged to hunters by Company C are based on the number of pheasants released for hunting. Company C’s purchases of chicks are taxable since they are not used exclusively in farming (they are also used in operating the hunting preserve).

### 9. Semen for artificial insemination of livestock.

### 10. Animal identification tags sold by the Wisconsin Department of Agriculture, Trade, and Consumer Protection to persons required or authorized to use those tags.

### 11. Standard samples, representing product or commodity grades, sold by the Wisconsin Department of Agriculture, Trade, and Consumer Protection

### 12. Packaging and shipping materials.

- Containers, labels, sacks, cans, boxes, drums, bags, and other packaging and shipping materials sold for use in packing, packaging, or shipping tangible personal property, if such items are used by the farmer to transfer merchandise to customers. This includes a farmer’s purchases of wood, staples, or other materials to build containers, if such containers are used to transfer merchandise to customers. **Note:** The containers, labels, etc., must be physically transferred to customers to qualify for this exemption. This exemption does not apply to containers or other packaging and shipping materials used merely for storage or to transfer merchandise owned by the farmer from one location to another.
- Meat casing, wrapping paper, tape, containers, labels, sacks, cans, boxes, drums, bags, or other packaging and shipping materials sold for use in packing, packaging, or shipping meat or meat products, regardless of whether such items are used to transfer merchandise to customers. For example, a game farm’s purchases of plastic tubs that it uses to ship birds from its processing facility (where it de-

feathers and disinfects them) to its meat cutting facility are exempt.

(See Part V.G., on pages 14 and 15, for information about the exemption for containers for fruit, vegetables, grain, hay, silage, and animal wastes.)

## **VI. TAXABLE SERVICES SOLD TO FARMERS**

### **A. Repair or Service to Property, Items, and Goods**

If the property, item, or good is taxable, then the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of such item is also taxable.

Examples of taxable services sold to farmers:

- Repairs to licensed motor vehicles
- Repair to furnace in home or barn
- Boarding, grooming, or horseshoeing horses used for racing, pleasure riding, or show
- Breeding or artificial insemination of animals other than farm livestock or farm work stock

### **B. Other Taxable Services**

Other taxable services sold to farmers include:

- Telephone
- Internet access
- Laundry
- Dry cleaning
- Photographic
- Landscaping and lawn maintenance
- Monitoring services, such as those used to monitor the temperature in a barn, that consist of recording a telecommunications message and notifying the customer or local authorities of the message

## **VII. EXEMPT SERVICES SOLD TO FARMERS**

### **A. Repair or Service to Exempt Property, Items, or Goods**

If any property, item, or good may be purchased by a farmer without tax, then the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of such property is also not subject to sales or use tax. (See Part V.B., on pages 8 to 13 for an explanation of which property, items, or goods a farmer may purchase without tax.)

**Exception:** The repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of farm property, items, and goods are taxable if both of the following apply:

1. At the time of the repair, service, etc., the property, item, or good is attached to, fastened to, connected to, or built into real property.
2. The property, item, or good is not noted with an asterisk (\*) in the listing of machines in Part V.B.3, on pages 10 to 13.

Examples of services sold to farmers which are not subject to sales or use tax include:

- Repair to a tractor used exclusively and directly in farming
- Repair to a feed elevator used exclusively and directly in farming
- Repair to a milking machine used exclusively and directly in farming

### **B. Custom Farming Services**

The sale of custom farming services to farmers is not subject to sales or use tax.

“Custom farming services” means the performance of an activity, defined as farming in Part III., on page 6, for a farmer for a fee. The fee may include a cash payment, a share of the harvest, or other valuable consideration.

Examples of custom farming services include:

- Artificial insemination of farm livestock or farm work stock
- Breeding farm livestock or farm work stock

- Harvesting hay, grain, or corn
- Logging timber
- Services furnished by veterinarians to farm livestock
- Spraying fields
- Spreading fertilizer on fields

### C. Other

Other services sold to farmers which are not subject to sales or use tax include:

- Services performed to real property (e.g., replacing shingles on barn roof)
- Transporting farm products (e.g., milk hauling services)
- The sale of contracts, including service contracts, maintenance agreements, computer software maintenance contracts for prewritten computer software, and warranties, that provide, in whole or in part, for the future performance of or payment for the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance of property, items, or goods when the sale, license, lease, or rental in this state of the property, items, or goods to which the contract relates is or was exempt, to the purchaser of the contract, from Wisconsin sales and use taxes.

- Tractors sold to persons, such as construction contractors, who will not use the tractors exclusively and directly in the business of farming

### B. Exempt Sales of Property, Items, and Goods by Farmers

Examples of exempt sales of property, items, or goods by farmers include:

- Animals which are used as food for human consumption
- Food and food products for human consumption, such as milk, meat, fish, fruits, vegetables, and grain
- Livestock and poultry sold to other farmers for exclusive use in farming
- Live game birds sold to a bird hunting preserve licensed under sec. 169.19, Wis. Stats.
- Tractors and other machines sold to other farmers for exclusive and direct use in farming
- Sales which qualify as “occasional sales,” because the farmer’s total sales of tangible personal property that would otherwise be subject to sales tax are less than \$1,000 in the calendar year. For more information about the occasional sale exemption, see *Wisconsin Tax Bulletin 122*, October 2000, pages 30-37, online under *Publications* at [www.revenue.wi.gov](http://www.revenue.wi.gov).

## VIII. SALES OF PROPERTY, ITEMS, AND GOODS BY FARMERS

### A. Taxable Sales of Property, Items, or Goods by Farmers

Farmers’ sales of property, items, or goods are subject to sales tax, unless an exemption applies.

Examples of taxable sales include:

- Flowers, Christmas trees, and other decorative trees, plants, or shrubs
- Horses for use in racing, pleasure riding, or show
- Llamas for use as pack animals, pets, or to herd sheep
- Timber or gravel when the purchaser acquires this property for removal

## IX. WHEN AND WHERE A SALE OCCURS

### A. When a Sale Occurs

1. A sale or purchase involving transfer of ownership of the property or item listed in Parts II.A., B., and 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 considered to be 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 good listed in Part II.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**

"Receive" means taking possession of property or items described in Parts II.A., B., or C.; taking possession or making first use of a good described in Part II.D., whichever comes first, or making first use of services. "Receive" does not include a shipping company taking possession of any property or items described in Parts II.A., 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.

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 IX.B.2., 3., and 4.

**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 [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](#).

1. A sale (but not a license, lease, or rental) takes place at the location determined using the following hierarchy:

- a. If a purchaser receives the product at a seller's business location, the sale takes place at that business location.
- b. If a purchaser does not receive the product at a seller's business location, the sale takes place at 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 takes place at 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 takes place at 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 property or item is described in Parts II.A., B., or C., the sale takes place at the location from which the property or item is shipped.

- (2) If the item sold is a good described in Part II.D. or computer software delivered electronically, the sale takes place at 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 takes place at the location from which the service was provided.
2. Except as provided in 3. and 4., with regard to the first or only payment on the lease or rental, the lease or rental of property, items, and goods takes place at the location determined under Part IX.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, takes place at 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 IX.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 takes place at the location determined under Part IX.B.1.

**Example 1:** At an auction held in Winona, Minnesota, a tractor is sold to an individual from Sauk County, Wisconsin. The location of the auction is

the business location of the auctioneer. The buyer takes delivery of the tractor in Winona, Minnesota, and transports it to a location in Sauk County, Wisconsin.

The sale occurs at the time possession of the piano is transferred by the seller to the buyer. The sale takes place in Minnesota, as prescribed in Part IX.B.1.a., as the buyer received the tractor at the seller's business location in Winona, Minnesota. Because the sale takes place in Minnesota, it is not subject to Wisconsin sales tax. However, since the tractor, subsequent to the sale in Minnesota, is stored, used, or consumed in Wisconsin, the purchaser is subject to Wisconsin and Sauk County use taxes, unless an exemption applies.

**Example 2:** A farmer located in LaCrosse County, Wisconsin, purchases a new grass seeder from an implement dealer in Monroe County, Wisconsin. The implement dealer delivers the seeder to the farmer at his farm in LaCrosse County.

The sale occurs when the dealer transfers possession of the seeder to the farmer at his farm in LaCrosse County. The sale takes place in LaCrosse County, as prescribed in Part IX.B.1.b., as the farmer receives the seeder from the dealer at the location of his farm in LaCrosse County. The sale is subject to Wisconsin State and LaCrosse County sales taxes, unless an exemption applies.

## **X. RECORDKEEPING**

### **A. General Records to Keep**

If you are required to file sales and use tax returns, you must keep adequate records of business transactions to enable you and the Department of Revenue to determine the correct tax due.

### **B. Records to Keep - Exemption Certificates**

You may receive exemption certificates claiming farming exemptions and other exemptions (for example, resale exemptions) from buyers. To claim a deduction on your sales and use tax return for such sales, you must keep the exemption certificates as part of your records to prove that the sales were exempt.

**Caution:** Accepting an exemption certificate does not relieve you of your liability to collect tax if you, as the seller, fraudulently fail to collect the tax, solicit the purchaser to claim an unlawful exemption, or accept an exemption certificate from a purchaser who claims to be an entity exempt from 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.

[Form S-211](#), *Wisconsin Sales and Use Tax Exemption Certificate*, is available online at [www.revenue.wi.gov](http://www.revenue.wi.gov). For transactions occurring on or after October 1, 2009, a purchaser may also use [Form S-211-SST](#), *Streamlined Sales and Use Tax Exemption Certificate*, also available online at [www.revenue.wi.gov](http://www.revenue.wi.gov).

**CAUTION**

If the Department of Revenue conducts an audit and you do not have the required exemption certificates or other required documents to prove that your sales are exempt, your sales will be presumed to be taxable and subject to the sales tax.

**C. Records to Keep - Sales to Exempt Organizations**

1. Exempt sales to federal and Wisconsin governments, any federally recognized American Indian tribe or band in Wisconsin, Wisconsin municipalities, and Wisconsin public schools must be supported by one of the following:
  - A purchase order received from such an organization, or
  - An exemption certificate received from such an organization, or
  - Listing the Certificate of Exempt Status number of such an organization on the seller's copy of the invoice.
2. Exempt sales to organizations holding a Certificate of Exempt Status (e.g., churches) must be supported by either one of the following:
  - Listing the Certificate of Exempt Status number of such an organization on the seller's copy of the invoice, or

- An exemption certificate received from such an organization.

**D. Records to Keep - Buyer Holds Direct Pay Permit**

Exempt sales to buyers who hold a direct pay permit must be supported by one of the following:

- A copy of the buyer's direct pay permit, or
- A statement that the buyer holds a direct pay permit, the permit number, and the date the permit was issued.

Contact any Department of Revenue office for more information on direct pay.

**XI. IF YOU HAVE QUESTIONS**

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

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

Telephone . . . (608) 266-2776

Fax . . . (608) 267-1030

E-Mail . . . [sales10@dor.state.wi.us](mailto:sales10@dor.state.wi.us)

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