



SALES AND USE TAX REPORT

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I. MOTOR VEHICLE DEALERS' MEASURE OF USE TAX INCREASED TO \$149


Wisconsin licensed motor vehicle dealers are permitted to report use tax on a certain dollar amount per plate per month for the use of motor vehicles assigned to certain employees and dealership owners.

The reason for the increase to \$149 per plate is that [sec. 77.53\(1m\)\(a\)](#), Wis. Stats. (2011-12), requires that the Department of Revenue annually adjust the amount subject to use tax to reflect the annual percentage change in the U.S. Consumer Price Index for All Urban Consumers, U.S. City Average, as determined by the U.S. Department of Labor for the 12 month period ending June 30. This index was 229.478 as of June 30, 2012 and increased to 233.504 as of June 30, 2013. Consequently, since the index changed over this period by 1.75442%, the measure of use tax for dealers' motor vehicle license plates is adjusted upward from \$146 to \$149 as of January 1, 2014 ($\$146 \times (233.504/229.478) = \149 , rounded to the nearest whole dollar). [↗](#)

II. WISCONSIN/MINNESOTA SALES TAX SEMINARS

The Wisconsin and Minnesota Departments of Revenue will present a series of free sales and use tax seminars in October 2013. The seminars will provide an overview of Minnesota and Wisconsin sales and use tax laws for companies that do business in both states. They are designed for business owners, bookkeepers, purchasing agents and accountants who need a working knowledge of each state's laws and how to meet their obligations. Topics covered will include:

- Who needs to register for sales and use taxes in Minnesota, Wisconsin or both states
- What cities, counties and other jurisdictions in each state have local taxes
- What's taxable in each state
- Exceptions to the general taxation rules and exemptions
- How and when to use or accept an exemption certificate


Seminar dates, times, and locations, as well as registration information, is available on the Wisconsin Department of Revenue's [Sales and Use Tax Training web page](#). 

III. ONE-PAYMENT LEASES OF AUTOMOBILES – WHERE DOES THE SALE TAKE PLACE?

When determining where the sale of a lease of an automobile takes place for Wisconsin sales tax purposes, the tax treatment of a one-payment lease and a multiple-payment lease may be different.

- If there is only one lease payment, the lease takes place where the customer receives the automobile. This is generally the lessor or dealer's location.
- If there is more than one lease payment, the tax should be based on where the automobile will be customarily kept. This is the primary location of the vehicle based on the address provided by the lessee to the lessor and is available in the lessor's business records.

This tax treatment also applies for leases of other motor vehicles, trailers, semitrailers and aircraft that are not "[transportation equipment](#)." "Transportation equipment" means any of the following:

1. Locomotives and railcars that are used to carry persons or property in interstate commerce.
2. 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.
3. 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.
4. Containers that are designed for use on the vehicles described in 1. to 3. and component parts attached to or secured on such vehicles. 

IV. ARTICLE FOR SEPTIC SYSTEM INSTALLERS REVISED

The sales and use tax article on the department's website titled: Septic System Installers - Taxable Items Minor in Relation to Total Contract Price, has been updated. The update reflects changes that take effect October 1, 2013 due to the creation of the sales and use tax exemption in sec. 77.54(60), Wis. Stats., by 2013 Wis. Act 20.

The article explains how Wisconsin sales and use tax applies to sales and purchases of property and services by persons installing septic systems where the contract includes the sale of taxable

items by the contractor that are less than 10% of the total contract price. The article explains the proper tax treatment for contracts entered into prior to October 1, 2013 and contracts entered into on and after October 1, 2013.

The article is now titled: [Septic System Installers - Taxable Items Less Than 10% of Total Contract Price](#).

V. REMINDER – NEW TAX LAWS THAT ARE NOW BECOMING EFFECTIVE

The following changes to Wisconsin law were passed in 2013 Wis. Act 20 with a delayed effective date. The articles that were previously published in the [July 2013 Sales and Use Tax Report](#) are being re-published, below, since each of these changes becomes effective in September or October of 2013. (Please note that the article in B. about the printing exemptions has been expanded to include additional guidance.)

A. Lump Sum Contracts (applies to contracts entered into on or after October 1, 2013)

A sales and use tax exemption is created for the sales price from the sale of and the storage, use, or other consumption of tangible personal property, items and property under sec. 77.52(1)(b) or (c), and taxable services that are sold by a contractor as a part of a lump sum contract, if the total sales price of all such taxable products is less than 10 percent of the total amount of the lump sum contract. The contractor is the consumer of such taxable products and is liable for sales or use tax on its purchase of these taxable products. (See *Exception*, below.) A sales and use tax exemption is created for the sales price from the sale of and the storage, use, or other consumption of tangible personal property, items and property under sec. 77.52(1)(b) or (c), and taxable services that are sold by a contractor as a part of a lump sum contract, if the total sales price of all such taxable products is less than 10 percent of the total amount of the lump sum contract. The contractor is the consumer of such taxable products and is liable for sales or use tax on its purchase of these taxable products. (See *Exception*, below.)

"Lump sum contract" means "a contract to perform real property construction activities and to provide tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services and for which the contractor quotes the charge for labor, services of subcontractors, tangible personal property, items and property under s. 77.52 (1) (b) and (c), and taxable services as one price, including a contract for which the contractor itemizes the charges for labor, services of subcontractors, tangible personal property, items and property under s. 77.52 (1) (b) and (c), and taxable services as part of a schedule of values or similar document."

Exception: If the lump sum contract is entered into with an entity that is exempt from tax under sec. 77.54(9a), Wis. Stats., the contractor may purchase without tax, for resale, the taxable products that are sold by the contractor as part of the lump sum contract with the exempt entity and that are not consumed by the contractor in real property construction activities. The contractor is still the consumer of all taxable products used by the contractor in real property construction activities.

For contracts entered into prior to October 1, 2013, if the taxable products accounted for 10 percent or less of the total contract amount in a contract for real property construction activities AND no separate charge was made in any document provided to the customer for the taxable products, the tax was based on contractor's cost of the taxable products. If a

separate charge was made in any document provided to the customer, including a contract, contract addendum, appendix, or payment request, for any of the taxable products or services, the separate charge was subject to tax.

The effect of the law change is that the contractor is the consumer of the taxable products provided in a lump sum contract if the total sales price of the taxable products is less than 10 percent of the total sales price of the contract, **regardless of whether the contractor separately itemizes the charges for taxable products in a schedule of values or similar document that is provided to its customer.**

The article titled "Septic System Installers - Taxable Items Less Than 10% of Total Contract Price" includes examples of how the new lump sum contract law applies.

B. Printing Exemptions (effective October 1, 2013)

The exemption is provided in [sec. 77.54\(61\), Wis. Stats.](#)

Who May Claim the Exemption?

A person primarily engaged in one or more of the following activities may claim the exemption:

- Commercial printing, not including screen printing or book printing, without publishing, except for gray goods. These activities are described in 2012 North American Industry Classification System (NAICS) code 323111.
- Printing, or printing and binding, books or pamphlets without publishing the books or pamphlets. These activities are described in 2012 North American Industry Classification System (NAICS) code 323117.
- Performing prepress and postpress services in support of printing activities. These activities are described in 2012 North American Industry Classification System (NAICS) code 323120.

"Person" has the meaning in [sec. 77.51\(10\), Wis. Stats.](#)

"Primarily" means more than 50%. A person's primary activity will ordinarily be based on sales revenues. A person whose primary activity is described by a NAICS code other than 323111, 323117, or 323120 does not qualify for the exemption.

Example 1: Newspaper publishes a daily edition of a newspaper. Newspaper operates its own printing plant. The printing plant prints Newspaper's publications as well as printing under contract for third parties. More than 50% of Newspaper's sales are from sales of its newspaper and advertising revenues associated with sales of its newspaper. Newspaper's primary activity is described by NAICS code 511110: *Newspaper Publishers*. Newspaper does not qualify for the exemption under sec. 77.54(61), Wis. Stats.

Example 2: Insurance Company operates its own printing plant. Insurance Company's primary source of revenues is insurance premiums. Insurance Company's primary NAICS code is described within NAICS subsector code 524: Insurance Carriers and

Related Activities. Insurance Company does not qualify for the exemption under sec. 77.54(61), Wis. Stats.

Example 3: Business is engaged in screen printing of T-shirts, caps, and jackets. This is Business' only activity and source of revenue. Business' primary activity is described by NAICS code 323113: Commercial Screen Printing. Business does not qualify for the exemption under sec. 77.54(61), Wis. Stats.

Example 4: Company is primarily engaged in the business of printing on fabric grey goods. Company's primary activity is described by NAICS code 313310: Textile and Finishing Mills. As such, Company does not qualify for the exemption under sec. 77.54(61), Wis. Stats.

What is Exempt?

The exemption applies to:

- Computers and servers that are used to store copies of the product that are sent to a printing press.
- Tangible personal property purchased from out-of-state sellers that are temporarily stored, remain idle, and not used in this state for not more than 180 days and that are then delivered and used outside of this state.

"Copies of the product" means finished art in a digital form:

- That is generated, furnished, and used for the purpose of printing
- That represents the object, such as a book, catalog, pamphlet, or magazine, as it is to appear in a printed form
- And includes files containing instructions or other information required by the printer for printing the product, such as instructions for plate-making or setting ink-levels at the printing press, whether these instructions or other information are furnished to the printer or derived by the printer from the finished art files.

"Sent to a printing press" includes transferring a copy of the product, either electronically or through the use of a tangible storage media, to printing presses, ink-jet printers, plate-making machines, and similar machines or to storage devices devoting to serving such machines.

"Stored" has the meaning of the term "storage" in [sec. 77.51\(18\), Wis. Stats.](#)

"Tangible personal property purchased from out-of-state sellers" means either of the following:

- Tangible personal property shipped by a seller from a location outside Wisconsin, or
- Tangible personal property where the purchaser or the purchaser's agent first receives possession of the property from the seller at a location outside Wisconsin.

"Used" has the meaning of the term "use" in [sec. 77.51\(22\), Wis. Stats.](#)

Example 5: Printer is primarily engaged in commercial printing as described in NAICS code 323111. Company contracts with Advertising Agency to produce finished art that represents Company's holiday catalog and to furnish the finished art to Printer in the formats specified by Printer. Company contracts with Printer to print and mail the catalogs to addresses Company furnishes to Printer. Printer uses these files in the printing of the catalog. Printer owns servers that it devotes to storing the finished art files it receives from its customers. The servers are exempt under sec. 77.54(61), Wis. Stats.

Example 6: Printer is primarily engaged the printing and binding of books, as described in NAICS code 323117. Publisher enters into a contract with Printer to print and bind one of Publisher's books. Publisher provides Printer with the finished art files in the formats specified by Printer. Printer has computer programs that translate the finished art files into files that are sent to and used by a plate-making machine to make the plates for printing the book, and into files that are sent to and used by the printing press to print the pages in the book. The computers and servers used by Printer to store the finished art files furnished by Publisher as well as to store the files generated by Printer for the plate-making machine and printing press, are exempt under sec. 77.54(61), Wis. Stats.

Example 7: Printer has printing plants in Wisconsin and Minnesota. Printer places an order for office supplies from an out-of-state seller. The office supplies are delivered to its location in Wisconsin. The office supplies are to be used in its offices in Wisconsin and Minnesota. Printer sets aside the office supplies it will deliver to its Minnesota office, and delivers these supplies to that office one week later. During the week the office supplies being sent to Minnesota are in Wisconsin and prior to being delivered to Minnesota, the office supplies were only stored, remained idle, and were not used by Printer. Printer's purchase of the office supplies delivered to it in Wisconsin and then delivered by Printer to its office in Minnesota are exempt under [sec. 77.54\(61\), Wis. Stats.](#)

Example 8: Printer has printing plants in Wisconsin and Iowa and Indiana. Printer is primarily engaged in activities described by NAICS code 323111. Printer is moving a printing press from its Indiana plant to its Iowa plant. The printing press was originally purchased by Printer in Indiana. The printing press is used exclusively and directly by Printer in manufacturing. Printer has the press shipped to its Wisconsin facility. The press is in Wisconsin for not more than 180 days before it is transported to Iowa. While in Wisconsin, Printer performs repairs to the press. Printer's purchase of the printing press is not exempt from Wisconsin use tax under sec. 77.54(61), Wis. Stats. Repair of the press while in Wisconsin is a use of the press in Wisconsin by the printer. However, in this case, Printer is not liable for Wisconsin use tax relating to its purchase the printing press as the printing press is an exempt manufacturing machine under [sec. 77.54\(6\)\(a\), Wis. Stats.](#)

C. Self-Service Laundry Machines (effective October 1, 2013)

Laundry, dry cleaning, pressing, and dyeing services are not taxable when the service is performed by the customer through the use of self-service machines. The effect of this law change is that these services provided by self-service machines operated by tokens, magnetic cards, or other medium other than coins are no longer subject to tax.

Under prior law, only such services performed by the customer through the use of coin-operated, self-service machines were not taxable.

D. Disregarded Entity Clarification (effective September 1, 2013)

A single-owner entity that is disregarded as a separate entity (i.e., the single-owner entity and its owner are treated as a single entity) for Wisconsin income and franchise tax purposes under Chapter 71 of the Wisconsin Statutes is also disregarded as a separate entity for purposes of the local exposition taxes and the state rental car fee. This provision clarifies that such disregarded entities are treated the same for local exposition taxes and the state rental car fees as they are for sales and use taxes. [↗](#)

VI. WISCONSIN USE TAX ON MOTOR VEHICLES

Wisconsin motor vehicle dealers and other Wisconsin retailers that hold a Wisconsin seller's permit are required to charge Wisconsin sales or use taxes on their sales of motor vehicles. When the seller does not charge tax, the buyer must report and pay the use tax when registering the motor vehicle. A motor vehicle may not be registered in Wisconsin unless the tax has been paid or an exemption from the tax has been claimed.

The Wisconsin Department of Revenue reviews all non-dealer sales of motor vehicles to determine if the buyer paid the correct amount of tax at the time the vehicle was registered. Approximately 20% of all vehicle registrations are selected for further audit. The two most common reasons for audit selection are:

1. The purchase price reported by the buyer at the time of registration is less than the average retail value for a vehicle of that make, model, year, and mileage, and
2. The validity of the exemption claimed is questionable.

The annual revenue assessed and collected through this program each year is approximately \$1.2 million.

Low Purchase Price Claimed

The Department of Revenue will send a letter (and a follow-up letter, if necessary) to the seller of a vehicle. A letter may also be sent to the buyer requesting verification of the purchase price.

If the information furnished by the seller or buyer indicates that the buyer did not report the full purchase price of the vehicle, the department will issue an assessment notice to the buyer.

If the buyer does not respond, an assessment will be issued to the buyer based on the average retail value of a vehicle of that make, model, year, and mileage.

Exemption Verification Needed

The Department of Revenue will send a letter to the buyer requesting verification of the exemption claimed. If the information provided by the buyer indicates that the exemption was incorrectly claimed, the department will issue an assessment notice to the buyer.

Assessment Notices

Assessment notices include the additional tax, as well as 12% interest per year, computed to the due date of the assessment notice. A 50% negligence (incorrect return) penalty may also be assessed.

Other common sales and use tax mistakes made when registering a motor vehicle are:

- Failure to calculate sales or use tax on all taxable items. For example (list is not all-inclusive):
 - Aftermarket Products
 - Auction Fees (for example gate fee, entry fee, prep fee)
 - Manufacturer Rebates, Rewards Points, and Cash-Back Offers
 - Dealer Preparation Fees
 - Document Fees (Title Service Fees)
 - Extended Warranties
 - Gas Guzzler Tax
 - Inspection Fees
 - Security Etching
 - Service Contracts
 - Shipping and Handling or Delivery Fees
 - Surcharge for Internet Sale
 - Tire or Road Hazard Protection
 - Vehicle Theft Registration Fees
- Incorrectly claiming a trade-in deduction when one vehicle was not traded for another *in the same transaction*. For example, Individual sells old motor vehicle to Party A and purchases new motor vehicle from Party B. No deduction from the taxable sales price is allowed for a trade-in, since two separate transactions occurred.
- Not getting a bill of sale from the seller at the time of purchase. The buyer should request a bill of sale (in addition to the title) from the seller. The bill of sale should be kept for at least five years from the date of registration, even if the vehicle is resold.
- County and/or stadium tax is not reported and paid at registration. The tax is based on the county in which the vehicle will be customarily kept.
- Math errors when calculating the tax.
 - State tax is calculated by multiplying the purchase price by 5% (.05).
 - County tax is calculated by multiplying the purchase price by 0.5% (.005).
 - Baseball stadium tax is calculated by multiplying the purchase price by 0.1% (.001).
 - Football stadium tax is calculated by multiplying the purchase price by 0.5% (.005).

The purchaser is responsible for the tax once the registration form is signed, even if someone else completes the form.

- Registrant fails to enter his or her Social Security Number (SSN) or Federal Employee Identification Number (FEIN) and telephone number on the registration form. The SSN/FEIN is used to ensure the transaction and tax paid is posted to the correct account at the Department of Revenue. The telephone number can be valuable if a question arises during the processing of the registration form.
- Credit for tax paid to another state (or the District of Columbia) is incorrectly taken or computed. Wisconsin allows a credit against the motor vehicle use tax for tax that was properly due and paid to the state in which a motor vehicle was purchased, up to the amount of the Wisconsin tax due on the same product. The other state's tax can only be used as a credit against tax due on the same item (e.g., credit for tax paid on motor vehicle against use tax due on the same motor vehicle, credit for tax paid on extended warranty against use tax due on the same extended warranty).

Additional information about credit for taxes paid to another state is provided in [Wisconsin Tax Bulletin 157](#) (July 2008), pages 28 to 49.

Example: Individual purchased a motor vehicle in State X for \$10,000 and properly paid 6% state sales tax of \$600 ($\$10,000 \times 6\%$). Individual also purchased an extended warranty for \$1,000. No tax was paid on the extended warranty. Individual brought motor vehicle to and registered the vehicle in Wisconsin. The vehicle will be customarily kept in Milwaukee County where the applicable tax rate is 5.6%

Individual's Wisconsin use tax liability on the motor vehicle is \$560 ($\$10,000 \times 5.6\% = \560). When Individual registers the motor vehicle in Wisconsin, Individual may claim a credit for tax paid in State X up to the amount of the Wisconsin tax due on the motor vehicle (\$560).

Individual's Wisconsin use tax liability on the extended warranty is \$56 ($\$1,000 \times 5.6\% = \56). No credit is allowed against the use tax on the extended warranty, since no tax was paid to State X on the purchase of the extended warranty. The tax paid on the motor vehicle cannot be used to reduce Individual's tax liability on the extended warranty, since the motor vehicle and the extended warranty are different products.

- An exemption is claimed using another person's common or contract carrier number (e.g., LC number, MC number, IC number). The common and contract carrier exemption may only be claimed by the person in the business of providing the common or contract carriage services. For the tax treatment of owner/operator transactions, see the article titled "Truck Owner-Operators – Tax Treatment Changed," which was published in Part XII. of [Wisconsin Sales and Use Tax Report 4-10](#) (December 2010).
- The farming exemption is claimed for a vehicle that is registered for highway use or when the buyer's activity does not qualify as a farming activity for sales and use tax purposes.

Many of the errors listed above are also commonly found on ATV, boat, snowmobile, and aircraft registration forms.

If you have additional questions regarding Wisconsin sales or use taxes, you may contact the Department of Revenue:

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