I. INTRODUCTION

This publication explains how Wisconsin sales and use taxes apply to cemetery monument dealers. (For purposes of this publication, “monument dealer” means any person or business selling cemetery monuments, including churches.)

II. SELLING REAL PROPERTY VS. TANGIBLE PERSONAL PROPERTY

To determine whether a sale is subject to Wisconsin sales tax, a monument dealer must first determine if it is selling:

A. Tangible personal property, or

B. Real property.

The monument dealer’s sales and purchases are taxed differently under each of these two situations.

III. SALE OF REAL PROPERTY

There is no Wisconsin sales tax on the sale, service, or repair of real property. The following examples illustrate a monument dealer’s sale, service, or repair of real property.

A. A monument dealer sells a monument for $1,500 to a customer. This $1,500 includes installing the monument to the cement foundation at the cemetery. Is this $1,500 sale taxable?

   Answer: No. The sale of real property is not taxable.

B. Same facts as in “A” above, except that the sale is to a church which has a Certificate of Exempt Status (CES) number from the Department of Revenue. Is this $1,500 sale to the church taxable?

   Answer: No. The sale of real property is not taxable.

C. A customer buys a monument for $1,500 from Company A (no installation involved). Company B is then hired by the customer to install the monument at the cemetery for $300. Is the $1,500 sale of the monument by Company A to the customer taxable?

   Answer: Yes. This transaction is a sale of tangible personal property.

D. A monument dealer sells a monument to a customer for $750, which includes installation of the monument and lettering on the monument for a deceased spouse. On a separate invoice, the monument dealer charges $75 for lettering to be placed on the same monument at a later date after the surviving spouse dies.

   Answer: No. The installation of the monument is a real property improvement. The sale is not taxable.

IV. SALE OF TANGIBLE PERSONAL PROPERTY

The sale, repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of tangible personal property are taxable. If a monument dealer sells, services, repairs, etc., tangible personal property, the dealer must obtain a seller’s permit, file sales tax returns, and remit the tax to the Department of Revenue.

The following examples illustrate sales of tangible personal property.

A. A monument dealer sells a monument to Company A for $750. No installation is furnished by the monument dealer. The monument dealer contracts with a carrier to have the monument delivered to Company A’s warehouse. The monument dealer charges Company A $750 for the monument plus $150 for freight.

   What amount is taxable?

   Answer: The total of $900 ($750 for monument plus $150 for freight) is taxable. This is a sale of tangible personal property that is taxable. For sales and use tax purposes, delivery charges ($150 in this example) made and collected by the seller are taxable if the property sold is taxable.

B. Same facts as in “A” above, except that Company A contracts with a carrier to transport the monument. Company A pays the carrier $150.

   What amount is taxable?

   Answer: The $750 sale of the monument to Company A is taxable because it is a sale of tangible personal property. The $150 charged by the carrier to Company A is not taxable because it was not charged and collected by the seller of the monument.

C. A monument dealer sells a monument (no installation involved) for $750 to a church.

   Is this $750 sale taxable?

   Answer: No, because sales of tangible personal property to organizations operated exclusively
P. PURCHASES

A. For items purchased and later resold as tangible personal property:

The monument dealer may purchase the items without tax by giving to the seller a properly completed Wisconsin Sales and Use Tax Exemption Certificate (Form S-211) or Streamlined Sales and Use Tax Exemption Certificate – Wisconsin (Form S-211-SST), claiming resale, and then remit use tax to the Department of Revenue on those items sold in constructing, altering, repairing, or improving real property in a taxable county. Generally, the sale of a monument is considered real property, and the monument dealer is allowed a credit against the county's sales or use tax on tangible personal property purchased in a taxable county for $1,000. On the return for the period in which the taxable sale is made, the monument dealer would enter on its sales and use tax return (Form ST-12) (a) $1,000 (its selling price of the monument) on line 1 and (b) $700 ($700 of the cost of the monument on which it paid tax) as a deduction on line 5.

Example: A monument dealer sells a monument to Company XYZ’s location outside Wisconsin for $1,100 and delivers it in Polk County (a taxable county). The Polk County tax applies. The sale is sourced to Polk County since that is where the purchaser received possession of the monument. The state and county taxes are computed as follows:

   Polk County Sales Tax ($750 x 0.5%) $3.75
   Wisconsin 5% Sales Tax ($750 x 5%) $37.50

Total State and County Sales Taxes $41.25

B. For items purchased and later consumed in the sale of real property:

• If the tax is not paid by the monument dealer to the seller, the dealer must pay sales or use tax when it later resells the items as tangible personal property. If the dealer later sells the items as tangible personal property for $1,100 from Company XYZ, picking up at Company XYZ’s location outside Wisconsin, the dealer must pay $49.50 ($1,100 x 4.5%) against the 5.5% Wisconsin state and county sales tax on the purchase price of the monuments. The dealer also paid $100 ($1,100 x 9.5%) against the 5.5% Wisconsin state and county sales tax on the purchase of the cement. However, the dealer is allowed a credit of $49.50 ($1,100 x 4.5%) against the 5.5% Wisconsin state and county sales tax due. The dealer does not owe use tax on the cement, since it already paid the 5.5% Wisconsin state and county sales tax on its purchase of the cement.

VII. STADIUM TAX

A. Sale of Real Property

The 0.5% county use tax is imposed upon the purchase price of tangible personal property used in constructing, altering, repairing, or improving real property in a taxable county. The sales of tangible personal property purchased out-side of Wisconsin and stored in any manner in a tax-exempt county, prior to being used to construct, alter, or repair, or improve real property in or outside that county.

Example: A monument dealer sells a monument (no installation) for $750 and delivers it to the dealer’s own trailer to a customer located in Polk County (a taxable county). The Polk County tax applies. The sale is sourced to Polk County since that is where the purchaser received possession of the monument. The state and county taxes are computed as follows:

   Wisconsin 5% Sales Tax ($750 x 5%) $37.50
   Polk County Sales Tax ($750 x 0.5%) $3.75

Total State and County Sales Taxes $41.25

B. Sale of Tangible Personal Property

Sales of tangible personal property by a monument dealer are subject to a county’s sales tax if the sales are sourced to (i.e., take place in) that county. Generally, the sale of a monument is sold as tangible personal property or real property, the dealer has two options.

1. Purchase the items without tax by giving the seller a properly completed Wisconsin Sales and Use Tax Exemption Certificate (Form S-211) or Streamlined Sales and Use Tax Exemption Certificate – Wisconsin (Form S-211-SST), claiming resale, and then remit use tax to the Department of Revenue on those items sold as tangible personal property.

Example: A monument dealer purchased this cement for $1,100 from Company XYZ, picking it up at Company XYZ’s location outside Wisconsin. Company XYZ property collected 4.5% state sales tax for the other state. The dealer also purchased cement for $75 for the cement foundation, paying the 5.5% Wisconsin state and local sales tax on the purchase of the cement.

Vi. COUNTY TAX

A. Sale of Real Property

The 0.5% county use tax is imposed upon the purchase price of tangible personal property used in constructing, altering, repairing, or improving real property in a taxable county. The monument dealer is liable for the 5% Wisconsin state use tax and 0.5% Dane County use tax on its $1,100 purchase price of the monument. However, the dealer is allowed a credit of $49.50 ($1,100 x 4.5%) against the 5.5% Wisconsin state and county use tax due. The dealer does not owe use tax on the cement, since it already paid the 5.5% Wisconsin state and county sales tax on its purchase of the cement.

There is no 5% Wisconsin sales tax or 0.5% county tax on the $1,500 sale by the dealer to the customer because this is a sale of real property.

Example: A monument dealer sells a monument (no installation) for $5,100 to a customer. The monument is installed by the dealer at a cemetery located in Dane County (a taxable county). The monument dealer purchased this monument for $1,100 from Company XYZ, picking it up at Company XYZ’s location outside Wisconsin. Company XYZ property collected 4.5% state sales tax for the other state. The dealer also purchased cement for $75 for the cement foundation, paying the 5.5% Wisconsin state and local sales tax on the purchase of the cement.

The monument dealer is liable for the 5% Wisconsin state use tax and 0.5% Dane County use tax on its $1,100 purchase price of the monument; however, the dealer is allowed a credit of $49.50 ($1,100 x 4.5%) against the 5.5% Wisconsin state and county use tax due. The dealer does not owe use tax on the cement, since it already paid the 5.5% Wisconsin state and county sales tax on its purchase of the cement.

C. For items purchased which may be resold as tangible personal property or real property:

If the monument dealer doesn’t know at the time of purchase whether items (such as monuments) will be sold as tangible personal property or real property, the dealer has two options.

1. Purchase the items without tax by giving the seller a properly completed Wisconsin Sales and Use Tax Exemption Certificate (Form S-211) or Streamlined Sales and Use Tax Exemption Certificate – Wisconsin (Form S-211-SST), claiming resale, and then remit use tax to the Department of Revenue on those items sold as tangible personal property.

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2. Purchase the items with tax and then claim a deduction on the monument dealer’s sales and use tax return for the dealer’s cost of those items sold as tangible personal property in a taxable sale.

Example: A monument dealer paid $700 (plus $35 sales tax) for a monument, and later sells the monument as tangible personal property for $1,000. On the return for the period in which the taxable sale is made, the monument dealer would enter on its sales and use tax return (Form ST-12) (a) $1,000 (its selling price of the monument) on line 1 and (b) $700 ($700 of the cost of the monument on which it paid tax) as a deduction on line 5.

Note: For items purchased and later resold as tangible personal property, unless an exemption applies.

Note: The monument dealer must charge sales tax when it later resells the items as tangible personal property, unless an exemption applies.

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