

Important Changes

- Calumet County tax begins April 1, 2018
- Brown County tax begins January 1, 2018
- Kewaunee County tax begins April 1, 2017
- Sheboygan County tax begins January 1, 2017
- Brown County football stadium tax ended September 30, 2015

Sales and Use Tax Information for Wisconsin Counties and Municipalities

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IMPORTANT CHANGES

Football Stadium Tax in Brown County Ends September 30, 2015. Page 3.

I. INTRODUCTION

This publication explains how Wisconsin sales and use taxes affect Wisconsin counties and municipalities. It includes examples of nontaxable and taxable sales and purchases. If you have questions after reading this publication, contact any Wisconsin Department of Revenue office for assistance.

Certain sales by Wisconsin counties and municipalities which are subject to the 5% state 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 (ends September 30, 2015), and (d) 0.5% food and beverage local exposition tax (0.25%, prior to July 1, 2010) on certain food and beverages. Additional information about these taxes is contained in the following:

- (a) County tax: See Part IX of this publication, as well as [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Part XVIII.
- (b) Baseball stadium tax: See Part IX of this publication, as well as [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Part XVIII.
- (c) Football stadium tax: See Part IX of this publication, as well as [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Part XVIII. **Note:** The football stadium tax ends September 30, 2015.
- (d) Local exposition tax on food and beverages: [Publication 410](#), *Local Exposition Taxes*. (Sales of food and beverages which are subject to the 5% Wisconsin state sales tax may also be subject to the 0.5% food and beverage local exposition tax (0.25%, prior to July 1, 2010) if the sales take place in a municipality located wholly or partially in Milwaukee County.)

CAUTION

- The information in this publication reflects the position of the Wisconsin Department of Revenue of laws enacted by the Wisconsin

Legislature as of July 1, 2015. Laws enacted after this date, administrative rules, and court decisions may change the interpretations in this publication.

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

II. GENERAL INFORMATION

A. Nature of the Sales and Use Tax

1. **Sales tax** is imposed upon the sales price of sellers (such as governmental units, department stores, restaurants, etc.) who sell, license, lease, or rent taxable products or services at retail in Wisconsin. The seller is responsible for collection and payment of the sales tax.
2. **Use tax** is imposed upon the storage, use, or other consumption in Wisconsin of taxable products and services that were not subject to the Wisconsin sales tax when originally purchased from a seller. Use tax is also imposed upon a purchaser when taxable products or services are purchased without tax for resale or other exempt purposes or from an out-of-state company and are stored, consumed, or used by the purchaser in a taxable manner.

Note: Wisconsin governmental units are not subject to use tax. The reason for this is that all purchases by Wisconsin governmental units are exempt from state and local sales and use taxes in Wisconsin.

B. Tax Imposed on Sales Price

Wisconsin sales tax is imposed on a retailer's "sales price." The "sales price" is the total amount of the consideration received for the sale, license, lease, or rental of taxable products, whether paid in money or something other than money.

1. "Sales price" includes:

- Charges for delivery.

Example: A county sells used equipment for \$950 and also charges \$50 for delivering the

equipment to the customer. The “sales price” subject to sales tax is \$1,000 (\$950 + \$50).

- Separately stated costs associated with the sale of taxable products such as:
 - Cost of the product.
 - Labor.
 - Charges by the seller for any services necessary to complete a sale.
 - Service costs and other expenses such as charges for handling, small orders, inventory restocking, returned merchandise, split shipment, etc.
 - Travel reimbursements and mileage charges.
 - Tips and gratuities charged by the seller.

2. “Sales price” does not include:

- Charges for interest, financing, carrying charges, or insurance, if such charges are separately stated on the invoice.
- Cash or term discounts taken on sales.
- Trade-ins.

If tangible personal property is traded in, the “sales price” is the difference between the price of the property purchased and the amount allowed for the property traded in.

Example: A city sells a tractor to a resident for \$3,000. The tractor was previously used by the city for mowing grass. The resident trades in his lawn and garden tractor to the city as part of the transaction. The trade allowance is \$1,000. The sales price subject to tax is \$2,000 (\$3,000 less \$1,000 trade-in).

C. Seller’s Permit

The seller’s permit shows that a seller (such as a governmental unit) is properly registered with the Department of Revenue, as required by law.

If a governmental unit does not have a seller’s permit but engages in the business of selling taxable products at retail in Wisconsin, it must register to collect, report, and remit Wisconsin sales tax, unless all of its sales qualify for the occasional sale

exemption or are otherwise exempt. See Part V. for information about the occasional sale exemption.

Application for a seller’s permit may be made using one of the following methods:

- Use the Department of Revenue’s online [Business Tax Registration Process](#) 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.

D. Filing Returns and Paying the Tax

If you have a seller’s permit or use tax registration certificate, you must file a return for each reporting period, even if no tax is due for that period. The law requires that sales and use tax returns be filed electronically. Wisconsin sales and use tax returns should be filed using one of the following electronic filing methods:

1. *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 Common Questions](#) on the Department of Revenue’s website for more information, including how to obtain your logon ID and password.

2. Sales TeleFile

You can file your Wisconsin sales and use tax return with any touch-tone telephone using [TeleFile](#). This program accepts three payment types: direct withdrawal from your checking or savings account; credit card; or paper check or money order. To use [TeleFile](#), you will need to obtain a Sales TeleFile [Worksheet and Payment Voucher](#) from the Department of Revenue's website. When you have completed the worksheet, call (608) 261-5340 (Madison number) or (414) 227-3895 (Milwaukee number) to actually file your return.

III. SALES BY WISCONSIN GOVERNMENTAL UNITS

Sales, licenses, leases, and rentals of tangible personal property, certain coins and stamps, certain leased property affixed to realty, certain digital goods, and certain services are subject to the Wisconsin state sales tax. See Part III. for examples that may apply.

For further information about these taxable products and services, see [Publication 201](#), *Wisconsin Sales and Use Tax Information*.

A. Taxable Sales by Governmental Units

Following are examples of taxable sales by governmental units (this list is not all-inclusive):

Note: Information about taxable and exempt sales of food and food ingredients and admissions to amusement, recreational, entertainment, and athletic events and places is in Part IV.

1. Tangible Personal Property

Sales, licenses, leases, or rentals of tangible personal property are subject to Wisconsin sales tax, including:

a. Clothing

- T-shirts, sweatshirts, pants, jackets, and hats.
- Employee uniforms.

b. Equipment

- Recreational equipment and supplies (e.g., volleyballs, baseballs, bats, golf clubs, golf carts).

Note: More information about sales by golf courses can be found in Wisconsin [Publication 226](#), *Golf Courses — How Do Wisconsin Sales and Use Taxes Affect Your Operations?*

- Portable stages, portable basketball floors, portable public address systems, chairs, tables, stage risers, pianos, fork-lift trucks, music racks, spotlights, and projectors that are optional in connection with the rental of a facility. The lease, license, or rental of such items is taxable, regardless of how the lessee uses the facility (e.g., educational, entertainment, amusement).

Example 1: City allows residents to use the community center for various purposes. Individual rents the community center for her wedding dance for \$500. For an additional charge of \$100, City will provide chairs, tables, portable stage, and public address system, if requested by individual.

City's charge for the rental of the chairs, tables, portable stage, and public address system is subject to Wisconsin sales tax.

Note: The charge for use of the facility for the wedding dance is also taxable because the facility is used for amusement, recreational, or entertainment purposes. See Part IV.B. for additional information about the sales tax treatment of charges for the use of facilities.

Example 2: County allows residents to use buildings on its fairgrounds for various purposes. An auctioneer rents a building to hold an auction for \$1,000. Included in the price is the use of chairs, tables, portable stage, and public address system, if needed by the auctioneer. If the auctioneer uses his own equipment, the

charge for the building is reduced by \$200. The auctioneer chooses to use the county's chairs, tables, portable stage, and public address system.

County's \$200 charge for use of the equipment is subject to Wisconsin sales tax, even though the charge for use of the building is not taxable.

Example 3: County allows residents to use buildings on its fairgrounds for various purposes. An auctioneer rents a building to hold an auction for \$1,000. County also charges \$200 for use of chairs, tables, portable stage, and public address system whether or not needed by the auctioneer. County will not rent the facility to the auctioneer, unless the auctioneer pays both the \$1,000 charge for the building and the \$200 charge for the equipment.

The equipment is considered to be provided incidentally with the rental of the building. The \$200 charge is part of County's sales price from the rental of the building. Since the \$1,000 charge for rental of the facility is not subject to tax, the charge for the equipment is also not taxable.

Example 4: City allows residents to use the community center for various purposes. Individual rents the community center for her wedding dance for \$600, which includes the use of the center's chairs, tables, portable stage, and public address system, whether or not requested by Individual. City bills Individual \$500 for the facility and \$100 for the equipment.

The equipment is considered to be provided incidentally with the rental of the community center. The \$100 charge is part of City's sales price from the rental of the facility. Since the \$500 charge for use of the facility is subject to Wisconsin sales tax, the \$100 charge for the equipment is also taxable.

See Part IV.B. for more information about the sales tax treatment of charges for the use of facilities.

- Office equipment and furniture.
- Computers and computer software, except custom computer software.

Note: Data processing services are not taxable.

c. Landscaping Materials

- Trees, shrubs, flowers, plants, woodchips, and mulch.
- Gravel and topsoil when the gravel or topsoil is dumped in a pile or other arrangement and someone other than the seller spreads it in its final resting place. See Part II.B.1. for information about transportation charges.

d. Motor Vehicles and Similar Property

- Leases or rentals of motor vehicles, boats, snowmobiles, all-terrain vehicles, recreational vehicles as defined in [sec. 340.01\(48r\)](#), Wis. Stats., trailers, semitrailers, all-terrain vehicles, utility terrain vehicles, and aircraft.

Any person that is registered to collect and remit Wisconsin sales and use taxes must also collect and remit the applicable state, county, and/or stadium sales and use tax on its sales of motor vehicles, boats, snowmobiles, recreational vehicles as defined in [sec. 340.01\(48r\)](#), Wis. Stats., trailers, semitrailers, all-terrain vehicles, utility terrain vehicles, and aircraft, even if they are not "dealers" or "registered dealers" of the item sold.

- Parts and labor for repairing motor vehicles or other tangible personal property. These charges are taxable, even if the customer is only charged for parts at the seller's cost.

e. Printed Material

- Maps, plat books, or other printed material.
- Magazines sold over the counter (but not newspapers) and sales or rentals of books, directories, and bulletins.
- Photocopies, microfilm, and videotape copies.

Exception: Copies of “records” sold under [sec. 19.35\(1\)\(a\)](#), Wis. Stats., by a governmental unit that is an “authority” under [sec. 19.32\(1\)](#) Wis. Stats., are exempt from tax.

“Record” means any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. “Record” includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts, and optical disks.

“Record” does not include:

- Drafts, notes, preliminary computations, and like materials prepared for the originator’s personal use or prepared by the originator in the name of a person for whom the originator is working.
- Materials which are purely the personal property of the custodian and have no relation to his or her office.
- Materials by which access is limited by copyright, patent, or bequest.
- Published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

“Authority” means any of the following having custody of a record:

- A state or local office, elected official, agency, board, commission, committee, council, department, or public body corporate and politic created by constitution, law, ordinance, rule, or order.
- A governmental or quasi-governmental corporation except for the Bradley Center Sports and Entertainment Corporation.
- A local exposition district under subch. II of Ch. 229, Wis. Stats.
- A long-term care district under [sec. 46.2895](#), Wis. Stats.
- Any court of law.
- The Assembly or Senate.
- A nonprofit corporation which receives more than 50% of its funds from a county or a municipality, as defined in [sec. 59.001\(3\)](#), Wis. Stats., and which provides services related to public health or safety to the county or municipality.
- A formally constituted subunit of any of the foregoing.

Therefore, assuming that the documents are not readily available in the marketplace or at a public library for inspection, a municipality’s sales of copies of the following documents are not taxable:

- Traffic tickets.
- Accident reports.
- Property tax bills.
- Property deeds.
- Minutes of municipal meetings.

- Bid documents that are not returned to the governmental unit.

Note: Bid document deposits that are subsequently refunded to the customer when the documents are returned to the governmental unit are not subject to tax, assuming that the governmental unit does not report the deposit as income on its books.

Example: City requires that contractors deposit \$100 for bid documents the contractors may use for bidding for a city construction project. When the bid documents are returned, the \$100 deposit is refunded to the contractor.

If the city does not report the \$100 deposit as income on its books, the \$100 deposit is not subject to Wisconsin sales tax when the bid documents are transferred to the contractor. However, if the bid documents are not returned by the contractor and the deposit is forfeited by the contractor, the city is subject to sales tax on the \$100 deposit.

If the city reports the \$100 deposit as income on its books, the \$100 deposit is subject to Wisconsin sales tax on the sales tax return for the reporting period in which the bid documents are transferred to the contractor. When the bid documents are returned by the contractor, the city may take a \$100 deduction on its sales and use tax return for the reporting period in which the \$100 was returned to the contractor.

f. Utilities

- Electricity, natural gas, and steam.

Exception: Sales of electricity and gas for residential use during the months of November through April, fuel and electricity for farm use, and fuel and electricity consumed in manufacturing in Wisconsin are exempt from tax. **Note:** For sales and use tax purposes, a digital good or service cannot be "manufactured."

- Bags or receptacles (e.g., trashcans, dumpsters) for garbage or trash, if separate and optional from the charge for garbage and trash removal.
- **Note:** If the bags or receptacles are not *optional* to the purchaser, the charge for the bags or receptacles is part of the non-taxable charge for garbage or trash

removal. The bags or receptacles are optional if the customer can receive the garbage or trash removal service for a lesser charge without receiving the bags or receptacles.

For additional information, see the tax release titled "Sale of Waste Removal Services and Transfer of Tangible Personal Property," which was published on page 28 of [Wisconsin Tax Bulletin #65](#) (January 1990).

g. Other Taxable Sales and Rentals

- Animals, regardless of whether the amount received may be designated as a placement fee or is for the purchase of an animal that had been impounded.
- Supplies for playground arts and craft programs when the supplies are not provided incidentally with the sale of lessons or classes.

Example 1: Village has a playground program during the summer months. There is no charge for attending the program. An arts and crafts activity is also offered to the children. Children who wish to participate in the arts and craft activity may purchase the supplies to make arts and crafts.

The charges for supplies are subject to Wisconsin sales tax. The supplies are not transferred incidentally with the sale of the service, since there is a separate and optional charge for the supplies.

Example 2: City sponsors a three-week summer day camp each year. City charges \$100 for each child attending the recreational camp. Planned activities include swimming, fishing, organized games, and arts and crafts. There is no separate and optional charge for the supplies.

The supplies provided to children attending the summer camp are transferred incidentally with the access to the recrea-

tional camp. **Note:** The \$100 charge for attending the camp is subject to Wisconsin sales tax, because it is amusement, athletic, entertainment, or recreational in nature.

Example 3: Town offers enrichment classes to resident children during the summer months. Various classes are provided, including preparation for being home alone, babysitting, arts and crafts, jewelry making, foreign languages, etc. Town charges a \$20 supply fee to attend each class in an attempt to cover its costs.

The supplies provided to students attending the classes are considered to be transferred incidentally with the sale of classes. No part of the \$20 charge is subject to Wisconsin sales tax.

- Buildings or timber (including standing timber) when a purchaser acquires such property for removal.
- Auction receipts. **Note:** If the municipality hires an auctioneer to conduct the auction, the auctioneer is responsible for the collection, reporting, and payment of sales tax on taxable sales. The municipality's receipts from the auctioneer are not taxable.

See Wisconsin [Publication 217](#), *Auctioneers*, for more information.

2. Digital Goods

Wisconsin's sales and use taxes apply to the sales of and the storage, use, or other consumption of digital goods. The term "digital goods" refers collectively to "specified digital goods," "additional digital goods," and "digital codes" as defined under Wisconsin's sales and use tax laws.

Digital goods include versions of products that have historically been produced and transferred as articles of tangible personal property, and that are now produced and transferred electronically as digital files. In many cases, a digital good is also available for transfer as an article of tangible personal property. However, it is not

necessary for a digital good to have a tangible counterpart to be considered a digital good.

See [Publication 240](#), *Digital Goods*, for additional information about which digital goods are taxable.

3. Services

a. Cable TV and Telecommunications

- Cable television services, including installation or hookup charges.
- Telecommunications services (including FAX transmissions).
- Telecommunications message services that consist of recording telecommunications messages and transmitting them to the purchaser or at that purchaser's direction, unless those services are an incidental element of a nontaxable service sold to that purchaser.
- Electronic Monitoring Services in which an inmate pays an amount to participate in a home detention and monitoring program.

b. Landscaping

- Landscaping and lawn maintenance services, including weed cutting.
- Planting or removing trees, including the planting of trees on terraces between sidewalks and roadways.

Exception: Tree and shrub trimming and spraying performed on a utilities' right-of-way to prevent interference with utility lines or to make utility lines inaccessible to children are not taxable landscaping services.

c. Laundry

- Laundry, dry cleaning, and pressing services.

Exception: Receipts from self-service laundry machines are not taxable. Prior to

October 1, 2013, only receipts from *coin-operated*, self-service machines were not taxable (receipts from self-service machines operated by tokens, magnetic cards, or other medium other than coins were taxable).

d. Lodging

Lodging facilities available to the public furnished to any person residing for a continuous period of less than one month.

Note: The tax does not apply to lodging furnished by hospitals, sanatoriums, nursing homes, or lodging at Huber law facilities.

e. Parking, Storage, and Docking

- Parking (including parking meters) or providing parking space for motor vehicles and aircraft.

Parking includes the temporary storage of a motor vehicle or aircraft that is available for immediate use.

Note 1: Parking fines are not subject to sales tax. In addition, fees paid to recover vehicles that have been impounded are not taxable.

Note 2: Parking meter bags that the purchaser is required to buy in order to receive a permit are not taxable. See Part III.B.1.a., “Fees and Licenses,” for additional information.

- Docking or providing storage space for boats.

f. Towing and “Lock-out” Services

- Towing and hauling of a motor vehicle by a tow truck.

Other taxable servicing of a motor vehicle includes: (a) returning a truck or other motor vehicle to an upright position after it has tipped over, (b) winching a motor vehicle back on a highway, and

(c) freeing a truck from a “Low Clearance” overhead structure.

Note: Charges by a municipality for towing motor vehicles from “No Parking” areas to a municipal lot in connection with a parking violation are not subject to Wisconsin sales tax.

- Lock-out services that consist of the police department unlocking a vehicle for a person that locked their keys in their car.
- Towing of other tangible personal property

B. Nontaxable Sales by Governmental Units

Following are examples of nontaxable sales by governmental units (this list is not all-inclusive).

1. Exemption Certificate Not Required

The seller is not required to obtain an exemption certificate in order to sell the following property and services without tax.

a. Fees and Licenses

- Filing, entering, docketing, recording, or furnishing certified or uncertified copies of records by a registrar of deeds, health officers, and clerk of courts and fees charged by a registrar in probate.
- Service of legal papers, including summons, complaints, and civil process.
- Notary public fees.
- Library fines, charges for books not returned, and charges for library cards.
- Licenses and permits, including tavern, cigarette, hunting, fishing, marriage, building, septic tank, and certain ID cards (including fingerprinting charges for ID cards).
- Police escort and ambulance service charges.

- Security services provided by police officers, ushers, and door guards at social and other gatherings.
- Claims assessed against persons for damaging government property, including a governmental unit's billings to persons who caused lawn, tree, or shrub damage on a governmental unit's property.
- Snow removal and snowplowing.
- Pet licenses.
- Impound fees paid to reacquire possession of pets.
- Parking meter bags that the purchaser is required to buy in order to receive a permit.

Example: Contractor is purchasing an Occupancy Permit from City for \$100. One of the requirements of the Occupancy Permit is that parking is prohibited within the occupancy. City requires that meter bags are placed on the parking meters in the area for which the permit is issued. City charges Contractor \$15 per day for the bags, and the bags are marked with the dates for which they are valid and the meter numbers. Contractor disposes of the bags when they are no longer valid.

Neither City's charge to Contractor for the Occupancy Permit nor for the parking meter bags is subject to sales or use tax. When City "sells" the meter bags to Contractor, City is selling the right to use the space. The charge for the space is not a taxable parking charge, since parking is prohibited.

b. Out-of-State Sales

Taxable products and services sold outside Wisconsin are not subject to Wisconsin sales tax. See Part III.C. for information about where a sale takes place.

c. Copies of Records

Photocopies, microfilm, and videotape copies of records under [sec. 19.35\(1\)\(a\)](#), Wis. Stats., by a governmental unit that is an "authority" under [sec. 19.32\(1\)](#), Wis. Stats.

"Record" and "authority" are defined in Part III.A.1.e.

Assuming that the documents are not readily available in the marketplace or at a public library for inspection, a municipality's sale of the following documents is not taxable (see *Exception* in Part III.A.1.e., for explanation):

- Traffic tickets.
- Accident reports.
- Property tax bills.
- Property deeds.
- Minutes of municipal meetings.

d. Storage

- Rental of buildings or space in buildings, such as offices, warehouses, and meeting rooms for purposes of other than recreational, amusement, entertainment or athletic. See Part IV.B. for more information.
- Storage charges, except storage charges for boats.

Caution: The temporary storage of a motor vehicle that is available for immediate use is "parking" that is subject to sales tax.

- Locker rentals, including coin-operated units.

e. Utilities

- Special assessments and fees for garbage or trash removal.

Note: Separate and optional charges for bags or receptacles (e.g., trash cans, dumpsters) for garbage or trash are taxa-

ble. If the bags or receptacles are not *optional* to the purchaser, the charge for the bags or receptacles is part of the nontaxable charge for garbage or trash removal. The charges for the bags or receptacles are separate and optional if the customer can receive the garbage or trash removal service for a lesser charge without receiving the bags or receptacles.

- Water delivered through mains.
- Coal, fuel oil, propane, steam, and wood used for fuel for residential use.
- Electricity sold for residential use during the months of November through April.
- Natural gas sold for residential use during the months of November through April.
- Fuel and electricity for use in farming. *If less than 100% of fuel and electricity is used in farming, an exemption certificate indicating the exempt percentage is required.*
- Biomass sold for fuel for residential use.

2. Exemption Certificate or Other Documentation Required

Following are examples of sales for which the seller is required to obtain and retain an exemption certificate or other documentation to verify that its sales are exempt from sales tax. Without such documentation, the seller is liable for the tax on these sales. (These examples are not all-inclusive.)

- Sales for resale.

Example: A landscaping contractor purchases wood chips from a city that it will resell to customers. The charge by the city is not subject to Wisconsin sales or use tax, provided the landscaping contractor gives the city a properly completed exemption certificate.

- Fuel and electricity sold for use in farming, unless 100% is exempt.

- Fuel and electricity consumed in manufacturing tangible personal property, items, and property in Wisconsin.
- Taxable products (including office equipment, recreational equipment, furniture, etc.) or services sold, leased, or rented to schools and other nonprofit organizations which hold a Certificate of Exempt Status number issued by the Wisconsin Department of Revenue.
- Taxable products or services sold to another Wisconsin governmental unit, including a Wisconsin school district, the federal government, or any federally recognized American Indian Tribe or Band in Wisconsin.

3. Other Nontaxable Sales

a. Sales By Elementary and Secondary Schools

Sales by any public or private elementary or secondary school exempt from Wisconsin income or franchise taxes, including school districts, are exempt from sales tax.

b. Exempt Occasional Sales

See Part V.

c. Nontaxable Sales of Food and Food Ingredients

See Part IV.A.2. for sales by governmental units of food and food ingredients that are not subject to Wisconsin sales tax.

C. Where Does a Sale Take Place?

With the exception of direct mail, leases, licenses, and rentals, telecommunications services, ancillary services, Internet access services, and telecommunications message services, a sale takes place (i.e., is sourced) based on the following:

1. If a purchaser receives the product at a seller's business location, the sale occurs at that business location.
2. If a purchaser does not receive the product at a seller's business location, the sale occurs at the

location where the purchaser, or the purchaser's designated donee receives the product. This would include the location indicated by instructions known to the seller for delivery to the purchaser or the purchaser's designated donee. The delivery may be made by the seller or by a shipping company hired by the seller or purchaser.

3. If the location of a sale cannot be determined under 1. and 2., the sale occurs 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 the sale is not in bad faith.
4. If the location of a sale cannot be determined under 1., 2., and 3., the sale occurs 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 to determine the location of the sale is not in bad faith.
5. If the location of a sale cannot be determined under 1., 2., 3., and 4., including the circumstance in which the seller has insufficient information to determine the locations under 1., 2., 3., and 4., the location of the sale is as follows:
 - a. If the item sold is tangible personal property (other than computer software delivered electronically), the sale occurs at the location from which the tangible personal property is shipped.
 - b. If the item sold is a digital good or computer software delivered electronically, the sale occurs 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.
 - c. If the item sold is a service, the sale is sourced to the location from which the service was provided.

To determine where sales of direct mail, leases, licenses, and rentals, telecommunications services, ancillary services, Internet access services, and telecommunications message services take place, please see sec. [Tax 11.945](#), Wis. Adm. Code (August 2013 Register).

IV. SPECIAL SITUATIONS

A. Food and Food Ingredients and Beverages

Sales of food and food ingredients are exempt from Wisconsin sales and use taxes, with the exception of candy, soft drinks, dietary supplements, and prepared food. Sales of candy, soft drinks, dietary supplements, and prepared food are subject to tax. The sale of alcoholic beverages is also subject to tax.

"Food and food ingredients" means a substance in liquid, concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or for chewing, by humans and that is ingested or chewed for its taste or nutritional value. "Food and food ingredient" does not include alcoholic beverages or tobacco.

1. Taxable Sales

The following sales of food and food ingredients and beverages are subject to Wisconsin sales tax (this list is not all-inclusive):

a. Candy

"Candy" means a preparation of sugar, honey, or other natural or artificial sweetener combined with chocolate, fruit, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include a preparation that contains flour or that requires refrigeration.

Items that otherwise meet the definition of candy and do not require refrigeration but which are sold frozen or refrigerated are still "candy."

Example: A grocery store sells candy bars at room temperature or from a refrigerated display case. Unless the candy bar is re-

quired to be refrigerated, it is still candy when sold, even if it was refrigerated when sold.

b. Soft Drinks

“Soft drink” means a beverage that contains less than 0.5% of alcohol and that contains natural or artificial sweeteners. “Soft drink” does not include a beverage that contains milk or milk products; soy, rice, or similar milk substitutes; or more than 50% vegetable or fruit juice by volume.

- Soft drinks are beverages that are in liquid form and do not include items that are not in liquid form such as powdered fruit drinks, powdered teas and frozen drink concentrates.
- Natural and artificial sweeteners include corn syrup, dextrose, sucrose, fructose, sucralose, saccharin, and aspartame.
- Water and tea that contain any sweeteners are soft drinks.
- Water and tea that are unsweetened are not soft drinks, even if carbonated or flavored.

c. Dietary Supplements

“Dietary supplement” means a product other than tobacco, that is intended to supplement a person’s diet if all of the following apply:

- The product contains a vitamin, mineral, herb or other botanical, amino acid, dietary substance that is intended for human consumption to supplement the diet by increasing total dietary intake, concentrate, metabolite, constituent, or extract, or any combination thereof.
- The product is intended for ingestion in tablet, capsule, powder, soft-gel, gelcap, or liquid form, or, if not intended for ingestion in such forms, is not represented as conventional food and is

not represented for use as the sole item of a meal or diet.

- The product is required to be labeled as a dietary supplement as required under 21 CFR 101.36.

Dietary supplements can be identified by the “Supplement Facts” box found on the product label. Dietary supplements include antioxidants, bee pollen, enzymes, garlic capsules, ginseng, herbal supplements, immune supports, lecithin, metabolic supplements, vitamins and minerals, and zinc lozenges.

d. Prepared Food

“Prepared food” includes any of the following:

- Food and food ingredients sold in a heated state.
- Food and food ingredients heated by the retailer, except if any of the following apply:

- Two or more food ingredients are mixed or combined by a retailer for sale as a single item, and the retailer’s primary classification in the North American Industry Classification System (NAICS) is manufacturing under subsector 311, but not including bakeries and tortilla manufacturing under industry group number 3118.
- Bakery items made by a retailer.
- Two or more food ingredients mixed or combined by a retailer for sale as a single item, sold unheated, and sold by weight or volume.

Example: A concession stand at a ball diamond pops popcorn and then sells the popcorn, unheated, to a customer for one dollar (\$1.00) per bag. The

- popcorn that was heated by the retailer is prepared food.
- Two or more food ingredients mixed or combined by the retailer for sale as a single item, except if any of the following apply:
 - The retailer’s primary NAICS classification is manufacturing under subsector 311, but not including bakeries and tortilla manufacturing under industry group number 31182.
 - The item is sold unheated and by volume or weight.
 - The item is a bakery item made by the retailer.
 - The food and food ingredients are only sliced, repackaged, or pasteurized by the retailer.
 - The item contains eggs, fish, meat, or poultry in raw form that requires cooking by the consumer, as recommended by the FDA.
- Example:** A concession stand at a ball diamond prepares and sells a cold sandwich to its customer. The sandwich is prepared by spreading mayonnaise on two slices of bread and putting meat, cheese, and lettuce between the two slices of bread. The sandwich that was prepared by the retailer (i.e., two or more food ingredients that were mixed or combined by the retailer) is prepared food.
- Food and food ingredients sold with eating utensils, such as napkins, plates, forks, straws, etc., that are provided by the retailer if:
 - It is the retailer’s customary practice to physically give or hand the utensils to the purchaser, except that plates, bowls, glasses, or cups that are necessary to receive the food or food ingredients need only be made available to the purchaser, or
 - The eating utensils are available to the purchasers and the retailer’s sales of certain prepared foods are more than 75% of the retailer’s total sales of all food and food ingredients at that establishment.
Exception: An item sold by the retailer that contains four or more servings packaged as one item and sold for a single price does not become prepared food simply because the retailer makes utensils available to the purchaser of the item, but is prepared food if the retailer physically gives or hands utensils to the purchaser of the item.
- Example 1:** A concession stand at a ball diamond sells soft-serve ice cream. The concession stand worker opens the valve, draws the ice cream into a cup, and hands the cup of ice cream to the customer. The ice cream is prepared food, since it is the retailer’s customary practice to physically give or hand a utensil (i.e., cup) to the purchaser.
- Example 2:** A concession stand at a ball diamond sells soft-serve ice cream from a self-serve machine. The customer takes one of the cups that the concession stand has available, chooses the ice cream flavor that he wants, opens the valve, and draws the ice cream into a cup. The ice cream is prepared food, since the cup that is necessary to receive the ice cream is made available to the customer.

Refer to the following for more information, including how to apply the 75% test: [Publication 220](#), *Grocers - How Do Wisconsin Sales and Use Taxes Affect Your Operations*; sec. [Tax 11.51](#), Wis. Adm. Code, “Grocers’ guidelist;” and sec. [Tax 11.87](#), Wis. Adm. Code, “Prepared food, food and food ingredients, and soft drinks.”

e. Alcoholic Beverages

"Alcoholic beverage" means a beverage that is suitable for human consumption and that contains 0.5% or more of alcohol by volume.

f. Other

With respect to donations and fund-raising events, when a charge to a customer for taxable food, food ingredients, and beverages bears little or no relation to the actual value of the taxable food, food ingredients, and beverages provided, the tax is based on the actual value of the taxable food, food ingredients, and beverages provided.

Example: Persons who donate \$100 receive and are served a \$10 meal (i.e., prepared food). The \$10 value of the meal is subject to the sales tax. The \$90 donation is not subject to sales tax.

2. Nontaxable Sales

The following sales of food and food ingredients are not subject to Wisconsin sales tax (this list is not all-inclusive):

a. Sales by Institutions of Higher Education

Food and food ingredients furnished in accordance with any contract or agreement by a public or private institution of higher education are exempt from sales tax if either of the following apply:

- The items are furnished by such institution to an undergraduate student, a graduate student, or a student enrolled in a professional school if the student is enrolled for credit at that institution and if the items are consumed by that student.
- The items are furnished by such institution to a National Football League team.

Note: This exemption does not apply to sales of alcoholic beverages.

b. Sales by Hospitals, Sanatoriums, Nursing Homes and Other Institutions

Sales of food and food ingredients, except soft drinks, by hospitals, sanatoriums, nursing homes, retirement homes, community-based residential facilities as defined in [sec. 50.01\(1g\)](#), Wis. Stats., and any facility certified or licensed under Chapter 48, Wis. Stats., are exempt. Also exempt are "mobile meals on wheels" sold to the elderly and handicapped. **Note:** This exemption does not apply to alcoholic beverages.

Facilities certified or licensed under Chapter 48, Wis. Stats., include licensed day care centers, child placement agencies, residential care centers, foster homes, treatment foster homes, group homes, and shelter care facilities.

c. Mobile Meals on Wheels

Food and food ingredients sold to the elderly or handicapped by sellers providing "mobile meals on wheels."

Note: This exemption does not apply to sales of alcoholic beverages or soft drinks.

d. Sales to Certain Governmental Units and American Indian Tribes

Sales to federal and Wisconsin governmental units (including Wisconsin counties, cities, villages, towns, public schools, and school districts), nonprofit organizations holding a Certificate of Exempt Status (CES) number from the Wisconsin Department of Revenue, and any federally recognized American Indian Tribe or Band in Wisconsin.

e. Sales By Elementary and Secondary Schools

Sales by any public or private elementary or secondary school exempt from Wisconsin income or franchise taxes, including school districts are exempt from sales tax.

f. Vending Machine Commissions

Commissions received by governmental units for vending machines or amusement devices placed on their premises when the governmental unit does not own the machines or does not have control over the machine's income or contents.

50% or less of the retailer's purchase price or sales price, respectively, of all the products included in the gift basket. The retailer may use either its purchase price or sales price of the products (but not a combination of both) for this computation.

See the article titled "[Gift Baskets That Contain a Combination of Taxable and Nontaxable Products](#)" for additional information, including examples.

3. Gift Baskets

There is a unique tax treatment for sales of gift baskets that are prepared by a retailer and contain a combination of taxable and nontaxable tangible personal property (i.e., products), which are sold for one non-itemized price, and which include a food product.

More Than 50% of Items in Basket Are Taxable Products

The entire sales price of a gift basket containing taxable and nontaxable products, one or more of which is a food or food ingredient, is subject to Wisconsin sales tax if both of the following apply:

- The products in the gift basket are packaged together by the retailer and sold for one non-itemized price, and
- The retailer's purchase price and sales price of the taxable products in the gift basket are more than 50% of the retailer's purchase price and sales price, respectively, of all the products included in the gift basket. The retailer may use either its purchase price or sales price of the products (but not a combination of both) for this computation.

50% or Less of Items in Basket Are Taxable Products

The entire sales price of a gift basket containing taxable and nontaxable products, one or more of which is a food or food ingredient, is exempt from Wisconsin sales and use tax if both of the following apply:

- The products in the gift basket are packaged together by the retailer and sold for one non-itemized price, and
- The retailer's purchase price or sales price of the taxable products in the gift basket are

B. Admissions, Including Rental of Facilities

Admissions to amusement, athletic, entertainment, or recreational events or places and the dues, fees, or other considerations received for access to, or the use of, amusement, entertainment, athletic, or recreational facilities are subject to Wisconsin sales and use taxes. Examples of taxable and nontaxable admissions are provided in Parts IV.B.1 and 2. Rentals of multipurpose facilities are explained in Part IV.B.3. A chart is provided in *Appendix A*, which explains the tax treatment of numerous multipurpose facility rentals.

1. Taxable Admissions – Access to Events, Places, and Facilities

- Admissions where there is a presentation of some item or activity which is intended to entertain or amuse the persons paying the admission. The person attending does not participate in the activity, but is amused or entertained by the efforts of others. Examples of these admissions would be admission to movies, plays, operas, concerts, ballet, football, hockey, baseball, and basketball games, boxing and wrestling matches, golf matches, ice shows, circuses, carnivals, and track meets.

Amounts paid for the use of amusement, entertainment, athletic, or recreational facilities, where the person involved participates in the amusement, entertainment, athletic, or recreational activity. In this situation the facility is made available by the seller and it is up to purchasers to amuse or entertain themselves. Examples of these facilities would be skating rinks, tennis courts, swimming pools, gymnasi-

ums, golf courses, hunting facilities, dance halls, bowling alleys, and athletic fields.

Note: More information about sales by golf courses can be found in [Publication 226, *Golf Courses — How Does Wisconsin Sales and Use Taxes Affect Your Operations?*](#)

- A multipurpose facility rented to amateurs who use the facility in providing entertainment to themselves and also possibly to the public without charge for admission. E.g., an amateur theatrical group may perform a play as a form of self-entertainment. If the play is open to the public and no charge is made for admission to attend the play, the rental is taxable.

See Part IV.B.3. for additional information about the rental of multipurpose facilities.

- Amusement device (pinball machine, video game, pool table, etc.) receipts are taxable to the seller if the seller owns the machines or has control over the income from the machines and their contents.
- Season tickets for amusement, athletic, entertainment, or recreational events.
- Boat launch fees.
- Entry fees for individuals and teams for participation in leagues for sports activities such as baseball, basketball, volleyball, tennis, etc.

Exceptions: Admissions, such as league entry fees, sold by a nonprofit organization to participate in any sports activity in which more than 50% of the participants are 19 years old or younger are not subject to Wisconsin sales tax.

- Camping permits or identification (ID) cards permitting admission to amusement, athletic, entertainment, or recreational facilities.

2. Nontaxable Admissions

- Admissions, such as league entry fees, sold by a nonprofit organization to participate in

any sports activity in which more than 50% of the participants are 19 years old or younger are not subject to Wisconsin sales tax.

- Fees for instruction (e.g., swimming lessons, golf lessons, tennis lessons).
- Admissions to museums of history, art, or science, including zoos.
- Admissions to county fairs.

See Part IV.B.3. for additional information about the rental of multipurpose facilities.

- Admission to facilities that are used primarily for fitness or health.

An admission to a facility is primarily for fitness and health if users spend more than 50% of their overall time participating in the following nontaxable activities:

- Aerobics classes.
- All lessons (swimming, tennis, golf, etc.).
- Free weights and machines.
- Whirlpool, sauna.
- Running track (other than for races).
- Exercycles, lifecycles.
- Rowing machines.
- Stepping machines.
- X-country ski machines.
- Treadmills.
- Tanning booths and beds.
- Massage table/room.

A reasonable method of determining nontaxable use is a representative survey of participants and their time spent in each facility. Sellers must keep adequate records to substantiate how they determine the primary purpose of the participants was use of nontaxable facilities.

Note: Even in situations where the primary purpose of the members is to use the facilities for nontaxable activities and, therefore, the organization's fee has been determined

to be nontaxable, any separate and optional charges for taxable activities, services, or property are subject to sales tax.

Caution: If the facilities are designed, promoted and used primarily for recreation, rather than physical fitness, the access charges are taxable.

3. Rentals of Multipurpose Facilities

Taxable admissions includes fees or admission charges to the general public by the county or municipality to permit access to multipurpose facilities, such as parks, pavilions, park shelters, athletic fields, gymnasiums, auditoriums, etc., except for when one of the following apply:

- The organization paying for the facility use is exempt from tax (e.g., a church).
- The facility will be used for a recreational, amusement, entertainment, or athletic event, but the person renting the facility sells admission to the event to the public. (See *Resale Examples*, below.) In order to claim exemption from sales tax, the person renting the facility must provide the seller with an exemption certificate (e.g., [Form S-211](#), [S-211-SST](#)) claiming resale.
- The person uses the facility for a non-recreational type of event (religious meeting, political meeting, trade show, educational seminar, swimming lessons). (See *Non-recreational Examples*, below.)

Resale Examples

The charge for the facility is not taxable when the facility is rented to a promoter, professional group, or other person who will (1) convert it to a place of recreation, amusement, or entertainment; and (2) sell admissions to the public. In order to claim exemption from sales tax, the person renting the facility must provide the seller with an exemption certificate (e.g., [Form S-211](#), [S-211-SST](#)) claiming resale. Examples of this situation where the rental receipts of the governmental unit are not taxable are as follows (assuming conditions (1) and (2) are both met):

- A county coliseum is rented on an annual basis to a professional basketball team and professional hockey team.
- A movie theater is owned by a city that leases it to a theater operator under a lease.
- A city's arena is rented on a daily basis to a professional basketball team or the operator of an ice show.
- A portion of the city's civic center is rented to a professional theatrical group for a two-week period.
- A dance hall or ballroom is rented to a popular band for the night.
- A field is rented by a promoter of a rock fest.

Non-recreational Examples

The charge for the facility is not taxable when the facility is rented to another person or persons who will conduct an event that is not recreational in nature. The group may or may not charge admission to the general public to enter the facility. Examples of this situation where the governmental unit's rental charges are not taxable are:

- A county rents a coliseum to a religious group that conducts a one-week religious revival.
- A city rents a large hall or banquet room to a political group that puts on a 3-day antique show.
- A city rents a large facility to a person for a graduation ceremony.

A chart has also been provided in the Appendix, which explains the tax treatment of numerous multipurpose facility rentals, as well as accompanying charges. The chart also describes what records must be kept to verify that such a rental is exempt from tax. Also, see [Fact Sheet 2107](#), *Rentals of Multipurpose Facilities*, for additional information and examples.

4. Property or Services Provided in Addition to the Rental of the Multipurpose Facility

- a. *Property included in facility rental fee.* If the governmental unit does not charge an additional amount for the property and does not give a reduction in its fee for the multipurpose facility rental if the customer (lessee) does not use the included property, the charge for the property is a part of the multipurpose facility rental fee. If the multipurpose facility rental is taxable, the entire charge, including any charge for property, is taxable, unless an exemption applies (e.g., the lessee holds a CES number).
- b. *Property rental is optional.* If the charge for the other property is optional to the customer (lessee) (a separate and optional charge is made for the rental of the other property, or the customer may rent the multipurpose facility without the other property for a lower amount), the rental of the other property is a separate sale from the rental of the multipurpose facility. The charge for the rental of the other property is subject to sales tax, unless an exemption applies (e.g., the lessee holds a CES number).
- c. *Rental of property affixed to realty (e.g., stove or dishwasher that is affixed to the realty).* Charges for affixed property that is optional to the customer (lessee) (a separate and optional charge is made for the rental of the affixed property, or the customer may rent the multipurpose facility without the affixed property for a lower amount) are not subject to sales tax, assuming that the governmental unit is the owner of both the multipurpose facility and the affixed property.
- d. *Cleaning fees.* If a cleaning fee is mandatory to rent the multipurpose facility (the customer (lessee) will be charged the cleaning fee even if the customer cleans the multipurpose facility himself or hires another party to clean the multipurpose facility), the cleaning fee is a part of the multipurpose facility rental fee. If the mul-

tipurpose facility rental is taxable, the entire charge, including any charge for cleaning, is taxable, unless an exemption applies.

V. OCCASIONAL SALE EXEMPTION

A governmental unit's sales of taxable products and services, including admissions or tickets to an event conducted by the organization, are exempt from sales tax if all of the following three conditions are met:

A. Not Engaged in a Trade or Business

A governmental unit is engaged in a trade or business if it **exceeds both** of the following:

1. Its sales of taxable products and services (not including sales of tickets to events), or its events, occur on more than 20 days during the calendar year.
2. Its sales of taxable products and services exceed \$25,000 for the calendar year.

B. No Entertainment at Admission Event

The occasional sale exemption does not apply to sales of taxable products and services at an admission event where all persons or groups (such as bands or singers) are paid in the aggregate \$500 or more per event for performing, as prize money or for reimbursement of expenses.

"Admissions" are involved if access to the event involving entertainment is generally restricted to only those who pay a required fee, make a required "donation," or who must make a purchase of some kind (such as a meal, raffle ticket, etc.).

C. Does Not Hold and is Not Required to Hold a Wisconsin Seller's Permit

If a governmental unit holds or is required to hold a seller's permit, its sales of taxable products and services do not qualify for the occasional sale exemption. A governmental unit may surrender its seller's permit if it meets the requirements in A and B.

For more information, refer to the following:

- [Publication 206](#), *Sales Tax Exemption for Nonprofit Organizations*
- [Fact Sheet 2106](#), *Occasional Sale Exemption for Nonprofit Organizations*

VI. PURCHASES BY GOVERNMENTAL UNITS

A. Purchases Are Exempt

A governmental unit may purchase all taxable products and services exempt from the sales and use tax. To claim the exemption, the governmental unit must give the seller one of the following:

- A completed purchase order or similar document clearly identifying the governmental unit as the purchaser.
- A fully completed exemption certificate (e.g., [Form S-211](#), [S-211-SST](#)).
- Its Certificate of Exempt Status (CES) number that the vendor records on the invoice that it keeps.

B. Purchases for Welfare Recipients

A governmental unit may purchase taxable products and services for a welfare recipient. The governmental unit may issue the funds directly to the welfare recipient prior to making the purchase. While the welfare recipient's purchase of taxable products and services is otherwise subject to Wisconsin sales tax, the purchase is considered to be made directly by the governmental unit (exempt from tax) if the following two conditions are met:

1. The governmental unit gives the seller one of the items listed in Part VI.A. above.
2. The seller issues the billing or invoice for the purchase in the name of the governmental unit.

Example: A city intends to purchase clothing for a welfare recipient. The city gives a purchase order to the seller and the seller makes the invoice in the name of the city. This sale is not subject to sales tax if the welfare recipient pays with funds given to

him or her by the city or if the city pays the seller directly.

Note: Information about the tax treatment of disaster relief payments made by the Federal Emergency Management Agency (FEMA) and the American Red Cross (ARC) can be found in Common Questions for [Disaster Relief Payments](#) on the Department of Revenue's website.

C. Employee Purchases of Meals and Lodging

Restaurants, motels, and others sell meals and lodging to governmental units or to their employees under various situations. For sales of meals or lodging to a governmental unit to be exempt from Wisconsin sales and use taxes, the following two conditions must occur:

1. The governmental unit gives the seller one of the items listed in Part VI.A. above and indicates that the employee is traveling on governmental unit business and funds are being provided to the employee to pay any expenses.
2. The seller (such as a motel or restaurant) issues the billing or invoice for the meal or lodging in the name of the governmental unit.

If these two conditions are met, the purchases are exempt from Wisconsin sales and use tax, regardless of whether the governmental unit or its employee pays the seller for the purchase of the meal or lodging.

Example 1: A county employee purchased lodging at a motel. The billing is made in the employee's name and the employee pays the bill with his or her own funds. The employee is subsequently reimbursed by the employer (county) for the lodging.

This sale is taxable because it is a sale to the employee, rather than to the county. (**Note:** The two conditions listed above were not met.)

Example 2: A town employee traveling on town business purchases lodging at a motel. The motel's billing is made in the name of the town and the town directly pays the motel for the lodging. The motel is provided with the town's CES number, which the

motel records on its copy of the invoice that it retains.

This sale of the lodging is exempt from sales tax because the sale is made to the town, rather than to the employee.

Example 3: A city employee, when purchasing a meal, submits a letter to the restaurant from the city indicating that the employee is on city business and the city authorizes the employee to purchase meals relating to city business. This letter is placed in the restaurant owners' files. A bill is made in the name of the city. The employee pays the bill with his or her own funds and is subsequently reimbursed by the city.

This is an exempt sale to the city.

VII. CONSTRUCTION FOR A GOVERNMENTAL UNIT

A. General

1. Tangible Personal Property

Sales of tangible personal property and services to tangible personal property by a contractor to a Wisconsin governmental unit are exempt from Wisconsin sales or use tax. The contractor may purchase the tangible personal property physically transferred to the governmental unit without tax because it is for resale.

2. Real Property

Even though a contractor is constructing a building for a governmental unit, the sale of building materials to the contractor used in such real property construction is taxable.

The reason for this treatment is that the contractor is the consumer of the building materials used in constructing the building. Therefore, the sale to the contractor is a retail sale and is subject to tax.

An exception to this rule is when building materials are purchased to alter, repair, or improve a waste treatment facility as described in Part VII.C.

B. Governmental Unit Buying Materials Tax Free

To avoid Wisconsin sales or use tax on materials used in real property construction by a contractor, a Wisconsin governmental unit may purchase the materials directly from a supplier that does not install the materials in real property construction. The exempt entity must be invoiced for the materials and equipment, pay the supplier for the materials and equipment, and provide the supplier with one of the following:

1. An exemption certificate (e.g., [Form S-211, S-211-SST](#)).
2. The federal or Wisconsin governmental unit's Certificate of Exempt Status (CES) number that the supplier should record on the invoice it keeps.
3. A purchase order or similar written document identifying the governmental unit as the purchaser.

A governmental unit's transfer to its construction contractor of materials the governmental unit purchases directly from suppliers is not considered a taxable transaction, regardless of whether:

1. The contract specifies that the contractor is to provide all materials and the governmental unit subsequently obtains a reduction in the contract price for the direct purchased materials (e.g., change order), or
2. The contract excludes those materials the governmental unit will purchase directly from suppliers, resulting in no need for a reduction in the contract price (e.g., change order).

Caution: A contractor is subject to Wisconsin sales or use tax on materials it uses in real property construction for a governmental unit if it also supplied the materials to the exempt entity, regardless of whether the exempt entity paid for the materials.

C. Waste Treatment Facilities

Construction materials that become a component part of a governmental unit waste treatment facility may be purchased without Wisconsin sales or use

tax. Governmental waste treatment facilities include:

1. Wastewater treatment facilities. In general terms, this is everything within the fence of the central waste treatment plant. Storm sewers, water supply systems, private domestic wastewater treatment facilities, and collection and discharge systems do not qualify for the sales and use tax exemption.
2. Sanitary landfills. This includes collection and burner systems, laboratory equipment, maintenance buildings, garages, office buildings, fences, and gates.
3. Ground water facilities. These are facilities constructed to treat hazardous or contaminated ground water and include oil and water separators, air strippers, aerators, blowers, filters, carbon units, controls, thermal oxidizers, and pumps. Not included within the exemption are the collection and discharge systems.

It is not necessary for a governmental unit or contractors engaged in constructing a waste treatment facility for a Wisconsin governmental unit to obtain Department of Revenue approval of the governmental unit's waste treatment facility to qualify for the waste treatment facility exemption.

For more information on waste treatment facilities, refer to sec. [Tax 11.11](#), Wis. Adm. Code, entitled "Waste treatment facilities."

VIII. RECORD KEEPING

A. General Records to Keep

If a governmental unit is required to file sales and use tax returns, it must keep adequate records of business transactions to enable the governmental unit and the Department of Revenue to determine the correct tax due. The required records include complete and accurate records of beginning and ending inventories, purchases, sales, canceled checks, receipts, invoices, bills of lading, and all other documents and books of account pertaining to the business.

B. Records to Keep – Exempt Sales, Exemption and Resale Certificates

A seller is liable for Wisconsin sales or use tax on its sales of taxable products and services unless it can show that such sales are exempt from tax. Part III.B.2. lists certain sales for which the seller must obtain and retain exemption certificates or other documentation verifying that the sale is exempt from tax.

The reason for keeping such records is that the sales and use tax law provides that all retail sales are taxable until the contrary is established. The seller has the burden of proving that a sale of taxable products and services is exempt, unless the seller takes a fully completed exemption certificate (or other information as described in *Number 3*, below) in an approved form no later than 90 days after the date of the sale from the purchaser which indicates that the property, items, goods, or service being purchased is for resale or is otherwise exempt.

Four common reasons that sales of taxable products and services may be exempt are as follows:

1. The purchaser furnishes the seller an exemption certificate claiming resale. The exemption certificate is given to the seller because the purchaser declares that he or she is going to resell the item.
2. The use to be made of the item purchased is exempt. For example, a machine that is going to be used exclusively and directly in manufacturing or a tractor that is going to be used exclusively and directly in farming is exempt.

The seller should obtain a fully completed exemption certificate (e.g., [Form S-211, S-211-SST](#)) from the purchaser.

- [Form S-211](#), *Wisconsin Sales and Use Tax Exemption Certificate*
 - [Form S-211-SST](#), *Wisconsin Streamlined Sales and Use Tax Exemption Certificate*
3. The purchasing organization is exempt (e.g., Wisconsin public schools, Wisconsin municipalities, federal government).

Sales to the federal and Wisconsin governments, municipalities, and public schools should be supported by one of the following:

- A purchase order or similar written document identifying the governmental unit as the purchaser.
- An exemption certificate (e.g., [Form S-211, S-211-SST](#)).
- Recording the federal or Wisconsin governmental unit's Certificate of Exempt Status (CES) number on the invoice.

Exempt sales to nonprofit organizations holding a CES number (e.g., a church) can be supported by an exemption certificate or by recording the CES number on the invoice.

4. The purchaser furnishes the seller (a) a copy of its direct pay permit, or (b) a statement that the buyer holds a direct pay permit, the permit number, and the date the permit was issued.

Note: If exemptions are claimed for any of the above four reasons, a governmental unit must keep as part of its records the completed certificates, purchase orders, or invoices to prove that the sales are exempt. If the Department of Revenue conducts an audit and the governmental unit does not have the required exemption certificates or other required documents to prove that the sales are exempt, the sales will be presumed to be taxable and subject to the sales tax.

IX. LOCAL SALES AND USE TAXES

A. Introduction

1. County Sales and Use Taxes

As of July 1, 2015, there is a 0.5% county sales and use tax in 62 counties. Listed below are the 62 counties and the effective date for each county's tax. (**Note:** The county code assigned by the department for each county is in parenthesis following the county name. This may be helpful to retailers for computer programming purposes.)

Counties With County Tax

County	Effective Date	County	Effective Date
Adams (01)	1/1/94	Lincoln (35)	4/1/87
Ashland (02)	4/1/88	Marathon (37)	4/1/87
Barron (03)	4/1/86	Marinette (38)	10/1/01
Bayfield (04)	4/1/91	Marquette (39)	4/1/89
Buffalo (06)	4/1/87	Milwaukee (40)	4/1/91
Burnett (07)	4/1/89	Monroe (41)	4/1/90
Chippewa (09)	4/1/91	Oconto (42)	7/1/94
Clark (10)	1/1/09	Oneida (43)	4/1/87
Columbia (11)	4/1/89	Ozaukee (45)	4/1/91
Crawford (12)	4/1/91	Pepin (46)	4/1/88
Dane (13)	4/1/91	Pierce (47)	4/1/88
Dodge (14)	4/1/94	Polk (48)	4/1/88
Door (15)	4/1/88	Portage (49)	4/1/89
Douglas (16)	4/1/91	Price (50)	1/1/93
Dunn (17)	4/1/86	Richland (52)	4/1/89
Eau Claire (18)	1/1/99	Rock (53)	4/1/07
Florence (19)	7/1/06	Rusk (54)	4/1/87
Fond du Lac (20)	4/1/10	St. Croix	4/1/87
Forest (21)	4/1/95	Sauk (56)	4/1/92
Grant (22)	4/1/02	Sawyer (57)	4/1/87
Green (23)	1/1/03	Shawano (58)	4/1/90
Green Lake (24)	7/1/99	Taylor (60)	7/1/99
Iowa (25)	4/1/87	Trempealeau (61)	10/1/95
Iron (26)	4/1/91	Vernon (62)	1/1/97
Jackson (27)	4/1/87	Vilas (63)	4/1/88
Jefferson (28)	4/1/91	Walworth (64)	4/1/87
Juneau (29)	4/1/92	Washburn (65)	4/1/91
Kenosha (30)	4/1/91	Washington (66)	1/1/99
LaCrosse (32)	4/1/90	Waupaca (68)	4/1/89
Lafayette (33)	4/1/01	Waushara (69)	4/1/90
Langlade (34)	4/1/88	Wood (71)	1/1/04

As of July 1, 2015, there is **no** county sales and use tax in the following 10 Wisconsin counties:

Counties Without County Tax

Brown (05)	Menominee (72)	Waukesha (67)
Calumet (08)	Outagamie (44)	Winnebago (70)
Kewaunee (31)	Racine (51)	
Manitowoc (36)	Sheboygan (59)	

The Wisconsin Department of Revenue administers the county tax. Retailers who make sales subject to the 0.5% county tax must collect the county tax in addition to the state and any other applicable local sales or use tax imposed.

Both the state tax and county tax are reported by retailers on their sales and use tax return ([Form ST-12](#)) filed with the Department of Revenue.

Caution: Retailers that are registered in Wisconsin to collect and remit the 5% Wisconsin state sales and use tax are also required to collect and remit the applicable county sales and use taxes for sales that take place in any county in Wisconsin that has adopted the applicable county sales and use taxes. See Part IX.C.

2. Stadium Sales and Use Taxes

a. Baseball Stadium Tax

A 0.1% baseball stadium tax is imposed on the sale of and the storage, use, or consumption of taxable products and services in the following five Wisconsin counties which make up the “baseball stadium district:”

- Milwaukee
- Washington
- Ozaukee
- Waukesha
- Racine

Retailers who make sales subject to the baseball stadium tax in Milwaukee, Ozaukee, and Washington counties will collect 5.6% sales tax on such retail sales — 5% state sales tax, 0.5% county sales tax, and 0.1% baseball stadium sales tax.

Retailers who make sales subject to the baseball stadium tax in Racine and Waukesha counties will collect 5.1% sales tax on such retail sales — 5% state sales tax and 0.1% baseball stadium sales tax.

b. Football Stadium Tax (ends September 30, 2015)

A 0.5% football stadium tax is imposed on the sale of and the storage, use, or consumption of taxable products and services in Brown County. This tax ends September 30, 2015.

The football stadium tax was created for the purpose of assisting the development of professional football stadium facilities in Wisconsin.

Retailers who make sales subject to the football stadium tax in Brown County will collect 5.5% sales tax on such retail sales — 5% state sales tax and 0.5% football stadium sales tax.

Stadium taxes are reported with state and county sales and use taxes on [Form ST-12, Wisconsin Sales and Use Tax Return](#).

Caution: Retailers that are registered in Wisconsin to collect and remit the 5% Wisconsin state sales and use tax are also required to collect and remit the applicable stadium sales and use taxes for sales that take place in a stadium district in Wisconsin that has adopted the stadium sales and use taxes. See Part IX.C.

Note: The Department of Revenue’s website contains a [Sales Tax Look-up Application](#) that assists in determining the proper Wisconsin state, county, and stadium district (baseball and football) sales tax rate(s) that applies to a transaction that takes place at a specific location based on a 5-digit or 9-digit zip code. You may search for the appropriate Wisconsin state, county and stadium sales tax rate(s) by entering either a 5-digit or 9-digit zip code.

B. What Types of Products and Services Are Taxable?

The types of products and services that are subject to the 5% state sales and use tax are also subject to the 0.5% county and 0.1% or 0.5% stadium sales and use taxes. See Part III.(intro). (The 0.5% football stadium tax ends September 30, 2015.)

The county and stadium taxes may not be imposed on any types of products that are not subject to the 5% state tax. If products are exempt from the 5% state tax, they are also exempt from the county and stadium taxes.

C. What Sales Are Subject to the County and Stadium Sales Tax?

The 0.5% county, 0.1% baseball stadium, and 0.5% football stadium sales taxes are imposed on the sales price from sales, licenses, leases, or rentals of taxable products and services in a county with a

county tax or a stadium district. (The 0.5% football stadium tax ends September 30, 2015.)

For a retail sale, license, lease, or rental to be subject to the county or stadium sales tax, the sale, license, lease, or rental must take place in a county with a county tax or in a stadium district.

All retailers that are registered in Wisconsin to collect and remit the 5% Wisconsin state sales and use tax are also required to collect and remit the applicable county and stadium sales and use taxes for any sales that take place in a county or stadium district that has adopted the applicable county or stadium sales or use tax. This provision applies regardless of whether the retailer is “engaged in business” in the county or stadium district to which the sale is sourced. ([Section 77.73\(3\)](#), Wis. Stats.)

Example: Retailer is located in La Crosse County. Retailer is not engaged in business in any county other than La Crosse County. Retailer sells a taxable product to Customer. Customer is located in Dane County, Wisconsin. Retailer sends the product by U.S. Mail to Customer. Customer receives the product at its location in Dane County. Retailer is required to collect and remit both the Wisconsin state sales tax and the Dane County sales tax since the sale is sourced to Customer’s location in Dane County, even though Retailer is not “engaged in business” in Dane County.

Where does the sale, license, lease, or rental take place?

See Part III.C., “Where Does a Sale Take Place?”

Example 1: A person buys a radio for \$200 from a seller in a county with a county tax. The buyer takes possession of the radio at the seller’s business location in such county and then travels in his car to his home in a county which has no county tax. Since the sale took place in a county with a county tax, it is subject to the 0.5% county sales tax of \$1.

Example 2: A person buys a piano for \$1,500 at a store in Sheboygan County; however, it is delivered

to the buyer in Milwaukee County (in the baseball stadium district) by the seller’s company-operated vehicle. The sale takes place in Milwaukee County, where the piano was delivered by the seller to the buyer. The sale of the piano is subject to the Milwaukee County and the baseball stadium sales taxes.

D. Sales and Use Tax Return Will Require County and Stadium Tax Data

Retailers are required to keep records showing the amount of their taxable receipts subject to sales tax and purchases subject to use tax for a stadium district and each county that has a county tax.

X. DO YOU HAVE QUESTIONS OR NEED ASSISTANCE?

If you are unable to find an answer to your question about sales and use taxes, you may contact the department:

Visit our website. . . . revenue.wi.gov

Email . . . DORSalesandUse@revenue.wi.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. See the department’s website for a [listing of offices](#) and their current hours.

The [Department of Revenue’s website](#) contains information of specific interest to governmental units. Please go the “[Governments](#)” tab from the department’s home page.

Information about how the county and authorities sales tax is [administered and distributed](#) can also be found on the department’s website.

Multipurpose Facility Rentals by Governmental Units

Taxable admissions includes fees or admission charges by the governmental unit to permit access to multipurpose facilities, such as parks, pavilions, park shelters, athletic fields, gymnasiums, auditoriums, etc., except when one of the following applies:

1. The person uses the facility for a non-recreational type of event (religious meeting, political meeting, trade show, educational seminar, swimming lessons).

Records to Keep: The governmental unit should keep records showing the amount it received for this purpose and the name and address of the person or organization who paid for use of the facility.

2. The organization paying for the use of the facility is exempt from tax (e.g., a church).

Records to Keep: If the organization is a federal, Wisconsin state or municipal government agency, or Wisconsin public school, the governmental unit must keep a copy of the purchase order from such organization.

If the organization has a Certificate of Exempt Status number (CES number) the CES number should be recorded on the copy of the invoice that the governmental unit keeps for its records. (Nonprofit organizations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, may apply to the Department of Revenue for a "Certificate of Exempt Status" and, if approved, will be issued a CES number by the department.)

3. The facility will be used for a recreational, amusement, entertainment, or athletic event, but the person renting the facility sells admission to the event to the public.

Records to Keep: The governmental unit must obtain an exemption certificate ([Form S-211](#)) claiming resale from the person to verify that the charge is exempt from tax.

Providing other property or service in addition to renting a multipurpose facility: A governmental unit may rent other property (e.g., chairs, tables, stove) in addition to the multipurpose facility. The tax treatment of the property rental is as follows:

Property included in facility rental fee. If the governmental unit does not charge an additional amount for the property and does not give a reduction in its fee for the multipurpose facility rental if the customer (lessee) does not use the included property, the charge for the property is a part of the multipurpose facility rental fee. If the multipurpose facility rental is taxable, the entire charge, including any charge for property, is taxable, unless an exemption applies (e.g., the lessee holds a CES number).

Property rental is optional. If the charge for the other property is optional to the customer (lessee) (a separate, optional charge is made for the rental of the other property, or the customer may rent the multipurpose facility without the other property for a lower amount), the rental of the other property is a separate sale from the rental of the multipurpose facility. The charge for the rental of the other property is subject to sales tax, unless an exemption applies (e.g., the lessee holds a CES number).

Rental of property affixed to realty (e.g., stove or dishwasher that is affixed to the realty). Charges for affixed property that is optional to the customer (lessee) (a separate, optional charge is made for the rental of the affixed property, or the customer may rent the multipurpose facility without the affixed property for a lower amount) are not subject to sales tax, assuming that the governmental unit is the owner of both the multipurpose facility and the affixed property.

Mandatory cleaning fees. A mandatory cleaning fee charge in connection with the rental of a multipurpose facility is considered part of the rental of the multipurpose facility. If the multipurpose facility rental is taxable, the entire charge, including any charge for cleaning, is taxable, even if the customer cleans the multipurpose facility himself or hires another party to clean the multipurpose facility.

Multipurpose Facility Rentals

The chart below shows the general sales and use tax treatment of a multipurpose facility rented for a particular use. An assumption is made that the seller does not provide any meals, food, or beverages with the multipurpose facility.

Caution: The information on the following chart is a generalization for instructional purposes only. The facts and circumstances in any particular situation will determine the actual tax treatment for that situation and may differ from the treatment presented here.

Customer's Use of Facility	Sales Tax Treatment (T= Taxable; NT=Not Taxable)	Comments and Assumptions
Auction	NT	Assumes no entertainment is included.
Banquet (Athletic)	NT	Assumes primary purpose is only to provide a facility for dinner and gifts, awards, or prizes and no entertainment at event.
Banquet (Nonprofit Organization Annual Dinner/Awards)	NT	Assumes primary purpose is only to provide a facility for dinner and gifts, awards, or prizes and no entertainment at event.
Bingo	T *	
Blood Drive	NT	Assumes no entertainment at event.
Car Show	NT	Assumes no entertainment at event.
Circus	T *	
Class (e.g., Dog Training)	NT	Assumes no entertainment at event.
Class (e.g., Square Dancing Lessons)	NT	Assumes no entertainment at event.
Concert (Orchestra)	T *	
Concert (Religious Music)	T *	
Concert (Rock Music)	T *	
Contest (e.g., Cooking)	T *	Assumes no professional cooks.
Convention (Professional)	NT	
Flea Market	NT	
Job Fair	NT	Assumes no entertainment at event.
Meeting (Company)	NT	
Party (e.g., Christmas Party, Anniversary Party, Birthday Party, Graduation Party)	T *	
Picnic (Company)	T	
Picnic (Family)	T	
Picnic (Church)	T *	Exempt if customer has CES number.
Picnic (Nonprofit Organization)	T *	Exempt if customer has CES number.
Play (Theatrical)	T *	
Practice (e.g., Soccer)	T *	Assumes no professional soccer players.
Religious Service or Meeting	NT	
Reunion/Dance	T	
Reunion Dinner Only	NT	Assumes primary purpose is only to provide a facility for dinner and gifts, awards, or prizes and no entertainment at event.
Seminar (Training)	NT	
Show (e.g., Trade Show, Auto Show, Dog or Cat Show, Travel Show, Bridal Show, Gun Show, Antique Show, Horse Show, Art or Craft Show)	NT	Assumes no entertainment at event.
Storage of Construction Equipment	NT	
Swap Meet	NT	Assumes no entertainment at event.
Tournament (e.g., Bridge)	T *	Assumes no professional bridge players.
Wedding Ceremony	NT	
Wedding Ceremony with Dance/Reception	T	
Wedding Ceremony with Dinner and Dance/Reception	T	
Wedding Ceremony with Dinner (no Dance/Reception)	NT	Assumes primary purpose is to provide a facility for a ceremony and dinner and no entertainment at event.
Wedding Dance/Reception	T	
Wedding Dinner	NT	Assumes primary purpose is to provide a facility for dinner and no entertainment at event.

* Note: Refer to #2 & 3 on page 1 of Appendix 1 for exceptions.