

## **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

# **Hotels, Motels, and Other Lodging Providers**

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

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### **IMPORTANT CHANGES**

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

**Foreign diplomat cards.** A clarification is made to explain which foreign diplomat cards may be used to purchase lodging without tax. Page 7.

**Discounted meals sold to employees.** Information was added to explain the taxable amount of the sale of discounted meals to employees. Page 9.

**Purchases of equipment rented to customers.** Additional information and examples have been added to further clarify the tax treatment of a hotel's purchase of equipment that is used to rent to customers. Page 17.

## **I. INTRODUCTION**

This publication explains how Wisconsin sales and use taxes affect hotels, motels, and other lodging providers. It includes examples of taxable and nontaxable sales and rentals and information about purchases by hotels, motels, and other lodging providers.

“**Hotel**,” as used in this publication, includes hotels, motels, bed and breakfasts, resorts, lodges, inns, and others providing lodging accommodations to the public.

Certain sales and purchases by hotels which are subject to the 5% state sales and use tax may also be subject to the: (a) 0.5% county sales and use tax, (b) 0.1% baseball stadium sales and use tax, (c) 0.5% football stadium tax (ends September 30, 2015), (d) local exposition taxes, and (e) 0.5% premier resort area sales tax for the City of Bayfield, the City of Eagle River, and the Village of Stockholm or 1.25% premier resort area sales tax for the City of Wisconsin Dells and the Village of Lake Delton. Additional information about these taxes is contained in the following:

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

- (c) Football stadium tax: [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Part XVIII, applies to sales and purchases made in Brown County. **Note:** The football stadium in Brown County tax ends September 30, 2015.
- (d) Local exposition taxes: [Publication 410](#), *Local Exposition Taxes*, applies to sales and purchases of certain lodging, food, beverages, and car rentals in municipalities wholly or partially within Milwaukee County.
- (e) Premier resort area tax: [Publication 403](#), *Premier Resort Area Tax*, applies to sales by certain types of retailers of taxable products and services in the Village of Lake Delton, City of Wisconsin Dells, City of Bayfield, City of Eagle River, and the Village of Stockholm.

### **CAUTION**

- The information in this publication reflects interpretations by the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature and in effect as of July 1, 2015. Laws enacted and in effect after that date, new administrative rules, and court decisions may change the interpretations in this publication.
- The examples and lists of taxable and nontaxable sales and purchases are not all-inclusive. They merely set forth common examples.

## **II. OBTAINING A SELLER'S PERMIT AND FILING RETURNS**

### **A. Who Must Obtain a Seller's Permit**

Every individual, partnership, corporation, or other organization making taxable sales in Wisconsin, regardless of whether its sales are mercantile in nature, is required to have a seller's permit. See Part III. for information about what sales and rentals by hotels are taxable in Wisconsin.

### **B. When Should You Apply For a Seller's Permit?**

Apply for a seller's permit at least three weeks before you open your business. If you buy an existing business, the seller's permit cannot be transferred to you. You must apply for a new permit. If you applied for a seller's

permit before you opened your business but did not receive the permit at the time of opening the business, you are allowed to make retail sales. However, you are liable for the sales and use taxes and for keeping proper records from the date of opening the business.

### C. Obtaining a Seller's Permit and Filing Returns

See Part III. of [Publication 201](#), *Wisconsin State and County Sales and Use Tax Information*, for information about how to obtain a seller's permit. Information about filing sales and use tax returns is also provided in Part VIII. of Publication 201.

## III. HOTEL'S SALES AND RENTALS TO CUSTOMERS

### A. General

Sales, licenses, leases, and rentals of tangible personal property, certain coins and stamps, certain leased property affixed to realty, and certain digital goods (collectively referred to as "property, items, and goods"), and certain services are subject to the Wisconsin state sales tax. **Note:** Certain sales by a hotel, motel, or other lodging provider are exempt from tax. See Part III. for examples of the tax treatment of specific products.

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

### B. Lodging Services

- **Less Than One Month** — Furnishing lodging to the same person or entity (e.g., corporation, partnership, sole proprietorship) at a hotel for a continuous period of **less than one month** is subject to Wisconsin sales tax.

**"One month,"** as used in this publication, means the lesser of: (1) a calendar month, or (2) a continuous period of 30 days. For purposes of counting the number of days stayed at a hotel, the day the customer checks into the hotel is counted as a day. However, the day the customer checks out of the hotel is **not** counted as a day.

**Example — Lodging for Less Than One Month:** Customer checks into Hotel on August 1 and checks out of Hotel on August 30. Hotel has provided lodging to Customer for 29 days. The charge to Customer is subject to Wisconsin sales tax because he did not stay for an entire calendar month or for a continuous period of 30 days or more.

- **One Month or More** — Furnishing lodging to the same person or entity (e.g., corporation, partnership, sole proprietorship) at a hotel for a continuous period of **one month or more** is **not** subject to Wisconsin sales tax. **Note:** If the sale of the lodging service is exempt from Wisconsin sales tax, it is also exempt from the local room taxes (i.e., municipal room taxes, local exposition district taxes).

**Example — Lodging for One Month or More:** Customer checks into Hotel on July 20 and checks out of Hotel on August 19. Hotel has provided lodging to Customer for 30 days. The charge to Customer is **not** subject to Wisconsin sales tax because Customer purchased lodging services for a continuous period of 30 days or more.

- **Rooms Provided to Airlines, Trucking Companies, Railways, etc.**

A continuing monthly rental of a particular room or rooms by a business, including airlines, trucking companies, or railways, to be used by its employees for layover is not taxable because the stay is one month or more. The hotel is providing lodging for a continuous period of one month if the hotel is at all times during the month providing or obligated (i.e., airline has paid for the room or rooms) to provide a room or group of rooms to the customer.

If at **any time** during the month the hotel is not providing and is not obligated (i.e., airline has not paid for the use of the room or rooms) to provide a room or group of rooms to the customer, the hotel is not providing lodging for a continuous period of one month. The following two examples illustrate how to determine

whether a room is provided for a “continuous period.”

**Example 1 – 2-Day Continuous Period:** Airline's Flight Crew A checks into the hotel at 8:00 p.m. on June 5, 2015. Flight Crew A checks out of the hotel at 9:00 a.m. on June 6, 2015. Flight Crew B (Airline's next crew) arrives at the hotel and checks in at 5:00 p.m. on June 6, 2015.

Under its contract with Airline, the hotel is obligated to provide the rooms to Flight Crew A for a period of 25 hours and 15 minutes starting at the time the crew checks in. Therefore, the hotel is obligated to provide these rooms to Airline until 9:15 p.m. on June 6, 2015 under the contract.

Even though Flight Crew A checked out of the hotel prior to the arrival of Flight Crew B, the hotel is still considered to have provided lodging for a continuous 2-day period since Flight Crew B arrived within 25 hours and 15 minutes of when Flight Crew A originally checked in (i.e., Flight Crew B checked in prior to 9:15 p.m.).

**Example 2 – Not 2-Day Continuous Period:** Airline's Flight Crew A checks into the hotel at 7:00 p.m. on June 5, 2015. Flight Crew A checks out of the hotel at 9:00 a.m. on June 6. Flight Crew B (the next crew) arrives at the hotel and checks in at 9:00 p.m. on June 6, 2015.

Under its contract with Airline, the hotel is only obligated to provide lodging to Flight Crew A for a period of 25 hours and 15 minutes starting at the time the crew checks in. Under the contract, Airline is only renting these rooms from the hotel up until 8:15 p.m. on June 6, 2015.

Since the hotel is not providing the airline any lodging service from 8:15 p.m. on June 6, 2015 (25 hours and 15 minutes after Flight Crew A arrived) until 9:00 p.m. on June 6, 2015 (the time when Flight Crew B checks in to the hotel), the hotel has not provided lodging for a continuous period of June 5 through June 6, 2015.

- **Lodging Packages** — The entire charge for furnishing lodging packages, which include lodging along with other taxable or nontaxable property or services, is subject to Wisconsin sales tax, assuming more than 10 percent of the purchase price and sales price of the package is related to taxable products (i.e., lodging service, prepared food, admissions).

**Example — Lodging Packages:** Hotel offers a lodging package for \$170. The package includes two nights of lodging, two breakfast buffets, dinner, and the use of the health spa. The entire \$170 is subject to Wisconsin sales tax.

See Part III.K. for additional information relating to admissions to amusement places (e.g., waterparks) that hotels may include as part of a package.

- **Lodging for Federal and Wisconsin Governmental Agencies, Federally Recognized American Indian Tribes or Bands in Wisconsin, and Certain Nonprofit Organizations** — Lodging furnished to the agencies, tribes or bands, and organizations listed below is not subject to Wisconsin sales tax:

- 1) **Wisconsin** governmental agencies (including counties, cities, villages, towns, and public school districts),
- 2) federal governmental agencies,
- 3) federally recognized American Indian tribes or bands in Wisconsin, and
- 4) nonprofit organizations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals.

For lodging furnished to these governmental agencies, tribes or bands, and nonprofit organizations to be exempt from Wisconsin sales tax, the following conditions must be met:

- 1) The hotel issues the invoice or billing document in the name of the governmental

agency, tribe, band, or nonprofit organization, and

**Note:** If the employee pays for the lodging, the employee should provide a document from the employer that he or she is traveling on government, tribe, band, or nonprofit organization business and will be reimbursed by his or her employer.

- 2) The hotel receives one of the following:
  - a) For Wisconsin or federal governmental units or federally recognized American Indian tribes or bands in Wisconsin:
    1. A purchase order or similar written document identifying the governmental unit, tribe, or band as the purchaser,
    2. A properly completed *Wisconsin Sales and Use Tax Exemption Certificate* ([Form S-211](#)) or *Streamlined Sales and Use Tax Exemption Certificate* – Wisconsin version ([Form S-211-SST](#)), or
    3. The federal or Wisconsin governmental unit's, tribe's, or band's CES number which the hotel records on its copy of the invoice.
  - b) For **Wisconsin** nonprofit organizations, the Certificate of Exempt Status (CES) number which the hotel must enter on the hotel's copy of the invoice or billing document, or a properly completed *Wisconsin Sales and Use Tax Exemption Certificate* ([Form S-211](#)) or *Streamlined Sales and Use Tax Exemption Certificate* – Wisconsin version ([Form S-211-SST](#)), which provides the nonprofit organization's CES number.
  - c) For nonprofit organizations **not located in Wisconsin**, which are organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, a properly completed

*Wisconsin Sales and Use Tax Exemption Certificate* ([Form S-211](#)) or *Streamlined Sales and Use Tax Exemption Certificate* – Wisconsin version ([Form S-211-SST](#)), even though they have not been issued a Wisconsin CES number.

The hotel must keep a copy of each of the documents (i.e., invoice or billing document, purchase order, CES number, exemption certificate) referred to in numbers 1) and 2) above, to show that the sale was exempt. **Note:** If the sale of the lodging service is exempt from Wisconsin sales tax, it is also exempt from the local room taxes (i.e., municipal room taxes, local exposition district taxes).

**Example — Exempt Sale to Wisconsin Governmental Employee:** A City of La Crosse employee purchases two nights of lodging while traveling on city business. The employee provides to the hotel a letter from the City of La Crosse, indicating that the employee is on city business and is authorized to purchase lodging relating to such business. On its billing, the hotel indicates that the City of La Crosse is the customer (the name of the city employee may also appear on the billing). The employee pays the bill with his or her own funds and is subsequently reimbursed by the City of La Crosse. The sale of the lodging is **not** subject to Wisconsin sales tax because it is considered a sale to a Wisconsin governmental agency. The hotel should keep the letter from the City of La Crosse in its files.

**Note:** In the above example, if the hotel issues the billing solely in the employee's name (rather than the city's), the sale is subject to Wisconsin sales tax since it is considered to be a sale to the individual, rather than a sale to the City of La Crosse.

**Note:** The exemption that a college, university, or technical college has for its purchases does not extend to purchases by others, such as contractors hired by the college, university, or technical college or another state's university system.

- **Governmental Agencies of Other States** — Furnishing lodging to governmental agencies (including counties, cities, villages, towns, and school districts) **of states other than Wisconsin** is subject to Wisconsin sales tax.

*Example — Taxable Sale to Governmental Agency Located Outside Wisconsin:* A City of Chicago employee purchases four nights lodging from Hotel while traveling on city business in Wisconsin. The sale of the lodging is subject to Wisconsin sales tax. The City of Chicago is not a Wisconsin governmental agency.

- **Foreign Diplomats** — Furnishing lodging to a foreign diplomat who has an exemption card issued by the federal Department of State is **not** subject to Wisconsin sales tax. A valid exemption card has a photograph of the individual, personal data, an expiration date, the mission name, and a tax exemption number on it. Valid cards also have an animal image (owl or eagle\*) to identify the level of exemption the cardholder is authorized to receive. The tax exemption number must be recorded on the hotel's invoice to exempt this type of sale from Wisconsin sales tax. **Note:** If the sale of the lodging service is exempt from Wisconsin sales tax, it is also exempt from the local room taxes (e.g., municipal room taxes, local exposition district taxes).

\*An exemption certificate that has the image of a buffalo or deer cannot be used for lodging. The back of a foreign diplomat exemption card indicates what purchases are exempt from tax.

**Caution:** Not all foreign officials are entitled to tax exemption, because this privilege is based on reciprocity the Department of State has with other foreign missions. The Department of State, Office of Foreign Missions, issues a Diplomatic Tax Exemption Card to qualifying foreign officials. The Office of Foreign Missions includes on its website a database that allows retailers to verify the tax-exempt status of foreign officials. It may be accessed at [of-mapps.state.gov/tecv/](http://of-mapps.state.gov/tecv/).

- **Persons Holding a Direct Pay Permit** — Lodging services are not services for which a

direct pay permit can be used. The hotel *may not* accept a copy of a direct pay permit or an exemption certificate (e.g., [Form S-211](#)) claiming a direct pay exemption from the tax. **Note:** A person holding a direct pay permit generally can make purchases without tax and later report the tax to the department on its taxable purchases. This does not apply to purchases of lodging services.

- **Rooms Generally Used as Sleeping Accommodations** — Rentals of rooms generally used as sleeping accommodations are subject to Wisconsin sales tax, regardless of how the room is used.

*Example — Sleeping Room Used by a Salesperson for Display Room:* A salesperson pays to use a room, which is normally used for sleeping accommodations, as a display room from 8:00 a.m. to 4:00 p.m. Since this room is generally used for sleeping accommodations, the charge for the use of the room is subject to Wisconsin sales tax.

- **Complimentary Rooms** — A hotel is not liable for sales tax on the furnishing of complimentary rooms that are provided for no consideration to guests, employees, travel agents, advertisers, or other persons.
- **Meeting and Conference Rooms** — Rentals of meeting and conference rooms used for meetings, conventions, conferences, and seminars are **not** subject to Wisconsin sales tax. Rentals of meeting and conference rooms are taxable if the rooms are used for amusement, entertainment, athletic, or recreational purposes. Room fees that are mandatory in order to receive prepared food are also taxable.
- **Forfeited Room Deposits** — Amounts customers deposit to hold a room and which are forfeited to the hotel because the customer fails to arrive and use the room (“no shows”) are **not** subject to Wisconsin sales tax, if the room is available to be furnished to another guest.

If the hotel keeps the room available for the guest who is charged the deposit, the deposit is taxable.

- **Resort Fees and Fuel Surcharge Fees** — Mandatory resort fees and fuel surcharge fees charged in connection with the furnishing of lodging is considered part of the sale of the lodging. If the lodging charge is subject to tax, these fees are also subject to tax.
- **Security Deposits** — Amounts charged to customers as security deposits solely for damages to the room are not subject to Wisconsin sales tax if such amounts are returned to the customer if there is no damage to the room.
- **Cleaning Fees** — A mandatory cleaning fee charged in connection with the furnishing of lodging, such as a fee charged on all rooms, charged on all smoking rooms, charged on rooms with three or more guests, etc., is considered part of the sale of the lodging. If the lodging charge is subject to tax, the cleaning fee is also subject to tax.
- **Cancellation Fees** — Amounts charged to customers who cancel a room reservation are not subject to Wisconsin sales tax if the room is available to be furnished to another guest. If the hotel keeps the room available for the customer who is charged the cancellation fee, the cancellation fee is taxable.
- **Late Check-Out Fees** — Amounts charged to customers for late check-out in connection with the furnishing of lodging are part of the sale of the lodging to the customer. If the lodging charge is subject to tax, the late check-out fee is also subject to tax.
- **Damage Fees** — Fees charged by the hotel for damages to the hotel room or furnishings are not subject to Wisconsin sales or use tax.
- **Lost Key Fees** — Amounts charged to customers for lost keys in connection with the furnishing of lodging are part of the sale of the lodging to the customer. If the lodging charge is subject to tax, the lost key fee is also subject to tax.
- **Lock Out Fees** — Amounts charged to guests if the guest is locked out of the room and the lodg-

ing provider has to let the guest back into the room are not subject to tax.

- **Smoking Fees** — A fee charged by the hotel for cleaning that is charged on all smoking rooms is considered a part of the sales price from lodging and is taxable, unless an exemption applies. However, if the charge is a cleaning fee that is imposed only on rooms that require additional cleaning after the lodging period is over (i.e., the guest has already “checked-out” of the room), the fee is not taxable.
- **Child Care Services** — Fees for providing child care services are not subject to Wisconsin sales or use taxes.
- **Pet Fees** — Additional amounts charged to customers with a pet are considered a part of the total sale of the lodging to the customer. If the lodging charge is subject to tax, the amount charged as a pet fee is also subject to tax.
- **Local Room Taxes** — Local room taxes that are imposed by municipalities or the local exposition district are not subject to Wisconsin state, county, or stadium district taxes.

**Example 1:** A hotel, located in the City of Madison, provides lodging for ten days at the rate of \$100 per day to a customer. The charge by the hotel for the lodging is subject to 9% municipal room tax. The charge to the customer is computed as follows:

Lodging	\$1,000
State and county tax (\$1,000 x 5.5%)	55
Municipal room tax (\$1,000 x 9%)	90
Total charge to customer	<u>\$1,145</u>

**Example 2:** A hotel, located in the City of Milwaukee, provides lodging for ten days at the rate of \$100 per day to a customer. The charge by the hotel for the lodging is subject to the 2.5% local exposition district basic room tax and the 7% local exposition district additional room tax (9.5% total). The charge to the customer is computed as follows:



Lodging	\$1,000
State, county, and baseball stadium tax (\$1,000 x 5.6%)	56
Basic room tax (\$1,000 x 2.5%)	25
<u>Additional room tax (\$1,000 x 7%)</u>	<u>70</u>
Total charge to customer	<u>\$1,151</u>

**C. Food and Beverages**

- **Prepared Foods, Candy, Soft Drinks, and Dietary Supplements** — Sales of prepared foods, candy, soft drinks, alcoholic beverages, and dietary supplements are taxable.

Examples of taxable food and beverage sales include:

- Beer
- Candy
- Dried fruit with sweeteners
- Heated food and beverages
- Juices that contain sweeteners and 50% or less fruit or vegetable juice by volume
- Nuts that are candy such as honey roasted cashews
- Sandwiches that are prepared foods
- Soft drinks
- Water, sweetened

For more information concerning sales of food and beverages, see [Publication 220, Grocers: How Do Wisconsin Sales and Use Taxes Affect Your Operations?](#)

- **Room Service Charges, Delivery Charges, and Gratuities** — Room service charges, delivery charges, and gratuities added by the seller on taxable sales of food and beverages are subject to Wisconsin sales tax. However, gratuities given at the customer’s discretion are not subject to Wisconsin sales tax.
- **Food and Beverages Sold to Employees** — Sales of food and beverages to employees are taxable in the same manner as sales to other persons.

A hotel is considered to have “sold” a meal (i.e., prepared food) to an employee in any of the following four situations:

- 1) Employee pays cash for the meal.
- 2) A charge for the meal is deducted from the employee’s wages.
- 3) An employee receives meals in lieu of cash to bring the employee’s compensation up to the legal minimum wage.
- 4) An employee has the option to receive cash for meals not consumed.

If the hotel offers discounted meals to its employees and is not reimbursed for the discount by another party, the amount that is taxable is the discounted amount (i.e., the amount that the employee pays).

**Example:** Hotel Restaurant sells prepared food to its employees at a 75% discount. Hotel Restaurant does not receive a reimbursement from any other person for the discounted amount. Employee purchases a \$10 hamburger for the discounted price of \$2.50. Hotel Restaurant’s taxable receipts are \$2.50.

If a hotel also operates a restaurant, see Part IV.B.4. of this publication for information relating to the restaurant’s purchases of items that are furnished *for no consideration* to the restaurant’s employees during the employee’s work hours.

- **Beer, Liquor, and Other Alcoholic Beverages** — Sales of alcoholic beverages, such as beer, liquor, and wine, are subject to Wisconsin sales tax.
- **Bottled Water in Rooms** — Sales of bottled water that is provided in a guest’s individual sleeping room are not subject to Wisconsin sales tax, unless the water is sweetened. Sales of bottled water that are sweetened are subject to Wisconsin sales tax.
- **Mandatory Banquet Room or Cleaning Fees With Prepared Food** — Banquet room fees,

including room rental or cleaning fees, that are mandatory in order to receive prepared food, soft drinks, or alcoholic beverages are taxable as part of the selling price of the prepared food, soft drinks, or alcoholic beverages.

- **Cover Charges** — Cover or minimum charges which entitle customers to receive entertainment or to dance are subject to Wisconsin sales tax.

**Example — Cover Charges:** A hotel provides entertainment in its bar on Saturday nights. Everyone entering the bar after 8:00 p.m. is charged a \$2 cover charge. The \$2 charge is subject to Wisconsin sales tax.

**Note:** Sales of prepared foods, candy, soft drinks, dietary supplements, and cover charges to Wisconsin and federal governmental agencies, federally recognized American Indian bands or tribes in Wisconsin, certain nonprofit organizations, and qualifying foreign diplomats are not taxable. See the section titled *Lodging for Federal and Wisconsin Governmental Agencies, Federally Recognized American Indian Bands or Tribes in Wisconsin, and Certain Nonprofit Organizations*, on page 5 of this publication, concerning sales to these types of customers.

#### D. Telephone Calls, FAX Transmissions, Cable TV, and Internet Access Charges

- Charges by a hotel for telephone services, FAX transmissions, cable TV, and Internet access services are not subject to Wisconsin sales tax.
- Charges by a hotel for “pay-per-view” channels which the hotel purchases from the pay-per-view provider and then provides to the customer are not subject to Wisconsin sales tax. **Note:** If the hotel is acting as the billing and collection agent of the pay-per-view service or Internet access provider, the hotel is required to collect the applicable tax from the customer on behalf of the pay-per-view or Internet access provider.

#### E. Vending Machines, Video Games, and Amusement Devices

1. **Vending Machines** — Sales of taxable products and services through vending machines are subject to Wisconsin sales tax. If the hotel “controls” or is the “operator” of the machine, the hotel’s receipts from the vending machine sales of items listed in Part b., below, are subject to Wisconsin sales tax.

A hotel is considered to have “control” over the vending machine or be the “operator” if: (1) the hotel has the right to access the machine for stocking, restocking, or removing the receipts from the machine, or (2) the hotel owns the tangible personal property or items, property, or goods, sold through the vending machine.

##### a. Exempt Vending Machine Sales

Examples of exempt sales from vending machines, assuming the items do not meet the definition of “candy,” “dietary supplement,” “soft drink,” or “prepared food,” as those terms are defined in [Publication 220, Grocers: How Do Wisconsin Sales and Use Taxes Affect Your Operations?](#), include:

- Beverages that contain milk or milk products
- Cookies
- Donuts
- Fruit
- Granola bars that contain flour
- Ice tea that is not sweetened
- Juices that are more than 50% fruit or vegetable juice by volume
- Milk
- Newspapers
- Peanuts that are plain or just salted
- Potato chips and corn chips
- Pretzels
- Raisins that are not sweetened
- Unpopped bags of microwave popcorn
- Water that is not sweetened
- Yogurt

**Example:** Hotel sells fruit, milk in sealed cartons, and potato chips through vending machines located in the hotel lobby. Such sales are exempt from Wisconsin sales tax.

See [Publication 220](#), *Grocers – How Do Wisconsin Sales and Use Taxes Affect Your Operations?*, for more examples.

#### **b. Taxable Vending Machine Sales**

Sales of the following items from vending machines are taxable (list is not all-inclusive):

- baby care supplies, such as disposable diapers and wipes
- cameras, film, and other photography supplies
- candy and chewing gum
- cigars, cigarettes, tobacco, and lighters
- dietary supplements
- electrical supplies, such as flashlights, bulbs, batteries, and fuses
- fermented malt beverages and intoxicating liquors
- heated foods, heated beverages, and other prepared foods
- hygiene products, such as soap, shampoo, combs, deodorant, shaving cream, and razors
- juice drinks that contain sweeteners and 50% or less fruit or vegetable juice by volume and powdered drink mixes that are dietary supplements
- drugs, tonics, vitamins, and medicinal preparations in any form
- photocopies
- popcorn that is candy, such as caramel corn
- prepaid telephone cards
- reading materials such as books, magazines, and periodicals (newspapers are not subject to tax)
- soft drinks

- toiletries, such as toilet paper, facial tissue, bubble bath, toothbrushes, and feminine hygiene products
- water that is sweetened
- wearing apparel, such as gloves, hosiery, and shoelaces

**Example — Hotel is “Operator” of Vending Machine:** Hotel is the operator of a soda vending machine. (See Part III.E.3. for an example of when the hotel receives commissions and is not the “operator” of the machine.) The vending machine has a posted sign stating that the “Price Includes Sales Tax.” In January, the total amount that customers paid into the machine is \$200. The \$200 includes tax; therefore, the sales price subject to tax is \$190.48, and the 5% state sales tax liability is \$9.52 (\$200 divided by 105% = \$190.48 sales price). *This example does not account for any local taxes.*

#### **2. Video Games and Amusement Devices —** Receipts from video games and amusement devices are subject to Wisconsin sales tax.

If the hotel “controls” or is the “operator” of the video game or amusement device, the hotel’s receipts from the video games and amusement devices are subject to Wisconsin sales tax. See Part III.E.1., titled *Vending Machines*, for an explanation of “control” and “operator.”

#### **3. Commissions —** If the hotel receives commissions from a third party who “controls” or is the “operator” of the vending machines, video games, and amusement devices, the hotel’s receipts from such commissions are **not** subject to Wisconsin sales tax. The third party is responsible for reporting the Wisconsin sales tax on the total sales from the machine, without any deduction for the commission which is paid.

**Example — Commissions:** Hotel receives a commission equal to 50% of the total sales from an amusement device in return for allowing Company to place the amusement device in Hotel. Hotel is not the operator of and does not control the amusement device. A statement on the amusement device indicates that the “Price Includes Sales Tax.” In February, the total amount that customers

pay to play the amusement device is \$200. Hotel receives a commission of \$95.24. (The 50% commission was calculated as follows: \$200 divided by 105% = \$190.48; \$190.48 X 50% = Hotel's commission.) The \$95.24 commission received by Hotel is not subject to Wisconsin sales tax. Company's total sales (less the sales tax included) from the amusement device of \$190.48 are subject to Wisconsin sales tax and must be reported on Company's sales and use tax return. *This example does not account for any local taxes.*

#### F. Gift Shop Sales

- Sales of tangible personal property, such as souvenirs, clothing, postcards, candy, magazines, and soft drinks, are subject to Wisconsin sales tax.
- Sales of newspapers are not subject to Wisconsin sales tax.

#### G. Rentals of Tangible Personal Property

- **Furniture and Equipment** — Rentals of furniture and equipment, such as rollaway beds, tables, audio-visual equipment, video tapes and games, DVDs, microphones, microwave ovens, refrigerators, etc., that are separate and optional from the room rental are subject to Wisconsin sales tax.

**Example 1 — Renting Equipment:** Customer rents a meeting room from Hotel for \$300. Customer is also charged \$100 for the use of audio-visual equipment. The equipment rental charge of \$100 is subject to Wisconsin sales tax. The \$300 for the rental of the meeting room is not subject to Wisconsin sales tax.

**Example 2 — Renting Meeting Room With Equipment:** Customer rents a meeting room from Hotel for \$500. The \$500 entitles Customer the use of the room and various audio-visual equipment, tables, and chairs, regardless of whether Customer actually uses the items. The \$500 is not subject to Wisconsin sales tax.

See Part IV.B.5. for the tax treatment of the hotel's purchase of the rental equipment.

- **Recreational Equipment** — Rentals of recreational equipment, such as bicycles, canoes, boats, rafts, water skis, fishing poles, and motor bikes are subject to Wisconsin sales tax.

See Part IV.B.5. for the tax treatment of the hotel's purchase of the rental equipment.

#### H. Parking

Charges for providing parking space for motor vehicles are subject to Wisconsin sales tax.

**Example 1 — Separate Charge for Room and Parking:** Customer stays in Hotel for one night. Hotel has a parking ramp. Hotel charges Customer \$80 for the room. If Customer chooses to park in the parking ramp, Hotel adds a separate charge of \$10 for parking. Both the \$80 for the room and the \$10 for the parking are subject to Wisconsin sales tax.

**Example 2 — Parking Only:** Hotel offers parking for \$20 per day to persons not staying at their hotel. The \$20 is subject to Wisconsin sales tax.

**Example 3 — Parking Charge to Eat at Restaurant:** Hotel charges \$3 to park in the hotel's parking lot while eating at a restaurant. The \$3 is subject to Wisconsin sales tax.

#### I. Laundry and Dry Cleaning Services and Machines

- Laundry and dry cleaning services provided by hotels are subject to Wisconsin sales tax.
- Receipts from self-service laundry machines are not subject to Wisconsin sales tax.

#### J. Photocopying Services and Machines

- Charges for photocopies made by hotels for customers are subject to Wisconsin sales tax.
- If the hotel "controls" or is the "operator" of self-service photocopy machines, its receipts

from such machines are subject to Wisconsin sales tax. It does not matter whether the machines are coin-operated or activated by tokens or magnetic cards. See Part III.E., titled *Vending Machines, Video Games, and Amusement Devices*, for additional information.

#### **K. Admissions to Amusement, Athletic, Entertainment, and Recreational Facilities**

Charges for providing access to amusement, athletic, entertainment, and recreational facilities, places or events, (e.g., bars, night clubs, swimming pools, golf courses, driving ranges, and horseback riding) are subject to Wisconsin sales tax, except when one of the following apply:

1. The person uses the facility for a nonrecreational type of event (religious meeting, political meeting, trade show, educational seminar, swimming lessons). The hotel should document why this sale is not taxable on the copy of the invoice that it retains for its records.
2. The organization paying for the use of the facility is exempt from tax (e.g., a church that holds a CES number). See Part III.B. for information about documentation needed.
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. The person renting the facility may claim the resale exemption for the admissions by providing the hotel with a fully completed *Wisconsin Sales or Use Tax Exemption Certificate* ([Form S-211](#)) or *Streamlined Sales and Use Tax Exemption Certificate* – Wisconsin version ([Form S-211-SST](#)) claiming resale.

A tax release published on pages 15 to 17 of [Wisconsin Tax Bulletin #78 \(July 1992\)](#), titled “Admissions to Athletic or Recreational Events or Places,” provides additional information on what charges relating to the use of athletic and health club facilities are subject to Wisconsin sales tax.

**Example 1 – Separate and Optional Charge for Admission to Waterpark Operated by Hotel:** Hotel has a waterpark within its hotel. Hotel charges \$10

per person to use the waterpark. Hotel's \$10 charge for admission to the waterpark is subject to Wisconsin sales tax.

**Example 2 – Admission to Waterpark Operated by Hotel Included With Lodging Services:** Same as *Example 1*, except that Hotel includes the use of the waterpark allows persons staying at its hotel to use the waterpark for no additional charge. Persons not staying at the hotel must still pay \$10 per person to use the waterpark. For persons staying at the hotel, Hotel does not have any receipts from admission to the waterpark. For persons not staying at the hotel, Hotel's \$10 charge for admission to the waterpark is subject to Wisconsin sales tax.

**Example 3 – Separate and Optional Charge for Admission to Waterpark Operated by Third Party:** Hotel provides lodging services for \$100 per night. Persons staying at the hotel are given the option to purchase an admission to a waterpark operated by a third party for \$15. Hotel's \$100 charge to its customer for the lodging service and the \$15 charge for admission to the waterpark are subject to Wisconsin sales tax. Hotel's purchases of the admissions to the waterpark from the third party that Hotel resells to its customers are not subject to tax because they are for resale.

**Example 4 – Admission to Waterpark Operated by Third Party Included With Lodging Services:** Hotel charges \$125 per night for lodging services. Included in the \$125 per night charge are passes to a waterpark operated by a third party that Hotel purchased from the third party. A customer who does not want the waterpark passes is not given a discount from the \$125 per night charge. Hotel's \$125 per night charge to its customer is subject to Wisconsin sales tax. Hotel's purchases of the waterpark passes from the third party are subject to Wisconsin sales or use tax since the hotel is the consumer of the waterpark admissions that it provides as part of its lodging services.

#### **L. Used Equipment and Furnishings**

Sales of used tangible personal property such as furniture, televisions, and computers and other used equipment, are subject to Wisconsin sales tax. These sales are subject to Wisconsin sales tax, even though the

hotel paid Wisconsin sales or use tax at the time the items were originally purchased.

**Example — Sale of Used Televisions:** Hotel sells used television sets for \$50 each. Hotel paid sales tax on its original purchase of the television sets five years ago. The \$50 charge is subject to Wisconsin sales tax, even though the hotel paid Wisconsin sales tax on its purchase of the television sets.

A hotel that is registered or required to be registered to collect Wisconsin sales and use taxes must collect and remit the applicable state, county, stadium, and premier resort area taxes 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 though the hotel is not a “dealer” or “registered dealer” of the item sold.

**Exception:** An occasional sale exemption may apply if the sale of the item is made after the hotel has ceased business. For additional information about this exemption, see [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Part XV.

#### M. Tanning Beds and Spas

Charges for the use of tanning beds and spas are not subject to Wisconsin sales tax.

### IV. HOTEL’S PURCHASES

#### A. Taxable Purchases

Hotels are the consumers of taxable products and services they use to provide lodging services to their customers. Therefore, hotels must pay Wisconsin sales or use tax on their purchases of such taxable products and services, unless an exemption applies.

**Note:** If Wisconsin sales or use tax is not charged by the supplier of the taxable product or service, Wisconsin use tax must be reported and paid by the hotel to the Wisconsin Department of Revenue on its *Wisconsin Sales and Use Tax Return (Form ST-12)*.

#### 1. Tangible Personal Property and Digital Goods

The following are examples of tangible personal property and digital goods purchased by hotels which are subject to Wisconsin sales or use tax:

##### a. Furniture, Appliances, etc.:

- artwork
- beds
- bellman carts
- blinds
- carpeting
- chairs and couches
- desks and dressers
- drapes
- DVD players
- freezers
- ice machines
- intercoms
- lamps
- microwave ovens
- mirrors
- night stands
- pillows
- radios
- recreational equipment
- refrigerators
- satellite dishes, except the concrete foundation
- advertising signs, except the concrete foundation
- tables
- telephones
- televisions
- vending machines
- video cassette players/recorders (VCRs)
- video games, pool tables, dart boards, jukeboxes

##### b. Office Equipment and Supplies:

- advertising brochures and literature used in Wisconsin, except advertising catalogs
- check machines
- computer equipment
- computer supplies
- copy machines and supplies
- desks
- digital audiovisual works
- digital audio works
- digital books
- electricity

envelopes  
FAX machines and supplies  
file folders  
guest receipts  
name badges  
natural gas and propane  
paper  
pens and pencils  
prewritten computer software  
reservation slips  
stationery  
time clock and time cards  
training videos

**c. Room Supplies:**

bibles  
candy  
champagne  
clothing hangers  
coffee makers  
cups  
door tags  
flowers  
garbage cans  
glasses  
ice buckets  
keys  
matchbooks  
paper and plastic bags  
shampoo  
soap  
tissues  
toiletries

**d. Linen Supplies:**

bath mats  
bedding  
laundry bags  
towels  
uniforms  
washcloths

**e. Cleaning and Maintenance Equipment and Supplies:**

carpet sweepers  
cleaning supplies  
laundry machines and dryers  
lawn equipment and supplies

maid carts  
pool chemicals and supplies  
repair parts for any taxable tangible personal property  
snow removal equipment (e.g., snow blowers, plows, shovels)  
storage racks  
portable vacuum cleaners

**f. Restaurant and Bar Equipment and Supplies:**

bar stools  
chairs  
cookware  
cooking utensils  
counters  
cloth napkins  
dishwashers  
garbage disposal units  
glassware  
refrigerators  
serving carts  
serving utensils (see *Note* in Part IV.B.2 relating to certain disposable items.)  
stools  
storage containers  
stoves and ovens  
tables  
tablecloths  
tableware (see *Note* in Part IV.B.2 relating to certain disposable items.)

**Caution:** If any of the tangible personal property listed in Part IV.A.1. or items or goods are also installed by the supplier of the property, item, or good and the installation results in a real property improvement (rather than a sale and installation of tangible personal property), the hotel is not liable for Wisconsin sales or use tax on the hotel's purchase and installation of the property, item, or good. The supplier who installs these items is required to pay Wisconsin sales or use tax on its purchase price of the tangible personal property, item, or good used in making the real property improvement.

**Example 1** – Hotel purchases carpeting from Carpet Supplier. Carpet Supplier also installs the carpet for Hotel. Hotel's purchase of the carpeting and installation from

Carpet Supplier is not subject to Wisconsin sales or use tax since this is a real property improvement. Carpet Supplier is required to pay Wisconsin sales or use tax on its cost of the carpeting and other materials used in making the real property improvement.

**Example 2** – Hotel purchases a mirror to be installed (i.e., affixed to the wall) in one of its sleeping rooms from Mirror Supplier. Mirror Supplier also installs the mirror in the sleeping room. Hotel’s purchase of the mirror and installation is subject to Wisconsin sales or use tax since the mirror, when installed in a sleeping room, represents a purchase of tangible personal property used to carry on a trade or business. Mirror Supplier may purchase the mirror from its supplier without paying Wisconsin sales or use tax.

If you have questions as to whether a particular item, when installed, constitutes a taxable or nontaxable purchase, see [Publication 207, Sales and Use Tax Information for Contractors](#).

## 2. Services

The following are examples of services purchased by hotels which are subject to Wisconsin sales or use tax:

- cable and satellite TV
- cleaning and maintaining pools
- cleaning carpeting and rugs
- cleaning tangible personal property (e.g., drapes, couches, chairs)
- inspecting, repairing, and maintaining tangible personal property (e.g., televisions, refrigerators, boilers, furnaces, water softeners, water heaters)
- landscaping and gardening
- laundry and dry cleaning
- telephone, FAX transmissions, and Internet access

## B. Nontaxable Purchases

The following purchases of tangible personal property and services by hotels are **not** subject to Wisconsin sales or use tax:

### 1. Tangible Personal Property to Be Resold

Purchases of tangible personal property (e.g., books, magazines, candy, postcards, clothing, toiletries, and souvenirs), which will be resold to customers, are **not** subject to Wisconsin sales or use tax.

If the tangible personal property is transferred incidentally as part of the sale of the lodging service (e.g., shampoo provided in each room, towels), the hotel may not purchase those items without tax. See Example 22 of the article titled "[Buy One, Get One Free and Similar Promotions](#)" on the department's website for additional information.

### 2. Certain Restaurant and Bar Disposable Items

Purchases of paper and plastic **disposable** items which are transferred to customers when **selling** (rather than giving away at no charge) prepared foods, food products, and beverages are **not** subject to Wisconsin sales or use tax. Examples of such items include paper napkins, paper and plastic cups, straws, disposable placemats, plastic utensils, and styrofoam or paper take-home containers. (See Part IV.B.4. for the taxability of prepared foods, food products, beverages, and disposable items purchased by hotels and given to employees.)

**Note:** Purchases of paper and plastic disposable items which are transferred to customers when **giving away** (rather than selling) prepared foods, food products, and beverages, are subject to Wisconsin sales or use tax.

**Example — Disposable Items Given Away With Complimentary Breakfast:** Hotel provides a free breakfast with the purchase of lodging. In addition to the food items, Hotel also purchases napkins, plastic utensils, and paper and plastic cups which will be used by the persons who receive the free breakfast. Hotel’s purchases of the napkins, plastic utensils, and paper and plastic cups are subject to Wisconsin sales or use tax because no exemption applies.



Since Hotel is giving away the breakfasts at no charge (rather than selling them), Hotel is the consumer of the food, beverages, napkins, plastic utensils, and paper and plastic cups. Therefore, Hotel is required to pay Wisconsin sales or use tax on the purchase of these items, unless an exemption applies, such as for purchases of food or food ingredients, except candy, soft drinks, dietary supplements, and prepared foods, as discussed below.

### **3. Food, Food Products, and Beverages Given Away**

Purchases of food and food ingredients are exempt from tax, except for purchases of candy, soft drinks, dietary supplements, and prepared food. Therefore, when a hotel purchases exempt food and food ingredients to give to its customers for no charge, the hotel does not owe sales or use tax on its purchase of such exempt food and food ingredients.

If the hotel purchases candy, soft drinks, dietary supplements, and prepared food that it gives away to its customers for no charge (or provides incidentally with lodging services), the hotel's purchase of such items is subject to tax. **Note:** Alcoholic beverages are also taxable.

See Part IV.B.4. for the taxability of food and food ingredients, beverages, and disposable items purchased by hotels and given to employees.

**Example — Complimentary Breakfast:** Hotel offers a complimentary breakfast to its customers. Hotel purchases the bakery items, fruit, coffee (5 lb. can), and 100% pure juice from Supplier. Supplier does not charge Wisconsin sales or use tax on the items. The purchases of the bakery items, fruit, coffee, and juice by Hotel are not subject to Wisconsin sales or use tax, because the items are food and food ingredients that qualify for exemption from tax.

**Note:** If the items being given to customers at no charge are not exempt food or food ingredients (e.g., candy, mints, soda), the hotel should

pay Wisconsin sales tax on the item when it is purchased. If the hotel did not pay the sales tax when the item was purchased, the hotel is liable for the Wisconsin use tax due on the purchase price of the item being given away.

### **4. Food, Food Products, and Beverages Given Away to Employees**

The taxability of food, food products, beverages, and disposable items purchased by hotels and given to employees for free is the same as discussed in Part IV.B.2. and 3.

**Exception:** If a hotel operates a restaurant in the hotel and the restaurant furnishes candy, soft drinks, dietary supplements, and prepared foods to the restaurant's employees for no consideration during the employee's work hours, the restaurant's purchases of such candy, soft drinks, dietary supplements, and prepared foods, and disposable products that are transferred with such items, are not subject to Wisconsin sales or use tax. **Note:** The restaurant's *sales* of such items are subject to tax.

**Example:** Hotel Restaurant purchases soft drinks without sales tax to sell to customers. A portion of the soft drinks are not sold. Instead, they are furnished by Hotel Restaurant, for no consideration, to its employees during the employees' work hours. Hotel Restaurant is exempt from Wisconsin sales and use tax on the portion of the soft drinks furnished for no consideration to its employees during the employees' work hours.

**Note:** Purchases of the items listed above are taxable if the items are not given to the employees during the employees' work hours.

### **5. Equipment Which Will Be Rented to Others**

A hotel may purchase equipment without tax, for resale, that will be used **only** to rent to others for a fee. Examples of such items include audio-visual equipment, bicycles, canoes, rafts, skis, fishing poles, recorders, and tapes.

If a hotel purchases equipment that it will use itself (in addition to renting it to customers), the

hotel's purchase of the equipment is subject to sales or use tax.

**Example — Item Being Rented and Also Used By Hotel:** Hotel purchases a DVD player which will be used by its employees for training purposes and also for rental to others. Since the DVD player is not being used only for rental to others, Hotel's purchase of the DVD player is subject to Wisconsin sales or use tax. Hotel's receipts from renting the DVD player are taxable.

If a hotel purchases equipment that it will provide free of charge to customers who purchase lodging or will provide lodging that includes a mandatory charge for equipment, the hotel's purchase of the equipment is subject to sales or use tax.

**Example 1:** Hotel purchases paddle boats for use by customers. Hotel guests may use the paddle boats for no additional fee. Customers who are not guests of the hotel may rent the paddle boats for \$10 per hour. Hotel's purchase of the paddle boats is subject to tax. Hotel's receipts from renting the paddle boat are also taxable.

**Example 2:** Same as *Example 1*, except that Hotel charges all persons using a paddle boat \$10 per hour (i.e., guests of the hotel as well as non-guests are charged for the use of the paddle boat). Hotel makes no use of the paddle boats other than to rent them for a fee. Hotel may purchase the paddle boats without tax, for resale. Hotel's receipts from renting the paddle boat are taxable.

**Example 3:** Hotel rents a meeting room to Company for \$300 plus a mandatory \$100 facility charge. The facility charge allows Company to use tables, chairs, and a projector at its event. The \$100 facility fee is charged to Company, even if Company chooses not to use the tables, chairs, and projector. Hotel's purchase of the tables, chairs, and projector is subject to tax. Hotel's receipts from the \$100 facility fee are considered part of its sales price from the room rental and are not taxable.

**Example 4:** Same as *Example 3*, except that the facility fee is an optional fee. If Company chooses not to use the tables, chairs, and projector, Company is not charged the \$100 facility fee. Hotel makes no use of the tables, chairs, and projector other than to rent them to customers for a separate and optional fee. Hotel may purchase the tables, chairs, and projector without tax, for resale. Hotel's receipts from the \$100 facility fee (i.e., for renting the tables, chairs, and projector) are taxable.

## V. DO YOU HAVE QUESTIONS OR NEED ASSISTANCE?

If you are unable to find an answer to your questions about sales and use taxes, visit the department's website, email, write, or call:

**Visit our website . . .** [revenue.wi.gov](http://revenue.wi.gov)

**Email . . .** [DORSalesandUse@revenue.wi.gov](mailto: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. Please see the department's website for a [listing of offices](#) and their current hours.

## VI. ANY SUGGESTIONS?

The Department of Revenue wants this publication to be as complete and informative as possible. If you have any suggestions to improve this publication, please write or email:

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