

Temporary Events

- **Trade Shows**
- **Flea Markets**
- **Art & Craft Shows**
- **Fairs & Festivals**

Wisconsin Sales and Use Tax Requirements for:

- (1) Persons Selling at Events
- (2) Operators of Events

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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 include:

- **What is subject to tax?** Tangible personal property, items, property, goods, and taxable services are explained. Part II.F.1. on pages 5 and 6.
- **Change to which food and beverages are taxable.** The list of taxable sales of merchandise has been updated to reflect changes to which foods and beverages are subject to tax. Part II.F.2. on pages 6 and 7.

Multi-Level Marketing Companies. Information is included to determine when a distributor for a multi-level marketing company must obtain a seller's permit. Part I.B.3. on page 3.

I. INTRODUCTION

This publication explains the tax treatment of sales by persons at temporary events such as swap meets, flea markets, and craft fairs. It also explains the requirements of organizers of temporary events to report information to the Wisconsin Department of Revenue relating to persons selling at such events.

For purposes of this publication, an event is an occurrence, occasion, activity, or function at which merchandise is sold or traded or taxable services are provided. The event can be on one day or consecutive days.

For example, when an event is held every weekend over a period of time, each weekend (consecutive days) constitutes a separate event. In addition to

swap meets, flea markets, and craft fairs, the following are examples of other events: tradeshow, conventions, and consumer shows; community or association picnics, fairs, markets, or festivals; carnivals and fairs; fund raising events; and other similar occurrences, occasions, activities, or functions.

Note: Certain sales at temporary events which are subject to the 5% state sales and use tax may also be subject to the: (a) 0.5% county sales and use tax, (b) 0.1% baseball stadium sales and use tax, (c) 0.5% football stadium sales and use tax, (d) 0.5% food and beverage local exposition tax (0.25% prior to July 1, 2010), and (e) 0.5% premier resort area tax (1.0% in the City of Wisconsin Dells and the Village of Lake Delton, effective January 1, 2010). Additional information about these taxes is contained in the following:

(a) County tax: [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Section XVIII.

(b) Baseball stadium tax: [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Section XVIII. Applies to sales and purchases made in Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties.

(c) Football stadium tax: [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Section XVIII. Applies to sales and purchases made in Brown County.

(d) Local exposition taxes: [Publication 410](#), *Local Exposition Taxes*. Applies to sales and purchases of certain lodging, food, beverages, and car rentals in municipalities wholly or partially within Milwaukee County.

(e) Premier resort area tax: [Publication 403](#), *Premier Resort Area Tax*. Applies to sales of tangible personal property and taxable services in the City of Bayfield, City of Eagle River (effective October 1, 2006), City of Wisconsin Dells, and Village of Lake Delton. Also see "Premier Resort Area Taxes" in Section V.

CAUTION

The information in this publication reflects the position of the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of August 1, 2011. Laws enacted after that date, new administrative rules, and court decisions may change the interpretations in this publication.

The examples and lists of taxable and exempt sales provided in this publication are not all-inclusive. They merely set forth common examples.

II. INFORMATION FOR SELLERS AT TEMPORARY EVENTS

For purposes of this publication, a seller is a person or entity selling merchandise or providing taxable services at a temporary event. A seller may also be referred to as a vendor, exhibitor, or booth owner.

A. What Are a Seller's Requirements?

Persons who sell taxable products (including taxable services), as described in Part II.F., at temporary events may be responsible for obtaining a seller's permit from the Department of Revenue and for reporting and paying sales tax on sales at the events.

B. Who Needs a Wisconsin Seller's Permit?

Every individual, partnership, corporation, or other organization making taxable sales in Wisconsin, regardless of whether its sales are mercantile in nature, is required to have a seller's permit, unless all sales by the seller are exempt from sales or use tax.

1. Sellers at Temporary Events

Generally, sellers who have \$1,000 or more in sales of taxable products (including taxable services), as described in Part II.F., during the calendar year are required to have a seller's permit. A seller's permit allows a seller to make sales of taxable

products at all temporary events in Wisconsin.

Example: Seller A sells \$5,000 of candy at various temporary events in Wisconsin. Seller A's sales of candy are subject to Wisconsin sales tax. Seller A is required to have a Wisconsin seller's permit.

2. Sellers at a "One-Time" Event in Wisconsin

If a seller is engaged in business in Wisconsin for a "one-time" event and does not intend to return to Wisconsin, the seller is liable for Wisconsin sales or use tax on its Wisconsin sales through the end of the seller's tax year. If the seller has no further business activity in Wisconsin after the conclusion of its tax year, the seller may surrender its seller's permit to the Department of Revenue. If its permit has been surrendered, the seller is not liable for Wisconsin sales or use tax on its sales made after the conclusion of the tax year in which it holds a seller's permit.

Note: Even if a seller that is engaged in business for a "one-time" event does not make sales at the event itself, but promotes future sales (e.g., gives potential customers business cards or other promotional materials), the seller is still liable for Wisconsin sales or use tax on its Wisconsin sales through the end of the seller's tax year.

Example: Seller B, a calendar year taxpayer, displayed its products at a trade show on June 1, 2011. Seller B did not make any sales at the trade show, but gave potential customers flyers and business cards. Seller B does not intend to return to Wisconsin and Seller B does not have any other business activity in Wisconsin. In October of 2011, Seller B took orders for its products and shipped products to locations in Wisconsin. Seller B's Wisconsin sales (that is,

sales that were delivered to Wisconsin locations) are subject to Wisconsin sales or use tax. Seller B is liable for such tax, since Seller B is engaged in business in Wisconsin until December 31, 2011. If Seller B has no further business activity in Wisconsin after December 31, 2011, Seller B may surrender its seller's permit to the Wisconsin Department of Revenue. If Seller B does not return to Wisconsin, Seller B will not have a Wisconsin sales or use tax liability on its Wisconsin sales made on or after January 1, 2012.

3. Multi-Level Marketing Companies and Their Distributors

The Wisconsin Department of Revenue regards each multi-level marketing company as a retailer required to remit Wisconsin sales tax on sales to its distributors. In the absence of data showing the exact selling price, the retailer must assume that their distributors will make the sale to the ultimate consumers at the suggested retail price and collect the sales tax accordingly. Since the multi-level marketing company must register with the department, as well as collect and remit the tax, the individual distributors are relieved of these responsibilities.

Note: If the multi-level marketing company does not collect the tax from its distributor, the distributor is liable for Wisconsin sales or use tax on its sales price of products sold and its purchase price of products that it uses or gives away, rather than resells, in Wisconsin.

Example: Multi-Level Marketing Company X is headquartered in Illinois and recruits independent distributors who earn money by (1) making sales of Multi-Level Marketing Company X's products at home parties and temporary events, and (2) receiving a percentage of sales made by

other independent distributors whom they have personally recruited. Multi-Level Marketing Company X is regarded as the retailer on its Wisconsin sales to distributors. Multi-Level Marketing Company X is registered to collect and remit Wisconsin tax.

Distributor Y is a Wisconsin independent distributor of Multi-Level Marketing Company X. Distributor Y sells taxable products at a temporary event. When Multi-Level Marketing Company X sold the products to Distributor Y, Multi-Level Marketing Company X charged Distributor Y Wisconsin sales or use tax on its suggested retail selling price, plus shipping, of the products. Distributor Y paid the tax to Multi-Level Marketing X, so Distributor Y may keep, as a reimbursement, the Wisconsin sales tax that it collects from its customers at the temporary event on its sale of such products.

C. Who Does Not Need a Seller's Permit?

Not all sellers are required to obtain a Wisconsin seller's permit. Some of the reasons a seller may not need a Wisconsin seller's permit are:

- They sell only tax-exempt items, such as fresh vegetables or fruits that are not prepared foods.

Example: Seller B sells fresh vegetables (that are not prepared food) at temporary events in Wisconsin. The sales of the fresh vegetables are exempt from Wisconsin sales tax. Assuming that Seller B's only sales are of the fresh vegetables, Seller B is not required to have a Wisconsin seller's permit.

- The seller qualifies for the occasional sale exemption, as explained in Part II.G.3.

A seller who has questions regarding its requirement to hold a Wisconsin seller's permit should contact the Wisconsin Department of Revenue at (608) 266-2776 or send an e-mail to

DORSalesBusinessTaxandWithholding@wisconsin.gov.

D. How to Obtain a Seller's Permit

If a seller makes sales of taxable products (including taxable services), as described in Part II.F., at a temporary event, and the sales do not qualify for any of the exemptions described in Part II.G., beginning on page 7, the seller must hold a seller's permit. If the seller does not hold a seller's permit prior to the temporary event, the seller may apply for the seller's permit and then make taxable sales at the event.

A seller's permit may be applied for by either of the following methods:

- Use the Department of Revenue's [Online Registration System](#) and submit the application electronically.
- Complete [Form BTR-101](#), *Application for Business Tax Registration*, and mail it to the Department of Revenue. Keep a copy of the completed application for your records.

E. Filing Returns and Paying the 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 a return for each month of the year, regardless of 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 II.E.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** using [Form EFT-102](#), *Electronic Filing or Electronic Payment Waiver Request*. Requests can be submitted by e-mail at 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 or you may contact the department by mail or e-mail at 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 Return Filing

a. *My Tax Account*

[My Tax Account](#) is a free, secure online application 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](#) also allows you to:

- View business tax filing and payment history and identify any tax periods that need attention.
- Change your address, obtain an extension to file a return, or inactivate your account.
- File a buyer's claim for refund of sales tax paid to a seller in error.
- Appeal adjustment notices.

To use [My Tax Account](#), you must obtain a logon ID and password from the Department of Revenue. Go to the [My Tax Account FAQs](#) on the Department of Revenue's web site for more information, including how to obtain your logon ID and password.

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 & Payment Voucher](#). 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.

Important Change: Electronic Funds Transfer (EFT) Payment and Registration System is no longer available for the tax programs covered by [My Tax Account](#) after January 5, 2010. No new registrations for the taxes covered by [My Tax Account](#) are being accepted by the EFT Registration and Payment System.

d. Questions?

More information on all of the above services can be found under the "[Businesses](#)" or "[Online Services](#)" sections of the Department of Revenue web site. 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 DOR-SalesBusinessTaxandWithholding@wisconsin.gov.

F. What Sales Are Taxable?

1. General

Sales, licenses, leases, and rentals of the following property, items, and goods at temporary events are subject to Wisconsin sales tax:

- a. Tangible personal property;

"Tangible personal property" means personal property that can be seen,

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

- 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 tangible personal 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.

Certain services (e.g., parking, certain lodging, and admissions to amusement, athletic, entertainment, or recreational events) sold at temporary events are also subject to sales tax.

2. Taxable Sales of Merchandise

Examples of taxable merchandise sold at temporary events include (this list is not all-inclusive):

- Alcoholic beverages
- Antiques
- Artwork
- Automobile accessories, such as car care kits, seat covers, and steering wheel covers
- Beer
- Books
- Candles
- Candy
- Cleaning supplies and equipment
- Clothing
- Compact discs (CD's) and tapes
- Computers
- Cosmetics
- Crafts and craft supplies
- Dietary supplements
- Electronic equipment
- Flowers
- Food and beverages that are prepared food (see “prepared food”)
- Furniture
- Jewelry
- Kitchenware
- Music downloads
- Paintings
- Pets and pet supplies
- Photographs, including those digitally transferred to customers
- Plants, including fruit and vegetable bearing plants (e.g., tomato plants)
- Prepared food

Note: “Prepared food” includes the following (list is not all inclusive):

1. Heated food and beverages, such as coffee;
2. Food and beverages where it is the seller’s customary practice to give or hand utensils to the purchaser (“Utensils” include napkins, straws, forks, spoons, knives, plates, bowls, glasses, and cups.);
3. Food and beverages where a plate, bowl, glass, or cup is necessary to receive the food or beverage;
4. Most foods and beverages where two or more food ingredients were mixed or combined by the seller and sold as a single item (e.g., a sandwich).

Additional information about sales of prepared food, including exceptions to #4 above, is provided in Part II.D. of [Publication 220](#), *Grocers: How Do Wisconsin Sales and Use Taxes Affect Your Operations?*

- Quilts
- Ringtones
- Seeds (for planting) and seedlings
- Soft drinks
- Sporting goods
- Telephones
- Temporary tattoos sold for application at a later time. **Note:** The sale of temporary tattoos (e.g., henna tattoos) that the seller applies to a person are not taxable.
- Tools
- Toys
- Videos and video games, including those digitally transferred to customers

3. Taxable Sales of Services

Certain services are taxable. Examples of taxable services sold at temporary events include (this list is not all-inclusive):

- Admissions to amusement, athletic, entertainment, or recreational events or places, such as admissions to amusement rides, musical and dance performances, fairs, campgrounds, circuses, carnivals, ball games, races, festivals, and other spectator events.
- Admissions to customer participation games such as coin pitch, ring toss, short range basketball, or customer participation events, such as dancing or skating.
- Access to or the use of amusement devices such as video games, pinball machines, jukeboxes, mechanical rides, and mechanical games.
- Bingo admission charges, including bingo cards of all kinds sold to players.
- Handwriting analyses, horoscope readings, and psychic readings (for amusement purposes).
- Photographic and video taping services, including the taking, producing, and selling of photographs.
- Parking and providing parking space for motor vehicles and aircraft.

See Part III.A. for information about a concessionaire’s purchase of prizes.

G. Exemptions

1. Sales by Nonprofit Organizations

Sales by nonprofit organizations may qualify for exemption from Wisconsin sales and use tax. See [Publication 206](#), *Sales Tax Exemption for Nonprofit Organizations*, for information regarding sales by nonprofit organizations.

2. Exemption Claimed by Buyer

A seller may receive exemption certificates ([Form S-211](#)) from buyers claiming various exemptions (e.g., resale, nonprofit organization holding a Certificate of Exempt Status (CES)). If the seller claims a deduction on its return for such exempt sales, the seller must keep, as a part of its records, the completed exemption certificates to prove that the sales are exempt.

Exempt sales to federal and Wisconsin governmental units, including Wisconsin cities, villages, towns, and public schools, must be supported by one of the following:

- The organization’s CES number which is recorded on the seller’s copy of the invoice, or
- A purchase order received from the exempt governmental unit listing the exempt governmental unit as the buyer, or
- An exemption certificate received from the exempt governmental unit.

Exempt sales to organizations holding a CES number, other than the governmental units listed above (e.g., churches), must be supported by either one of the following:

- The CES number of the organization, recorded on the seller’s copy of the invoice, or
- An exemption certificate ([Form S-211](#) or [Form S-211-SST](#)) received from the organization.

3. Occasional Sale Exemption

CAUTION: The following information relating to occasional sales does not apply to sales by auctioneers or nonprofit organizations or to sales of business assets or registered or titled items, such as motor vehicles or boats.

Sales of tangible personal property; items, property, and goods described in Part II.F.1.b. to d.; or services by persons who do not hold a seller’s permit and are not required to hold a seller’s permit are exempt as “occasional sales.” A person is generally not required to hold a Wisconsin seller’s permit if the person’s “taxable sales”^{*} are less than \$1,000 in a calendar year or if the person’s sales are isolated or sporadic.

Note: “Taxable sales,” for purposes of the occasional sale exemption, means the total of all sales of tangible personal property; items, property, and goods described in Part II.F.1.b. to d.; and taxable services in Wisconsin, less allowable deductions.

“Allowable deductions” include:

- Sales of exempt merchandise or services (e.g., fruit and vegetables that are not prepared foods).
- Sales for which the seller receives properly completed exemption certificates ([Form S-211](#) or [Form S-211-SST](#)) from its customers.
- Sales to exempt entities (e.g., sales to Wisconsin governmental units).

Exception: “Allowable deductions” does not include tax paid purchases resold, which is deducted on line 5, [Form ST-12](#).

Example: Individual A sells paintings to art galleries. Individual A also sells paintings at art shows. Individual A’s total receipts are \$45,000. Sales to art galleries, for which Individual A receives exemption certificates claiming resale, account for \$35,000 of Individual A’s total receipts. Sales at art shows, for which Individual A does not receive exemption certificates, account for the

^{*} See Note in shaded box on Page 8 for the definition of “taxable sales.”

other \$10,000 of Individual A's receipts.

Individual A's "taxable sales" are \$10,000.

If a seller's "taxable sales"* are less than \$1,000 in a calendar year, the sales are exempt.

Exception: The taxable sales **do not qualify** for the occasional sale exemption if the seller holds a seller's permit at the time of the sales, or does not hold a seller's permit but is required to hold a seller's permit.

Index to Examples (Pages 9 and 10)

Example 1 – "Taxable sales"* less than \$1,000, seller is not engaged in a business and its sales qualify for the occasional sale exemption

Example 2 – "Taxable sales"* greater than \$1,000, seller is engaged in a business and its sales do not qualify for the occasional sale exemption

Example 3 – "Taxable sales"* greater than \$1,000, sales are isolated and sporadic and qualify for the occasional sale exemption

Example 4 – "Taxable sales"* less than \$1,000, seller is engaged in a business and its sales do not qualify for the occasional sale exemption

Example 5 – "Taxable sales"* at one-time event in Wisconsin less than \$1,000, seller is an out-of-state business and its Wisconsin sales qualify for the occasional sale exemption

Example 6 – "Taxable sales"* at one-time event in Wisconsin greater than \$1,000, seller is an out-of-state business and its Wisconsin sales do not qualify for the occasional sale exemption

Example 7 – "Taxable sales"* at one-time event greater than \$1,000, seller is engaged

in a business and its sales do not qualify for the occasional sale exemption

Example 1: In July and August each year, Individual B sells bird houses at several craft sales. Individual B does not hold a seller's permit and does not make any other "taxable sales"* of tangible personal property; items, property, and goods described in Part II.F.1.b. to d.; or taxable services. Individual B's receipts from selling bird houses are \$500 for the calendar year 2011.

Individual A's 2011 sales of \$500 qualify as exempt occasional sales, because Individual B:

- Does not hold a seller's permit, and is not required to hold a seller's permit, and
- Has "taxable sales"* of less than \$1,000 in 2011.

Example 2: Same as *Example 1*, except that Individual B's sales of bird houses are \$1,500 for the calendar year 2011.

Individual B's sales of bird houses do not qualify as exempt occasional sales. Individual B is required to hold a seller's permit, because Individual B is engaged in business as a seller of tangible personal property and Individual B's "taxable sales"* are \$1,000 or more for the calendar year 2011.

Example 3: Same as *Example 2*, except that Individual B's \$1,500 sales of bird houses are made at one craft sale, rather than at several craft sales. Individual B's sales qualify for the occasional sale exemption, because Individual B does not hold a seller's permit and is not required to hold a seller's permit. The reason that Individual B is not required to hold a seller's permit is because its sales are isolated and sporadic.

* See Note in shaded box on Page 8 for the definition of "taxable sales."

Example 4: On September 20, 2011, Individual C purchases a portable popcorn stand and popcorn popping equipment. Individual C combines oil, salt, and unpopped popcorn and pops the popcorn by heating it. Individual C begins selling popcorn at fairs and carnivals in Wisconsin for \$1.00 per bag. From September 20, 2011 through the end of the 2011 season, Individual C's receipts from selling popcorn are \$900. Individual C does not hold a seller's permit and does not make any other "taxable sales"* of tangible personal property; items, property, and goods described in Part II.F.1.b. to d.; or taxable services during the calendar year 2011.

Individual C's 2011 sales of \$900 of popcorn *do not* qualify as exempt occasional sales, because Individual C was required to hold a seller's permit starting on September 20, 2011. The facts and circumstances indicate that Individual C is pursuing a business as a vendor of tangible personal property (popcorn) starting on September 20, 2011.

Example 5: Company D is a retailer of carpeting and rugs, with its store located in Illinois. Company D does not hold a Wisconsin seller's permit. Company D's total receipts from sales of carpeting and rugs are \$500,000 for the calendar year 2011. Of the \$500,000 of receipts, \$499,200 are from sales which occurred in Illinois. The remaining \$800 are from sales of rugs at a flea market in Wisconsin. Company D makes no other sales of tangible personal property; items, property, and goods described in Part II.F.1.b. to d.; or taxable services in Wisconsin.

Company D's 2011 "taxable sales"* are \$800 and qualify as exempt occasional sales, because Company D:

- Does not hold a Wisconsin seller's permit and is not required to hold a Wisconsin seller's permit, and

- Has "taxable sales"* of less than \$1,000 in 2008.*

Example 6: Same as *Example 5*, except that Company D's sales of rugs at a flea market in Wisconsin are \$1,500. Company D's sales of rugs in Wisconsin do not qualify as exempt occasional sales. Company D is required to hold a seller's permit, because Company D is engaged in business as a seller of tangible personal property and Company D's "taxable sales"* (sales of rugs at a flea market in Wisconsin) are \$1,000 or more for the calendar year 2011.

Example 7: Individual E is a farmer who sells \$100,000 of vegetables in Wisconsin during the calendar year 2011. On August 27, 2011, Individual E sells \$2,000 of flowers at a farmer's market in Wisconsin. Individual E makes no other sales of flowers in Wisconsin during the calendar year 2011.

Individual E's sales of flowers do not qualify as exempt occasional sales. Individual E is required to hold a seller's permit, because Individual E is engaged in business as a seller of tangible personal property and Individual E's "taxable sales"* (sales of flowers) are \$1,000 or more for the calendar year 2011.

Additional information regarding the occasional sale exemption can also be found in a tax release published in *Wisconsin Tax Bulletin* 122, pages 30-37, which can be accessed from the department's web site at www.revenue.wi.gov/ise/wtb/index.html.

III. PURCHASES BY SELLERS

A. Resale

Tangible personal property; items, property, and goods described in Part II.F.1.b. to d.; and taxable services purchased by a seller that it

* See Note in shaded box on Page 8 for the definition of "taxable sales."

will sell to its customers may be purchased without tax by providing an exemption certificate ([Form S-211](#) or [Form S-211-SST](#)) indicating resale to its supplier. Sales tax is collected by the seller when the tangible personal property; items, property, and goods described in Part II.F.1.b. to d.; and taxable services are sold to its customers. Tangible personal property; items, property, and goods described in Part II.F.1.b. to d.; and taxable services that are used by the seller, rather than sold, may not be purchased without tax for resale.

While the receipts of a concessionaire operating recreational devices or facilities at a fair, carnival, festival, or other temporary event are subject to Wisconsin sales tax, the concessionaire may purchase the prizes to be awarded to customers without tax for resale. A concessionaire is liable for Wisconsin sales or use tax on its purchase of tokens to be used in machines and paper tickets that are dispensed from machines.

Example: Individual H sells pillows at craft shows. Individual H purchases fabric, thread, pillow stuffing, and a scissors. By providing his supplier with an exemption certificate indicating resale, Individual H may purchase the fabric, thread, and pillow stuffing without tax. Since the scissors will be used by Individual H and not sold to Individual H's customers, Individual H may not purchase the scissors without tax for resale. Individual H's sales of the pillows are subject to tax, unless an exemption applies.

B. Sellers May Owe Tax On Items Purchased For Resale

A seller who qualifies for the occasional sale exemption must pay Wisconsin sales or use tax on its purchases of tangible personal property and items, property, and goods described in Part II.F.1.b. to d., which it sells at temporary events in Wisconsin.

Use tax is the counterpart of sales tax and is paid directly to the Wisconsin Department of Revenue using one of the following methods:

- **Form UT-5** - This return may be used to report use tax due by persons that do not hold a seller's permit, consumer's use tax certificate, or use tax certificate. It is due on the last day of the month following the calendar quarter in which the property was first purchased, used, stored, or consumed in Wisconsin.
- **Register for a Consumer's Use Tax Certificate** - A consumer's use tax certificate is required for every business that regularly purchases or leases taxable property; items, property, and goods described in Part II.F.1.b. to d.; or services for storage, use, or consumption in Wisconsin upon which a sales or use tax was not paid. This certificate is not required if a business already holds a seller's permit or use tax certificate. See Part II.D. and E. for information about how to obtain a consumer's use tax certificate and how to file a return and pay the tax. **Note:** A consumer's use tax certificate may be obtained in the same manner as obtaining a seller's permit.
- **Individual Income Tax Return** - Persons filing a Wisconsin Form 1, Form 1A, or Form 1NPR (nonresident and part-year resident form) for reporting individual income taxes may report and pay their use tax on the line titled "*Sales and use tax due on out-of-state purchases.*"

Credit for Tax Paid in Another State

If tax was properly paid in another state on the purchase of the property, the amount of Wisconsin use tax due may be offset by the tax paid in the other state.

Example 1: Sales Tax Paid - Individual I sells \$500 of jewelry at a festival in July 2011. Individual I paid Wisconsin sales tax on his

purchase of the jewelry that he sells. Individual I makes no other sales of tangible personal property; items, property, and goods described in Part II.F.1.b. to d.; or taxable services in Wisconsin during the calendar year 2011. Individual I does not hold a Wisconsin seller's permit and is not required to hold a Wisconsin seller's permit. Individual I's sales of jewelry qualify as exempt occasional sales. Since Individual I paid sales tax on his purchases, no use tax is due.

Example 2: Use Tax Owed – Individual J sells \$500 of jewelry at a festival in July 2011. Individual J did not pay sales tax on his purchase of the jewelry that he sells. Individual J makes no other sales of tangible personal property; items, property, and goods described in Part II.F.1.b. to d.; or taxable services in Wisconsin during the calendar year 2011. Individual J does not hold a Wisconsin seller's permit and is not required to hold a Wisconsin seller's permit. Individual J's sales of jewelry qualify as exempt occasional sales. Individual J must pay Wisconsin use tax on his purchases of jewelry that he sells.

Example 3: Use Tax Owed; Credit Allowed - Individual K sells \$500 of jewelry at a festival in July 2011. Individual K properly paid the 5% North Dakota sales tax on his North Dakota purchase of the jewelry that he sells. Individual K makes no other sales of tangible personal property or taxable services in Wisconsin during the calendar year 2011. Individual K does not hold a Wisconsin seller's permit and is not required to hold a Wisconsin seller's permit. Individual K's sales of jewelry qualify as exempt occasional sales. A credit of the 5% North Dakota sales tax paid is allowed against the 5% Wisconsin use tax due since the North Dakota sales tax was properly paid on the purchase of the jewelry. Therefore, Individual K does not owe Wisconsin state use tax on his purchase of the jewelry.

For additional information about credit for taxes paid to another state, see the tax release titled "Credit for Sales and Use Taxes Paid to Other States and Their Local Units of Government," which was published on pages 28-49 of [Wisconsin Tax Bulletin #157](#) (July 2008).

IV. INFORMATION FOR OPERATORS OF TEMPORARY EVENTS

The law requires the operator of a temporary event to report certain information about all sellers at the event, including those whose sales may be exempt from sales tax.

For purposes of this publication, an operator is a person or entity (such as an individual, association, partnership, corporation, or nonprofit organization) that arranges, organizes, promotes, or sponsors an event. An operator may also be referred to as an organizer, exhibitor, or decorator. An operator may or may not be the owner of the property or premises where the event takes place. An operator may also be a seller at the event.

A. What Information Must Be Furnished?

An operator of a temporary event must furnish to the Wisconsin Department of Revenue the following information:

Operator and Event Information

- Name and address of operator
- Telephone number of operator
- E-mail address of operator
- Name of the event
- Date or dates of the event
- Location of the event

Seller Information

- Legal name
- Business name
- Address

- Telephone number
- E-mail address
- Tax account number, if available
- Social security number (last four digits only)
- Federal ID number, if applicable (last four digits only)

The above seller information must be provided for all sellers selling merchandise or services at a temporary event.

B. Collecting and Reporting the Information

1. Collecting the Information

The department does not specify the method the operator must use to obtain the required seller information. [Form S-240, Temporary Event Operator and Seller Information](#), is available for the operator to collect the information from the sellers that must be reported to the Department of Revenue. The operator may print or photocopy this form for distribution to the sellers. Both sides of the form should be printed or photocopied and given to the sellers, because the back of the form has the instructions on it.

If the operator has all event participants complete the [Form S-240](#) and reports this information to the Department of Revenue, the operator will be relieved of the responsibility of determining who is required to have a seller's permit at the event.

Two methods for an operator to comply with its obligation to report sellers' information at the event to the Wisconsin Department of Revenue are as follows:

- 1) An operator may hand write or type Parts A and B of [Form S-240](#), reproduce the number of copies it will need,

and mail or deliver copies to all the sellers participating at the event.

- 2) An operator may use the PDF fillable [Form S-240](#), fill in its information, print, reproduce, and mail or deliver copies to all the sellers participating at the event.

A copy of [Form S-240](#) with instructions is provided at the end of this publication.

Note: [Form S-240](#) is not an application for a seller's permit. For information about how to obtain a seller's permit, see Part II.D.

2. Reporting the Information

When the operator has all the required sellers' information, the operator must submit the information to the Department of Revenue within 10 days of the close of the event.

Event reports can be submitted through (a) the department's [Secure Data File Transmission](#) application, or (b) by U.S. Mail.

- a. [Secure Data File Transmission](#) is a way to securely transmit the required information to the department electronically, without using e-mail. Although a Microsoft spreadsheet or database report is preferred, it is not required. A [template spreadsheet](#) is available if you do not have information already entered in another format. **Note:** When the information is transmitted to the Department of Revenue electronically through [Secure Data File Transmission](#), a paper copy *should not* be sent to the department.
- b. Completed [Form S-240](#)'s or substitute forms can be mailed to:

Wisconsin Department of Revenue
Temporary Events Program
265 W. Northland Avenue
Appleton, WI 54911

CAUTION: If an operator fails to provide the requested seller information, a \$200 penalty for the first failure and \$500 for each subsequent failure may be imposed upon the operator. Failure of the seller to provide information to the operator does not relieve the operator of the requirement to provide information to the Department of Revenue.

C. When Must the Information Be Furnished?

An operator is required to furnish its sellers' information to the Wisconsin Department of Revenue within 10 days following the close of each event. The department requests, however, that this information be submitted as soon as possible and prior to the start of each event. An operator is required to furnish the information to the Wisconsin Department of Revenue for **every** event. An operator should notify the [Temporary Events Program Coordinator](#) when it will no longer operate at events in Wisconsin.

D. How Do Operators Report Multiple Events?

An operator who operates continuing or successive events has the option of (1) reporting all sellers for each event, or (2) contacting the [Temporary Events Program Coordinator](#) to request approval to report under an alternative method such as monthly or quarterly reporting. Regardless of the method approved, reporting of some type is required for each event.

E. How Will This Information Be Used?

The information will be used by the Wisconsin Department of Revenue to inform sellers of their Wisconsin tax registration and reporting responsibilities

F. What if Operators Fail to Provide Information?

The law provides for penalties to be imposed upon the operator for failure to provide the requested seller information. If an operator fails to provide the requested seller information, a \$200 penalty for the first failure and \$500 for each subsequent failure may be imposed.

V. OTHER TAXES AND FEES TO BE AWARE OF

Individuals and businesses that have business activities or earn income in Wisconsin may also be subject to Wisconsin taxes other than sales and use taxes. Although the information below is not intended to be all-inclusive, it may be helpful in obtaining information about other Wisconsin taxes.

Individual Income Tax: Every person who is a resident of Wisconsin and who has gross income of more than a certain amount is subject to Wisconsin income taxes, regardless of where the income is earned.

A person who is a nonresident of Wisconsin is subject to Wisconsin income taxes if he or she has gross income of \$2,000 or more from personal services performed in Wisconsin or from business or property in Wisconsin.

Additional information on filing requirements is available on the [department's web site](#). For other information, please see the department's web site or write to: Wisconsin Department of Revenue, P.O. Box 8949, Madison, WI 53708-8949, e-mail income@revenue.wi.gov, or call any department office. The Madison office telephone number is (608) 266-2486.

Corporation Income or Franchise Tax: Every corporation organized under the laws of Wisconsin or licensed to do business in Wisconsin (except certain organizations exempt under sec. 71.26(1), Wis. Stats.) is required to file a Wisconsin corporate franchise or income tax return, regardless of

whether or not business was transacted. Unlicensed corporations are also required to file returns for each year they do business or have certain business activities in Wisconsin.

For more information, write to: Wisconsin Department of Revenue, P.O. Box 8908, Madison, WI 53708-8908, e-mail corp@revenue.wi.gov, or call any department office. The Madison office telephone number is (608) 266-1143.

Withholding Tax: If an employer has employees in Wisconsin, the employer may be required to withhold Wisconsin income taxes from the employees' wages. An employer required to withhold must apply for a withholding registration certificate from the department.

For more information, write to Wisconsin Department of Revenue, P.O. Box 8949, Madison, WI 53708-8949, e-mail sales10@revenue.wi.gov, or call any department office. The Madison office telephone number is (608) 266-6261.

Estimated Tax for Individuals: Estimated income tax payments are required for persons that expect to owe \$200 or more of income tax with their income tax return. The estimated tax requirement applies to full-year residents, part-year residents, and nonresidents. An interest charge may be imposed for failing to make these payments.

For more information, write Wisconsin Department of Revenue, Mail Stop 3-138, P.O. Box 8903, Madison, WI 53708-8903, e-mail income@revenue.wi.gov, or call any department office. The Madison office telephone number is (608) 266-9940.

Estimated Tax for Corporations: Corporations must make estimated income or franchise tax payments if their current year tax liability will be \$500 or more, unless they owed no tax for the previous twelve-month tax year.

For more information, write Wisconsin Department of Revenue, Mail Stop 3-138, P.O. Box 8908,

Madison, WI 53708-8908, e-mail corp@revenue.wi.gov, or call any department office. The Madison office telephone number is (608) 266-0800.

Unemployment and Worker's Compensation: Unemployment and worker's compensation are administered by the Wisconsin Department of Workforce Development. For additional information, see their [web site](#), or write to: Wisconsin Department of Workforce Development, P.O. Box 7901, Madison, WI 53707-7901.

Local Exposition Taxes: Persons selling lodging, food, or beverages, or renting automobiles in municipalities located wholly or partially in Milwaukee County are subject to local exposition taxes. For more information, see Wisconsin [Publication 410](#), *Local Exposition Taxes*.

Premier Resort Area Taxes: Persons selling tangible personal property; items, property, and goods described in Part II.F.1.b. to d.; or taxable services are subject to the 0.5% premier resort area tax in the City of Bayfield and the City of Eagle River (effective October 1, 2006) and a 1.0% premier resort area tax in the City of Wisconsin Dells* and Village of Lake Delton* on such sales if the persons are classified in the Standard Industrial Classification manual (1987 Edition) under certain industry numbers. A business should be classified according to its primary activity (for example, a clothing store that has a temporary booth at a craft show should be classified as a clothing store). For more information, see [Publication 403](#), *Premier Resort Area Taxes*.

*Prior to January 1, 2010, the premier resort area tax in the City of Wisconsin Dells and the Village of Lake Delton was 0.5%.

Raffle and Bingo Licenses: Charitable gaming is regulated by the Wisconsin Department of Administration. For additional information, see "Charitable Gaming Information" under *Public Services* at the [Department of Administration's web site](#). You may contact the Division of Gaming

by calling (608) 270-2552 or sending an e-mail to CharitableGaming@doa.state.wi.us.

VI. DO YOU HAVE QUESTIONS OR NEED ASSISTANCE?

A web page that is designed specifically for [Temporary Events](#) can be found on the department's web site. If you are unable to find an answer to your question about sales and use taxes, e-mail, write, or call the department.

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

E-Mail . . . DORSalesBusinessTaxandWithholding@wisconsin.gov

Write . . . Wisconsin Department of Revenue
P.O. Box 8949, Mail Stop 5-77
Madison, WI 53708-8949

Telephone . . . (608) 266-2776

Fax . . . (608) 267-1030

You may also contact any of the Department of Revenue offices. For a listing of offices and their current hours, please see the department's web site at www.revenue.wi.gov/faqs/ise/address.html.

VII. BUSINESS DEVELOPMENT ASSISTANCE – DEPARTMENT OF COMMERCE PERMIT INFORMATION CENTER

If you have questions about what other permits may be needed for your business, or need assistance in obtaining a permit, call the Permit Information Center at 1-800-HELPPBUS (435-7287).

Wisconsin Temporary Event Operator and Seller Information

Information on this form is required under sec. 73.03(38), Wis. Stats.

Instructions on reverse side.

E V E N T O P E R A T O R	<p>PART A: Event Information: To be completed by the operator of the temporary event</p> <p>1. Name of Temporary Event _____</p> <p>2. Date(s) of Temporary Event _____</p> <p>3. Location of Temporary Event (e.g., Venue, City) _____</p> <p>PART B: Operator Information: To be completed by the operator of the temporary event</p> <p>1. Name and Address _____</p> <p>2. Daytime Telephone Number () _____</p> <p>3. E-mail Address _____</p> <p>4. Wisconsin Tax Account Number _____ - _____ - _____</p> <p>If blank, check appropriate box:</p> <p><input type="checkbox"/> No Taxable Sales <input type="checkbox"/> Exempt under Occasional Sales Rule <input type="checkbox"/> Exempt Nonprofit Organization</p> <p><input type="checkbox"/> Other – Explain: _____</p>
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S E L L E R	<p>PART C: Seller Information: To be completed by seller and given to event operator on or before the first day of event.</p> <div style="border: 1px solid black; text-align: center; padding: 2px; margin: 5px 0;"> THIS IS NOT AN APPLICATION FOR A WISCONSIN TAX ACCOUNT – SEE INSTRUCTIONS </div> <p>1. Legal Name _____</p> <p>2. Business Name _____</p> <p>3. Address (Street or Route) _____</p> <p>4. City, State and Zip Code _____</p> <p>5. Home Telephone Number () _____</p> <p> Business Telephone Number () _____</p> <p>6. Wisconsin Tax Account Number _____ - _____ - _____</p> <p>7. Social Security Number X X X - X X - _____</p> <p>8. Federal Identification Number (FEIN) X X - X X X _____</p> <p>9. Check one box indicating the type of activity you intend to engage in at this event:</p> <table style="width: 100%; border: none;"> <tr> <td><input type="checkbox"/> Selling Taxable Merchandise or Service</td> <td><input type="checkbox"/> Display Only</td> </tr> <tr> <td><input type="checkbox"/> Selling Exempt Merchandise or Service</td> <td><input type="checkbox"/> Exempt under Occasional Sales Rule</td> </tr> <tr> <td><input type="checkbox"/> Direct Sellers, Company Name _____</td> <td><input type="checkbox"/> Nonprofit Organization</td> </tr> </table>	<input type="checkbox"/> Selling Taxable Merchandise or Service	<input type="checkbox"/> Display Only	<input type="checkbox"/> Selling Exempt Merchandise or Service	<input type="checkbox"/> Exempt under Occasional Sales Rule	<input type="checkbox"/> Direct Sellers, Company Name _____	<input type="checkbox"/> Nonprofit Organization
<input type="checkbox"/> Selling Taxable Merchandise or Service	<input type="checkbox"/> Display Only						
<input type="checkbox"/> Selling Exempt Merchandise or Service	<input type="checkbox"/> Exempt under Occasional Sales Rule						
<input type="checkbox"/> Direct Sellers, Company Name _____	<input type="checkbox"/> Nonprofit Organization						

I declare that the information on this form is true and correct to the best of my knowledge and belief and that I am authorized to sign this form.

Print Name: _____

Signature: _____ Date: _____

Information about temporary events, including forms, instructions and FAQ's can be found on the Department of Revenue's website at www.revenue.wi.gov/html/temevent.html. If you have additional questions, please contact the Department of Revenue by e-mail at tempevtprg@revenue.wi.gov or telephone at (920) 832-2910. See reverse side for submission instructions.

Instructions for Completing Operator and Seller Information

EVENT OPERATOR:

An “operator” is defined as a person or entity (such as an individual, association, partnership, corporation, or non-profit organization) that arranges, organizes, promotes, or sponsors an event. An operator may also be referred to as an organizer, exhibitor, or decorator. An operator may or may not be the owner of the property or premises where the event takes place. An operator may also be a seller at the event.

Note: A Wisconsin tax account number (formerly seller’s permit) is required if selling taxable merchandise or services. Admission fees are subject to sales tax in Wisconsin.

Step 1: Complete Parts A and B.

Step 2: Provide a copy of *Wisconsin Temporary Event Operator and Seller Information* (Form S-240) with Parts A and B completed to each seller participating in your event.

To obtain additional copies of Form S-240 go to the Department of Revenue’s web site at www.revenue.wi.gov/forms/sales/index.html. If you prefer, you may use the fill-in form available from the same web site.

Step 3: Submission – Event Operator.

Submit compiled vendor information to the department as soon as possible but no later than 10 days from event closing using one of the following methods:

- **Electronic Reporting:** If you have all the required sellers’ information, use the Excel spreadsheet provided at www.revenue.wi.gov/html/temevent.html. (Excel viewer is available.) Fill in the information for all sellers participating at the event and submit using the department’s secure file transmission application at <http://www.revenue.wi.gov/eserv/wteptran.html> or by U.S. Mail. Do not e-mail event reports to maintain confidentiality.
- **Paper Reporting:** Mail completed Forms S-240 or a printed version of spreadsheet to:

Temporary Events Program
Wisconsin Department of Revenue
265 W Northland Ave
Appleton WI 54911

Revenue Field Agents attend temporary events to verify registration of sellers. Sellers must have evidence of their Wisconsin tax account number at the event.

SELLER:

A “seller” is defined as a person or entity involved with selling merchandise or providing taxable services at a temporary event. A seller may also be referred to as a vendor, exhibitor, or booth owner.

Important: This form is not an application for a Wisconsin Tax Account Number. If you do not already have a tax account number but are required to, you will need to apply for one directly with the Department of Revenue prior to the event. You can apply online or download an application, *Application for Business Tax Registration* (Form BTR-101) on the department’s web site, www.revenue.wi.gov/forms/sales/index.html. Not all sellers are required to obtain a Wisconsin tax account number. Some of the reasons a seller may not need a tax account number are:

- The seller only sells tax-exempt items, such as vegetables for home consumption.
- The seller is only displaying at the event, no onsite orders are being taken, and taxable merchandise is not later shipped into Wisconsin.
- The seller qualifies for the occasional sale exemption. (See Publication 228, *Temporary Events*.)

If you have questions regarding applying for a Wisconsin tax account number, contact any Department of Revenue office, visit our web site, or call (608) 266-2776.

Step 1: Complete Part C (event operator should complete Parts A and B).

Line 1: Enter your individual, partnership, association, or corporate name.

Line 2: Enter your business name, if different.

Line 3: Enter the address of the physical location of your business. If different, also provide your mailing address.

Line 6: Enter your 15-digit Wisconsin tax account number. You can find this number on your Form ST-12.

This number is **not** your 6-digit seller’s permit number issued to you prior to December 31, 2002.

Lines 7 & 8: Enter the last four digits of your social security number and/or federal employer identification number. This is required under sec. 73.03(38), Wis. Stats., if you do not provide a tax account number.

Step 2: Submit completed form to event operator on or before the first day of the event.