

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

Advertising Companies

How Do Wisconsin Sales and Use Taxes Affect Your Operations?

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I. INTRODUCTION

This publication explains how Wisconsin state sales and use taxes affect advertising companies.

Sales and purchases by advertising companies that are subject to the 5% state sales or use tax may also be subject to the (1) 0.5% county sales or use tax, (2) 0.1% baseball stadium sales or use tax, (3) 0.5% football stadium sales or use tax, and (4) local exposition taxes. Additional information about these taxes is contained in the following:

- (1) County tax: [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Section XVIII.
- (2) Baseball stadium tax: [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Section XVIII. Applies to sales and purchases made in Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties.
- (3) Football stadium tax: [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Section XVIII. Applies to sales and purchases made in Brown County.
- (4) Local exposition taxes: [Publication 410](#), *Local Exposition Taxes*. These taxes apply to sales and purchases of certain lodging, food and beverages, and car rentals in municipalities located wholly or partially within Milwaukee County.

CAUTION

- The information in this publication reflects the positions of the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature and in effect as of April 1, 2012. 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 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 "What is Taxable?"

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 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 [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Part VIII.

III. WHAT IS TAXABLE?

Sales, licenses, leases, and rentals of the following products are subject to the Wisconsin sales tax:

1. Tangible personal property.

"Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses, and includes electricity,

gas, steam, water, and prewritten computer software, regardless of how it is delivered to the purchaser. Examples of tangible personal property sold by advertising companies are as follows (list is not all-inclusive):

- Books
- Brochures
- Business Cards
- Calendars
- Catalogs
- CDs
- Coupons
- DVDs
- Flyers
- Photographs
- Promotional Giveaways
- Signs
- Tapes
- Trade Show Booths

2. Coins or stamps of the United States that are sold, licensed, leased, rented, or traded as collector's items above their face value.
3. Leased tangible personal property that is affixed to real property, if the lessor has the right to remove the leased property upon breach or termination of the lease agreement, unless the lessor of the leased property is also the lessor of the real property to which the leased property is affixed.
4. Specified digital goods, additional digital goods, and digital codes. These digital goods are characterized by the fact that they are transferred electronically to the purchaser (i.e., accessed or obtained by the purchaser by means other than tangible storage media).

“Specified digital goods” means “digital audio works,” “digital audiovisual works,” and “digital books.” “Additional digital goods” means greeting cards, finished artwork, periodicals, video or electronic games, and newspapers or other news or information products. See [Publication 240](#) for a description of the products that are included.

Certain services which are sold, licensed, performed, or furnished at retail in Wisconsin are also subject to Wisconsin sales and use tax.

Examples of taxable services sold by advertising companies are as follows (list is not all-inclusive):

- Photographic services
- Printing services (e.g., client provides paper to be printed or imprinted upon)
- Fabricating services (e.g., client provides hats to be embroidered)
- Sending e-mail advertisements (e.g., e-mail blasts)

For a complete list of taxable services, see Part X.B. of [Publication 201](#).

IV. WHERE A SALE TAKES PLACE - "SOURCING RULES"

In order to determine where a sale takes place for Wisconsin sales and use tax purposes (where a sale is “sourced”), a specific hierarchy is used. The hierarchy is referred to as the “General Sourcing Rules.” The “General Sourcing Rules” should be used to determine the location of a sale and are explained in detail in Part III.C. of [Publication 201](#).

Exceptions: One exception to the General Sourcing Rules is for direct mail, which is explained in Part VIII. of this publication. Other exceptions, including where to find additional information, are:

- **Leases, licenses, and rentals** - Information about how to determine the location where these transactions take place (i.e., where lease, license, or rental payments are “sourced”) is provided in Part XIII.D. of [Publication 201](#).
- **Telecommunications services** - Please refer to sec. [Tax 11.66](#), Wis. Adm. Code, “Telecommunication and telecommunications message services,” for information explaining where these services take place (i.e., where these services are “sourced”).
- **Retail florists** - Information about how to determine where sales by retail florists take place (i.e., where these sales are “sourced”) is provided in Part VII.E. of [Publication 201](#).

V. SALES BY ADVERTISING COMPANIES

An advertising company will often make both taxable and nontaxable sales to its customers. The general tax treatment of some typical sales is listed below. Some products, as well as exemptions that may apply to those products, are explained in more detail in Part VI.

A. Taxable Sales

The following sales are subject to Wisconsin sales or use tax, unless an exemption applies:

- Finished artwork.
See Part VI.A., "Preliminary Artwork and Finished Artwork."
- Preliminary artwork that all or any part of results in the production of finished artwork or other tangible personal property or items, property, or goods listed in Part III.2. to 4., by the advertising agency.
See Part VI.A., "Preliminary Artwork and Finished Artwork."
- Signs, circulars, business cards, stationary showcards, banners, posters, bulletins, brochures, commercials, tapes, or other items of tangible personal property or items, property, or goods listed in Part III.2. to 4.
See Part VI.B., "Printed Materials."
- Photographic services.
- Photostats.
- Producing, fabricating, processing, printing, or imprinting tangible personal property or items, property, or goods listed in Part III.2. to 4., for clients for a consideration, even though the client may furnish the materials used in producing, fabricating, processing, printing, or imprinting the property, items, or goods.

Note: The tax does not apply to printing or imprinting services that result in exempt "printed

advertising materials" or exempt "catalogs and their mailing envelopes," as explained in Part VII.

See Part VI.B.2, "Exemption for Printed Advertising Materials," and Part VI.B.4., "Exemption for Catalogs and their Mailing Envelopes."

B. Nontaxable Sales

Charges for the following are not subject to Wisconsin sales or use tax:

- Preliminary artwork that does not result in the production of finished artwork or other tangible personal property or items, property, or goods listed in Part III.2. to 4., by the advertising agency.
See Part VI.A., "Finished and Preliminary Artwork."
- Writing original manuscripts or news releases.
- Writing copy to be used in media advertising.
- Consultation, market research, and compiling statistical or other information.
- Recommendations for advertising themes or merchandising plans.
- Obtaining media space and time.
- Printed advertising material transported outside Wisconsin by the purchaser for use solely outside Wisconsin.
See Part VI.B.2, "Exemption for Printed Advertising Materials."
- Advertising catalogs and the envelopes in which the catalogs are mailed.
See Part VI.B.4., "Exemption for Catalogs and their Mailing Envelopes."
- Printing or imprinting services that result in printed advertising materials, catalogs, or the envelopes in which they are mailed in.
See Part VI.B.2, "Exemption for Printed Advertising Materials," and Part VI.B.4., "Exemption for Catalogs and their Mailing Envelopes."

- Products that will be resold by the purchaser.
- Tangible personal property and items listed in Part III.2. used exclusively and directly by a manufacturer in manufacturing an article of tangible personal property or item or property listed in Part III.2. or 3., that is destined for sale if it:
 1. Becomes an ingredient or component part of the article of tangible personal property or item or property listed in Part III.2. or 3., destined for sale; or
 2. Is consumed or destroyed or loses its identity in manufacturing the article of tangible personal property or item or property listed in Part III.2. or 3., in any form destined for sale.

Note: A digital good also qualifies for this exemption if it would be exempt if sold in a tangible form. A digital good cannot, however, be manufactured.

- Tangible personal property or services that are used exclusively and directly by a manufacturer in manufacturing shoppers guides, newspapers, or periodicals if it:
 1. Becomes an ingredient or component of the shoppers guides, newspapers, or periodicals; or
 2. Is consumed or loses its identity in the manufacture of shoppers guides, newspapers, or periodicals.

This exemption applies regardless of whether the shoppers guides, newspapers, or periodicals are sold or given away, but does not apply to advertising supplements that are not newspapers.

Note: A digital good also qualifies for this exemption if it would be exempt if sold in a tangible form. A digital good cannot, however, be manufactured.

- Packaging and shipping materials if used to transfer merchandise to customers, such as:
 - Bags
 - Boxes
 - Cans
 - Containers
 - Drums
 - Labels
 - Sacks
- Packaging and shipping materials for use in packing, packaging, or shipping meat or meat products, regardless of whether these items are used to transfer merchandise to customers, such as:
 - Bags
 - Boxes
 - Cans
 - Containers
 - Drums
 - Labels
 - Meat casing
 - Sacks
 - Tape
 - Wrapping Paper
- Raw materials processed, fabricated, or manufactured into, attached to, or incorporated into printed materials that are transported and used solely outside Wisconsin.

VI. SPECIFIC PRODUCTS AND THEIR EXEMPTIONS

A. Preliminary Artwork and Finished Artwork

Graphic designers and other advertising companies often create preliminary artwork and finished artwork for their customers. Preliminary artwork and finished artwork may or may not result in the production of another product.

1. Preliminary Artwork

Charges for preliminary artwork are considered a part of the sales price of finished artwork if all or any of the preliminary artwork results in the production of finished artwork or other tangible personal property or items, property, or goods listed in Part III.2. to 4., by the advertising agency. Therefore, if the sale of the finished artwork or other product is taxable, the charge for the preliminary artwork is also taxable.

If the preliminary artwork does not result in the production of finished artwork or other tangible personal property or items, property, or goods listed in Part III.2. to 4., the charge for the preliminary artwork is not subject to Wisconsin sales or use taxes. The charge is for design services, which are not among the services that are subject to tax in Wisconsin.

“Preliminary artwork” means artwork prepared solely for presenting an idea to a client or prospective client. Preliminary artwork includes roughs, visualizations, sketches, layouts, and comprehensives.

2. Finished Artwork

The sale of finished artwork is taxable, unless an exemption applies. A list of common exemptions is provided in Part VI.A.4. Finished artwork is tangible personal property, unless it is transferred electronically. Finished artwork that is transferred electronically is an additional digital good. Sales of both tangible personal property and additional digital goods are subject to Wisconsin sales and use taxes, unless an exemption applies.

When an advertising company sells both the finished artwork and the printed material (e.g., flyers, catalogs, brochures, business cards), the advertising company’s charge for the finished artwork becomes a part of its sales price of the printed material.

“Finished artwork” means the final artwork used for actual reproduction by photomechanical or other processes or for display purposes, but does not include web site or home page designs. Finished artwork also includes drawings, paintings, designs, photographs, lettering, paste-ups, mechanicals, assemblies, charts, graphs, and illustrative materials, regardless of whether such items are reproduced.

3. Examples of Preliminary Artwork and Finished Artwork

Example of Taxable Finished Artwork Transferred to Buyer in a Tangible Format:

Department Store contracts with Advertising Company to produce finished artwork. The finished artwork will be used by Department Store to print flyers, which Department Store will print in its in-house print shop. Department Store will then mail the flyers to its customers located in Wisconsin. Advertising Company provides Department Store with a disk containing the finished artwork. Advertising Company is selling Department Store tangible personal property which is subject to Wisconsin sales tax.

Example of Taxable Finished Artwork Transferred to Buyer in a Digital Format:

Same as example, above, except that Advertising Company sends Department Store an e-mail containing the finished artwork. Advertising Company is selling Department Store an additional digital good which is subject to Wisconsin sales tax.

Example of Taxable Finished Artwork Sold as Flyers:

Candy Store contracts with Advertising Agency to have 10,000 advertising flyers produced. Advertising Agency prepares preliminary artwork. Candy Store decides on one theme and the finished artwork is produced. Advertising Agency has the flyers printed and delivered to Candy Store. Candy Store mails the flyers to its Wisconsin customers.

The entire charge to Candy Store by Advertising Agency for the flyers, which includes preliminary artwork, finished artwork, and the flyers, is subject to sales or use tax.

Example of Nontaxable Preliminary Artwork:

Car Dealer contracts with Advertising Agency for an ongoing advertising campaign. Advertising Agency submits several suggestions, in the

form of preliminary artwork, for an upcoming advertising campaign. These ideas are all rejected by Car Dealer. The charge by the Advertising Agency for preliminary artwork not chosen for further development is not subject to tax, because the preliminary artwork was not developed into finished artwork.

Example of Taxable Preliminary Artwork: Golf Course contracts with Advertising Agency for an ongoing advertising campaign. Advertising Agency submits several suggestions, in the form of preliminary artwork, for an upcoming advertising campaign. Four of the ideas are rejected by Golf Course, but one idea is developed into finished artwork. The charge by Advertising Agency for the finished artwork, which includes the charge for the preliminary artwork, is subject to sales or use tax.

Example of Nontaxable Finished Artwork Sold With Exempt Containers: Advertising Agency produces finished artwork to be used on Clothing Company's shipping boxes. The boxes are used by Clothing Company to ship its products to its customers. Advertising Agency delivers the finished artwork to a printer who uses the finished artwork to print and produce the boxes for Advertising Agency. Advertising Agency then sells the boxes to Clothing Company.

The entire charge by Advertising Agency to Clothing Company for the finished artwork and boxes is exempt from Wisconsin sales and use taxes because the boxes are used by Clothing Company in packing, packaging, or shipping merchandise to customers. Clothing Company should provide Advertising Agency with a fully completed exemption certificate claiming the container exemption.

4. Exemptions

The following is a list of some exemptions that could apply to sales of finished artwork in ei-

ther a tangible or digital format (list is not all-inclusive):

a. Consumed in the Manufacture of Tangible Personal Property that is Destined for Sale

Tangible personal property (e.g., finished artwork transferred to the purchaser on a CD) or an item listed in Part III.2. that is used exclusively and directly by a manufacturer in the manufacture of tangible personal property destined for sale is exempt from tax. If the purchaser of the finished artwork provides the finished artwork to a printer, and **the printer provides the paper used in printing and sells the printed material**, this exemption applies. The finished artwork is consumed or destroyed in the manufacture of printed material that is destined for sale from the printer to its customer. The exemption also applies to finished artwork in a digital format. ([Section 77.54\(2\)](#) and [\(50\)](#), Wis. Stats. (2009-10))

Note: Tangible personal property that is consumed in the creation of a digital good does not qualify for this exemption. A digital good cannot be "manufactured."

Example 1: Horse Farm contracts with Advertising Agency, located in Wisconsin, to produce an advertising flyer. Advertising Agency prepares preliminary artwork. Horse Farm decides on one theme and the finished artwork is prepared. Horse Farm takes the finished artwork to a Wisconsin printer and has 10,000 flyers printed. The printer provides the paper used to print the flyers. The flyers are mailed by the printer to addresses in Wisconsin.

The charge to Horse Farm by Advertising Agency for the preliminary artwork and finished artwork is exempt from Wisconsin sales and use taxes because the finished artwork is consumed in the production of flyers which are sold by the printer to Horse Farm.

Example 2: Assume the same facts as Example 1, except that Horse Farm provides the paper to the printer, in addition to the finished artwork.

The charge to Horse Farm by Advertising Agency for the preliminary artwork and finished artwork is subject to Wisconsin sales tax. The printer is selling a printing service, and not tangible personal property or an item or property listed in Part III.2. to 3., to Horse Farm. The destined for sale requirement is not met and exemption from tax does not apply.

b. Raw Materials Used in Printed Materials That Are Transported Outside Wisconsin

Raw materials used in the manufacture of printed materials that are transported and used solely outside Wisconsin are exempt. This exemption applies to the sale of finished artwork if all or some of the printed material manufactured using that finished artwork is transported outside Wisconsin for use solely outside Wisconsin, and the purchaser does either of the following:

1. Provides the finished artwork to a printer, and **the printer does not provide the paper used in printing** (i.e., the purchaser provides the printer with the paper to be used in the printing), or
2. Uses the finished artwork in its in-house print shop.

The finished artwork is a raw material that is consumed in the manufacture of printed materials and the exemption applies if the above conditions are met, regardless of whether the finished art is in a tangible or digital format. ([Section 77.54\(43\)](#) and [\(50\)](#), Wis. Stats. (2009-10))

Note: If the printer provides the paper, see Part VI.A.4.a., for a possible exemption.

Example: Bakery, located in Wisconsin, publishes flyers it gives away to potential customers. Bakery purchases paper from a company who delivers it to a Wisconsin printer that prints the flyers for Bakery. Bakery also purchases finished artwork from Advertising Company that will be used by the printer to print the flyers. Eighty percent (80%) of the flyers are transported and used solely outside Wisconsin, while the other twenty percent (20%) of the flyers remain in Wisconsin. The finished artwork purchased by Bakery is exempt from Wisconsin sales and use taxes, since all or part of the printed material is transported and used solely outside Wisconsin. Eighty percent (80%) of the paper purchased by Bakery for the flyers is also exempt from Wisconsin sales or use tax, since eighty percent (80%) of the flyers are transported and used solely outside Wisconsin.

c. Consumed in the Manufacture of Newspapers, Periodicals, and Shoppers Guides

Tangible personal property (e.g., finished artwork provided on a CD) and taxable services that are used exclusively and directly by a manufacturer in the manufacture of newspapers, periodicals, or shoppers guides (except advertising supplements that are not newspapers), whether or not the newspapers, periodicals, or shoppers guides are transferred without charge to the recipient. The finished artwork is consumed or destroyed in the manufacture of the **newspapers, periodicals, or shoppers guides**. The exemption also applies to finished artwork in a digital format. ([Section 77.54\(2m\)](#) and [\(50\)](#), Wis. Stats. (2009-10))

Example: Company J contracts with an advertising agency to produce an advertisement to be published in a shoppers guide. The advertising agency produces preliminary artwork (e.g., layouts, "roughs") for approval by Company J. Upon Company J's approval of the preliminary artwork, the finished artwork for the shoppers

guide advertisement is produced. The preliminary artwork and finished artwork charges are billed to Company J. Company J deals directly with the shoppers guide publisher to run the advertisement in a shoppers guide. The advertising agency bills Company J \$1,000 for preliminary artwork and \$3,000 for finished artwork.

The total \$4,000 charge is exempt from Wisconsin sales and use taxes because all of the following are true:

- The preliminary artwork results in finished artwork; **and**
- The finished artwork is used exclusively and directly by a manufacturer in the manufacture of a shoppers guide; **and**
- The finished artwork is consumed or loses its identity in the manufacture of a shoppers guide.

B. Printed Materials

An advertising company's sales of printed materials are subject to Wisconsin sales or use tax, unless an exemption applies. Examples are (list is not all-inclusive):

- Signs (See Part VI.C., "Advertising Signs")
- Circulars
- Business Cards
- Stationary Showcards
- Banners
- Posters
- Bulletins
- Advertising and Promotional Direct Mail
- Brochures
- Letterhead
- Coupons and Coupon Books
- Newspaper Inserts (See Part VI.B.1., "Exemption for Newspapers, Periodicals, Shoppers Guides, and Controlled Circulation Publications")

The sales price that is subject to Wisconsin sales or use tax includes the entire amount that the advertising company charges for the printed materials, including charges for preliminary and finished artwork, photographic services, printing services, and any other costs of the printed materials that are passed along to the customer, even if such costs are separately stated on the advertising company's invoice to its customer.

Example 1: Restaurant contracts with Advertising Agency to have 10,000 advertising flyers produced. Advertising Agency prepares preliminary artwork. Restaurant decides on one theme and the finished artwork is produced. The advertising agency has the flyers printed and delivered to Restaurant. Restaurant mails the flyers to its Wisconsin customers.

The entire charge to Restaurant by Advertising Agency for the flyers, which includes charges for preliminary artwork, finished artwork, and the flyers, is subject to tax.

Example 2: Assume the same facts as *Example 1*, except that Restaurant mails 90% of the flyers to customers outside Wisconsin and 10% to customers in Wisconsin.

Ten percent of the total charge to Restaurant by Advertising Agency for the flyers, including the charges for preliminary artwork, finished artwork, and flyers, is subject to tax.

Exception for Mailing Services: If the advertising company is also responsible for providing mailing services (e.g., the advertising company hires a printer to print brochures and mail the brochures to potential customers that are identified on a mailing list), the advertising company's purchase or sale of the mailing services are not taxable if the charges are stated separately on invoices and in its accounting records.

"Mailing services" includes services rendered in preparing material for mailing, including addressing, enclosing, sealing, metering, affixing stamps,

sorting, tying, and sacking in compliance with postal rules and regulations. Charges for envelopes are taxable, but not separately stated charges for postage in the sale of pre-stamped envelopes.

If the mailing services are not stated separately on the invoice and in the accounting records, the charge for the mailing services is included in the advertising company's sales price of the printed materials to its customer.

Exemptions that may apply to an advertising company's sales of printed materials are listed in 1. through 5., below.

1. Exemption for Newspapers, Periodicals, Shoppers Guides, and Controlled Circulation Publications

An exemption is provided for the sale of newspapers, certain periodicals, shoppers guides, and controlled circulation publications.

a. Newspapers

Sales of newspapers are exempt from tax. An advertising supplement that is distributed as a component part of one of the newspaper's publications only qualifies for this exemption if one of the following apply:

1. The advertising supplement is printed by the newspaper, or
2. The advertising supplement is printed by a newspaper or commercial printer and sold to a newspaper for inclusion in that newspaper.

Also exempt from tax are tangible personal property and taxable services that are used exclusively and directly by a manufacturer in the manufacture of newspapers and that become an ingredient or component of the newspaper or are consumed or lose their identity in the manufacture of a newspaper.

"Newspaper" is defined as "... those publications which are commonly understood to be newspapers and which are printed and distributed periodically at daily, weekly or other short intervals for the dissemination of current news and information of a general character and of a general interest to the public. In addition, any publication which qualifies as a newspaper under s. 985.03 (1) is a newspaper. 'Newspaper' also includes advertising supplements if they are printed by a newspaper and distributed as a component part of one of that newspaper's publications or if they are printed by a newspaper or a commercial printer and sold to a newspaper for inclusion in publications of that newspaper. A 'newspaper' does not include handbills, circulars, flyers, or the like, advertising supplements not described in this subsection which are distributed with a newspaper, nor any publication which is issued to supply information on certain subjects of interest to particular groups, unless such publication otherwise qualifies as a newspaper within this subsection. In this subsection, advertising is not considered news of a general character and of a general interest."

Example 1: Furniture Store contracts with Newspaper for an advertising supplement in Newspaper's Sunday newspaper. For \$10,000, Newspaper will print the supplement, insert the supplement in the newspaper, and distribute the supplement with the newspaper. Newspaper's charge of \$10,000 to Furniture Store is not subject to Wisconsin sales or use tax.

Example 2: Same as *Example 1*, except that Newspaper hires Printer to print the advertising supplement for \$2,000. Printer's charge of \$2,000 to Newspaper is not subject to Wisconsin sales or use tax. Newspaper's charge of \$10,000 to Furniture Store is not subject to Wisconsin sales or use tax.

Example 3: Same as *Example 1*, except that Furniture Store hires Printer to print the advertising supplement for \$2,000. Printer's charge

of \$2,000 to Furniture Store is subject to Wisconsin sales or use tax. The advertising supplement is not an exempt newspaper, since it was not printed by Newspaper nor was it printed by a newspaper or commercial printer and sold to Newspaper for inclusion in that newspaper.

b. Periodicals

Certain periodicals that are sold by subscription are exempt from sales and use taxes. Periodicals sold "off the rack" or over the counter are subject to tax.

Also exempt from tax is tangible personal property and taxable services that are used exclusively and directly by a manufacturer in the manufacture of periodicals and that become an ingredient or component of the periodical or are consumed or lose their identity in the manufacture of the periodical.

The exemption for periodicals is limited to publications which are sold by subscription and which are regularly issued at average intervals not exceeding three months, each issue of which contains news or information written by different authors which is of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues in respect to continuity of literary character or similarity of subject matter, and there must be some connection between the different issues of the series in the nature of the articles appearing in them.

To qualify for the exemption, the publication must qualify for the "periodicals rate" under U.S. Postal laws and regulations or as a controlled circulation publication. **Exception:** Periodicals issued by an educational association or corporation sales to which are exempt under [sec. 77.54 \(9a\) \(f\)](#), Wis. Stats., need only be issued at average intervals not exceeding six months.

The newspaper and periodical exemption does not apply to books complete in themselves, even those issued at stated intervals; paperback books, a new one of which may be issued once a month or at some other interval; or so-called "one-shot" magazines that have no literary or subject matter connection or continuity between prior or subsequent issues. The exemption also does not apply to catalogs, programs, scorecards, handbills, maps, real estate brokers' listings, price or order books, corporate reports to stockholders, house organs, or to advertising materials which become a component part of a periodical.

Example: Books sold by the Book of the Month Club or similar organizations do not qualify for the newspaper and periodical exemption.

c. Shoppers Guides

Sales of shoppers guides that distribute no less than 48 issues in a 12-month period are exempt from tax.

Also exempt from tax are tangible personal property and taxable services that are used exclusively and directly by a manufacturer in the manufacture of shoppers guides and that become an ingredient or component of the shoppers guides or are consumed or lose their identity in the manufacture of a shoppers guide.

For purposes of these exemptions, a "shoppers guide" is "a community publication delivered, or attempted to be delivered, to most of the households in its coverage area without a required subscription fee, which advertises a broad range of products and services offered by several types of businesses and individuals."

d. Controlled Circulation Publications

Sales of controlled circulation publications are exempt from tax when sold to commercial publishers for distribution without charge or mainly without charge.

The exemption for tangible personal property and taxable services that are used exclusively and directly by a manufacturer in the manufacture of newspapers, periodicals, and shoppers guides and that become an ingredient or component of the newspapers, periodicals, and shoppers guides or are consumed or lose their identity in the manufacture of a newspaper, periodical, and shoppers guide **does not apply to controlled circulation publications**. **Note:** Another exemption may apply, such as the exemption for manufacturing consumables described in Part VI.A.4.a.

For purposes of the exemption for sales of controlled circulation publications, a "controlled circulation publication" is "a publication that has at least 24 pages, is issued at regular intervals not exceeding 3 months, that devotes not more than 75% of its pages to advertising and that is not conducted as an auxiliary to, and essentially for the advancement of, the main business or calling of the person that owns and controls it."

Example 1: Publisher puts out a monthly 30-page publication that promotes healthy eating. Seventy percent of the publication consists of articles of interest to persons who are interested in eating and preparing healthy foods. The other 30% of the publication consists of advertisements that Publisher sells to various businesses in health-related businesses. Publisher is only in the business of publishing, and this publication is not conducted as an auxiliary to or for the advancement of Publisher. Publisher hires Printer to print the publication, which it then gives away. Printer provides the paper that is used in the publication. Publisher's purchase of the publication from Printer is exempt from tax, since the publication qualifies as a controlled circulation publication.

Example 2: Same as *Example 1*, except that Publisher purchases the paper from Paper Supplier, who delivers the paper to Printer to print the publication. Publisher's purchases of the

paper from Paper Supplier and the printing services from Printer are subject to tax. There is no exemption for tangible personal property (i.e., the paper) or services (i.e., the printing services) that result in a controlled circulation publication.

Example 3: A taxpayer publishes a quarterly publication which it mails to current and prospective customers. The publication contains articles of interest to customers which contain endorsement of the taxpayer's business and products. The publication also contains advertising of the taxpayer's products as well as products of other vendors. This publication is conducted essentially for the advancement of the taxpayer's business and does not qualify as a controlled circulation publication.

2. Exemption for Printed Advertising Materials

Printed advertising materials may be purchased from Wisconsin or out-of-state suppliers without tax when the materials are purchased and stored for the purpose of subsequently transporting them outside Wisconsin by the purchaser for use thereafter solely outside Wisconsin. This exemption does not apply to catalogs. See Part VI.B.4., "Exemption for Catalogs and their Mailing Envelopes."

Note: Printing services are not taxable if the printing services result in printed advertising materials that are stored for the purpose of subsequently transporting them outside Wisconsin by the purchaser for use thereafter solely outside Wisconsin.

This exemption does not apply to printed advertising materials that remain in Wisconsin or are returned to Wisconsin.

In order to qualify for this exemption, all three of the following criteria must be met:

Criteria 1: The item must be "printed material;"

Criteria 2: The item must be designed to advertise and promote a product or business; **and**

Criteria 3: The item must be transported outside of Wisconsin by the purchaser for use thereafter solely outside Wisconsin.

a. ***The item must be "printed material."*** Printed material is on paper or similar stock. Examples of items that qualify as ***printed materials*** (but not necessarily *printed advertising materials*) include:

- Paper
- Laminated paper
- Charge cards
- Business cards
- Envelopes

Examples of items that *do not qualify as printed materials* include:

- 3-dimensional items such as key chains, mugs, golf balls, etc.
- Display racks, even if made of cardboard
- Matchbooks
- Binders (e.g., 3-ring binders)

b. ***The item must be designed to advertise and promote a product or business.*** Advertising materials are designed to advertise a business or the product or service of a business. "Advertising" includes calling the attention of the public to a product or business and proclaiming the qualities or advantages of a product or business so as to increase sales. To advertise a product or service which is for sale to the public, it is necessary to draw the potential consumer's attention to it by presenting its good qualities and benefits, creating a desire to possess it. Examples of items that qualify as ***advertising materials*** include:

- Sales posters
- Advertising sell sheets
- Sales brochures
- Coupons

Examples of items that generally *do not* qualify as ***advertising materials*** include:

- Charge cards
- Gift certificates
- Invoices
- Parts lists
- Price sheets

c. ***The item must be transported outside of Wisconsin by the purchaser for use thereafter solely outside Wisconsin.*** The item must be transported outside Wisconsin by the purchaser or by a mailing company hired by the purchaser. If the item comes back to Wisconsin (e.g., order form, reply envelope), it is not for use solely outside Wisconsin and is not exempt.

3. Exemption for Raw Materials Used in Printed Materials

Wisconsin sales and use tax is not imposed on raw materials if all of the following conditions are met:

- Must be **raw materials**, that are
- Used for the processing, fabricating, or manufacturing of, or the attaching to or incorporating into **printed materials**, that are
- **Transported and used solely outside Wisconsin.**

There is no requirement that the item must be transported outside Wisconsin ***by the purchaser.***

Example: Insurance Company purchases paper and ink from Supplier, who is located in Illinois. Supplier ships the paper and ink to Insurance Company at Insurance Company's

location in Wisconsin. Supplier did not collect Wisconsin sales tax on its sale to Insurance Company, because Supplier is not engaged in business in Wisconsin. Insurance Company incorporates the paper and ink into training manuals that are printed by Insurance Company. Insurance Company ships the training manuals to another state for use solely in that other state. Insurance Company's purchase of the paper and ink is exempt from Wisconsin sales or use tax.

4. Exemption for Catalogs and their Mailing Envelopes

Catalogs, and the envelopes in which the catalogs are mailed, that are designed to advertise and promote the sale of merchandise or to advertise the services of individual business firms are exempt from Wisconsin sales and use taxes. This exemption includes catalogs that are mailed to addresses in and outside of Wisconsin.

For purposes of this exemption, "catalog" means a printed and bound, stitched, sewed, or stapled book containing a list and description of property or services for sale, regardless of whether a price is specified.

A "book" is a set of written, printed, or blank pages fastened along one side and encased between protective covers.

Examples:

- A brochure that is folded, but not bound, stitched, sewed, or stapled does not qualify for exemption, since the brochure is not a catalog.
- A multiple-page description of property for sale that is stapled in the corner qualifies for exemption as a catalog if it has a front and back cover and at least two sheets are enclosed between the front and back covers.
- A cover letter or insert that is mailed with or inserted in a catalog, but does not become a part of the catalog, does not qualify for exemption, unless the cover letter or insert is a catalog in itself.
- An envelope that is used to mail both an exempt catalog and other items that are not catalogs qualifies for exemption. The exemption does not require that the envelope be used exclusively to mail an exempt catalog.
- A coupon book that has a front and back cover, descriptions of products sold, and coupons for such products. The pages are made of 2½" x 9" pages that are folded in the middle and fastened together with one staple to create a coupon book that is 2½" x 4½" when finished. The coupon book qualifies for exemption as a catalog.

Printing services that result in exempt catalogs and their mailing envelopes are also not taxable. Therefore, if the consumer furnishes the material (e.g., paper) and hires a printer to print exempt catalogs, the service of printing the exempt catalogs is not taxable.

Paper or other property that is used in exempt catalogs and their mailing envelopes, however, does not qualify for the catalog exemption (i.e., paper by itself does not meet the definition of "catalog"). Some other exemptions that may apply to the purchase of paper used in catalogs are:

- Paper used in the manufacture of catalogs that are sold to customers is exempt from Wisconsin sales and use taxes. ([Section 77.54\(2\)](#), Wis. Stats. (2009-10)) Paper used in the manufacture of catalogs that are *given away* (rather than sold) does not qualify for this exemption, since the exemption requires that the tangible personal

property manufactured (i.e., catalogs) be destined for sale.

- Paper used in the manufacture of shoppers guides, newspapers, and periodicals is exempt from Wisconsin sales and use taxes, regardless of whether such shoppers guides, newspapers, and periodicals are sold or given away. ([Section 77.54\(2m\)](#), Wis. Stats. (2009-10))
- Paper used in the manufacture of catalogs that are transported and used solely outside Wisconsin is exempt from Wisconsin sales and use taxes. ([Section 77.54\(43\)](#), Wis. Stats. (2009-10)) Paper used in the manufacture of catalogs that *are not* transported and used solely outside Wisconsin does not qualify for this exemption.

5. New Exemption for Advertising and Promotional Direct Mail (will become effective on July 1, 2013)

Effective July 1, 2013, an exemption will apply to the sales price from the sales of and the storage, use, or other consumption of advertising and promotional direct mail. This exemption will include advertising and promotional direct mail sent to Wisconsin addresses, as well as addresses outside of Wisconsin. **Note:** Prior to July 1, 2013, Wisconsin sales of advertising and promotional direct mail are taxable, except for sales of catalogs and their mailing envelopes.

“Advertising and promotional direct mail” means “direct mail” that has the primary purpose of attracting public attention to a product, person, business, or organization or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization.

“Direct mail” means printed material that is delivered or distributed by the U.S. Postal Service or other delivery service to a mass audience or

to addressees on a mailing list provided by or at the direction of the purchaser of the printed material, if the cost of the printed material or any tangible personal property or items, property, or goods listed in Part III.2. to 4. included with the printed material is not billed directly to the recipients of the printed material.

“Direct mail” includes any tangible personal property, or items, property, or goods listed in Part III.2. to 4., provided directly or indirectly by the purchaser of the printed material to the seller of the printed material for inclusion in any package containing the printed material, including billing invoices, return envelopes, and additional marketing materials.

“Direct mail” does not include multiple items of printed material delivered to a single address.

Example 1: Printer is hired to produce 1,000 copies of a form letter, each personalized with customer information. Printer shrink-wraps the pallet and ships the letter to a third-party mailing service hired by the purchaser. The purchaser hires the mailing service provider to fold the letters, insert them into envelopes, and mail them. The printed material is not “direct mail” because the seller/printer is not delivering or distributing the printed material to a mass audience or to addressees on a mailing list at the direction of the purchaser.

Example 2: Same as *Example 1*, except that Printer folds the letters, inserts them into the envelopes, and mails them. The printed material is “direct mail.”

Example 3: Printer is hired to produce 100,000 advertising flyers. Printer ships 1,000 copies of the flyer to each of the purchaser’s 100 stores located in various states. The purchaser will make these flyers available to their customers as they enter the store. The flyers shipped to the purchaser’s stores are not “direct mail,” because multiple items of the same printed

material are delivered or shipped to a single address and because the printed materials are delivered to and billed to the recipient (purchaser).

Example 4: Printer is hired to produce 100,000 copies of an advertising brochure. Printer ships the brochures to the purchaser's headquarters. The purchaser then repackages the brochures into 1,000 packages, each containing 100 brochures, and mails each package to the individual members of its sales force. The flyers are not "direct mail" when shipped from the printer to the purchaser or when shipped from the purchaser to its sales force, because they are multiple items of the same printed material delivered to a single address.

C. Advertising Signs

Sales of advertising signs, except for their underground concrete foundations, are subject to tax, unless an exemption applies. The repair or other service to advertising signs is also taxable. The following examples illustrate the tax treatment of various signs:

Example 1 - Billboard Sign

Example 2 - Building Sign

Example 3 - Leased Sign

Example 4 - Advertising Services

Example 5 - Advertising Video with Optional Display Device

Example 6 - Advertising Video with Mandatory Display Device

Example 1 - Billboard Sign: Sign Company sells, installs, and repairs advertising signs consisting of a billboard, steel supports, and a concrete foundation. On its billings, Sign Company separately states the amount billed for the concrete foundations. Sign Company's sales of the billboard signs, including installation, are subject to sales tax, except for the amounts allocated to the concrete foundations. Sign Company's repair of such billboard signs is also taxable. Sign Company may purchase materials for the billboard and steel sup-

ports without tax for resale. Sign Company's purchase of concrete for the foundation is subject to sales or use tax.

Note: The amount charged for the concrete foundation is not taxable, whether or not it is separately stated on the billing. If it is not separately stated on the billing, Sign Company may allocate a reasonable portion of its sales price to the sale and installation of the concrete foundation.

Example 2 - Building Sign: Sign Company sells, installs, and repairs advertising signs that are attached to buildings. Sign Company's receipts from its sales of signs are subject to sales tax. Sign Company may purchase the signs, and related repair parts that are transferred to its customer, without tax for resale.

Example 3 - Leased Sign: Car Dealership leases a sign from Sign Company on which the dealership displays various advertising messages. Car Dealership has possession and control of the sign. Sign Company's lease receipts are subject to sales tax.

Example 4 - Advertising Services: Same as Example 3, except that Car Dealership does not have possession or control of the sign. Sign Company's charges are for displaying the message. Sign Company's receipts from the service of displaying a message are not subject to sales tax.

Example 5 - Advertising Video with Optional Display Device: Sign Company is in the business of providing electronic signs and advertisements. Customer will rent space from an airport in its terminal where it can advertise its product. Sign Company creates a video advertisement for Customer and, for a separate and optional monthly fee, Sign Company also rents a display device to Customer. The airport's charge to Customer for the space in its terminal is not taxable. Sign Company's charges to Customer for the video advertisement is a taxable sale of a specified digital good and Sign Company's rental charge for the display device is a taxable rental of tangible personal property. Sign

Company may purchase the display device without tax for resale if its only use of the display device is to rent it in the regular course of its business activities.

Example 6 - Advertising Video with Mandatory Display Device: Same as *Example 5*, except that Sign Company's charge for the display device is not separate and optional. In order to receive the advertising video, Customer must pay a monthly fee for the display device (i.e., Customer cannot purchase or rent the advertising video without paying the monthly fee for the display device). Sign Company's monthly charge for the display device is part of Sign Company's taxable sales price of its sale or lease of the advertising video. Sign Company is the consumer of the display device that it provides for the mandatory fee with the purchase or rental of the advertising video and is liable for Wisconsin sales or use tax on its purchase of the display device.

D. Design Services, Including Web Site Design

This section will help you to identify which products sold by a graphic designer are taxable. Also see Part VI.A., "Finished and Preliminary Artwork."

Web site design is not among the services subject to Wisconsin sales tax if the service is not primarily a photographic service. Whether the completed web site design is transferred to the customer electronically (i.e., accessed or obtained by the customer by means other than tangible storage media) or transferred using a tangible storage medium (e.g., CD), the charge for the web site design work is not subject to tax. If the charge is primarily for photographic services, however, the charges are subject to Wisconsin sales or use tax.

Note: Charges for web hosting, domain names, data storage, and data processing are not subject to Wisconsin sales or use taxes. Additional information about the tax treatment of computer services can be found in one of the Department of

Revenue's Common Questions, titled [Computer – Hardware, Software, Services](#).

Although web site design services are generally not taxable, some of the charges relating to the creation of a web site may be taxable. For example, the creation of an online video, graphic (such as a logo or an animated graphic), or an online banner are subject to tax.

Therefore, if the charge for the web site design includes an online logo, banner or ad, or online video, the charge for such taxable products is subject to tax if the charge is separate and optional from the charge for the web site design.

The following examples illustrate when a charge is "separate and optional":

Example 1: Designer designs web sites. Hotel contracts with Designer A to design a web site for a fee of \$2,000. Upon receiving the web site design, Hotel may (1) hire Designer to design a personalized online video for the web site for an additional fee; (2) hire another designer to design a personalized online video for the web site (or design the personalized online video itself); or (3) choose to not include a personalized online video. Regardless of which option Hotel chooses, Designer will be paid the \$2,000 for its web site design services. Designer's charges for the web site design are not subject to Wisconsin sales tax. If Hotel hires Designer to create a personalized online video, Designer's charge for the personalized online video is subject to tax.

Example 2: Designer designs web sites. Bowling Alley contracts with Designer to design a web site for a fee of \$2,000. The charge for the web site design may include a personalized online video, if requested by Bowling Alley. Bowling Alley may choose to have a personalized online video in its design or not. Regardless of whether Bowling Alley chooses to include the personalized online video or not, Designer will be paid the \$2,000 for its web site design services. No part of Designer's

charge to Bowling Alley for the web site design is subject to Wisconsin sales tax.

E. E-Mail Blasts and Text Marketing, Management of Social Media Web Sites, and E-Newsletters

All or a part of an advertising company's charge for sending e-mail blasts and text marketing, management of social media web sites, and sending e-newsletters may be taxable, depending on the products provided in each specific situation. Each of these products may provide the customer with any combination of graphic design services, digital goods, and telecommunications message services.

1. E-Mail Blasts and Text Marketing

The service of sending advertising e-mail blasts and text messages is generally subject to Wisconsin sales or use taxes as a telecommunications message service. An **e-mail blast** is the sending of an advertising message to an electronic mailing list of e-mail addresses. **Text marketing** is the sending of an advertising text message to a list of cellular telephone numbers.

Although some service providers may provide nontaxable services in conjunction with the sending of e-mail and text messages (e.g., services related to account maintenance, such as address management), the primary purpose of the services provided may be to distribute e-mail and text messages to the customer's subscriber list. In those cases, if there is a single charge for the taxable and nontaxable services, the charge is subject to tax. If there is not a single charge for the taxable and nontaxable services, see Part VI.E.4. "Charges That Are Separate and Optional."

A customer may also hire an advertising company to create an e-mail advertisement that is finished artwork and then send it to an e-mail distribution list. The advertising company's sale and distribution of the e-mail advertisement is

the sale of an additional digital good. See [Publication 240](#), *Digital Goods*, for additional information about digital goods. **Note:** Charges for only copy and layout are not taxable.

Both the sale of the additional digital good and the sale of a telecommunications messaging service are subject to Wisconsin sales tax to the extent that the sales take place in Wisconsin. See Part VI.E.5. "When Does a Sale of E-Blasts, Text Marketing, and E-Newsletters Take Place in Wisconsin?"

2. Managing Social Media Web Sites

Charges for web site management are not subject to sales or use taxes. The sale of specified digital goods, however, is subject to tax. If the web site management service includes charges for the separate and optional sale of specified digital goods (e.g., digital banners, digital videos), the tax only applies to the separate and optional taxable products purchased. See "Charges for Services that are Separate and Optional," in Part VI.E.4.

If the sale includes specified digital goods or additional digital goods (taxable) and nontaxable web site management services sold for one nonitemized price that does not vary depending on the products that the customer chooses, the entire sales price may be taxable as a "bundled transaction." The sale is a "bundled transaction" if both of the following apply:

- a) The seller's **purchase price** of the taxable products (specified digital goods and additional digital goods) is more than 10% of the seller's total **purchase price**.
- b) The seller's **sales price** of the taxable products (specified digital goods and additional digital goods) is more than 10% of the seller's total **sales price**.

Exception: If the specified digital goods or additional digital goods are essential to the use of the web site management services and the true

object of the transaction is to receive the web site management service, it is not a "bundled transaction."

- If the transaction is a "bundled transaction," the entire sales price is taxable, unless at the retailer's option, the retailer can identify by reasonable and verifiable standards from the retailer's books and records that are kept in the ordinary course of its business for other purposes, including purposes unrelated to taxes, the portion of the price that is attributable to products or services that are not subject to the tax. If the retailer chooses this option, the portion of the sales price that relates to nontaxable products is not taxable.
- If the transaction is not a "bundled transaction," and the true objective of the transaction is to provide the nontaxable web site management services, no part of the charge is taxable. The retailer is, however, required to pay sales or use tax on its purchase of the specified or additional digital goods, if applicable.
- For a detailed explanation of "bundled transactions," see Part X.C. in [Publication 201](#), *Wisconsin Sales and Use Tax Information*.

3. E-Newsletters

E-newsletters (i.e., electronic newsletters) generally contain news and other information that is of interest to a specified group of businesses or individuals and are sent to a list of e-mail addresses.

The advertising company's sale and distribution of e-newsletters are taxable to the extent that the sale occurs in Wisconsin. Additional digital goods include news or other information products. See Part VI.E.5. "When Does a Sale of E-Blasts, Text Marketing, and E-Newsletters Take Place in Wisconsin?"

See [Publication 240](#), *Digital Goods*, for additional information.

4. Charges That Are Separate and Optional

If a seller makes sales of both taxable and nontaxable products to its customers, the tax treatment of each product is determined independently if the products are sold separately and optional from each other.

Charges for nontaxable services are not subject to Wisconsin sales or use taxes if the nontaxable services are separate and optional from the taxable services. A charge is separate and optional if the purchaser is not required to purchase one service in order to receive the other and the price is less if only one of such services is purchased.

Example: Customer may buy any or all of the following three services from Advertising Company without any obligation to obtain the other services from Advertising Company:

1. **E-Mail Blasts** - Advertising Company will send monthly e-mail blasts for \$500 per month (taxable telecommunications messaging services).
2. **Database Management** - Advertising Company will store a customer database on its server and will perform data processing services to the database (e.g., address changes, subscriber deletions) for \$200 per month (nontaxable, since data storage and data processing are not taxable services).
3. **List Management** - Advertising Company will send confirmation e-mail messages to persons subscribing and unsubscribing from the e-mail list for \$400 per month (taxable telecommunications messaging services).

Each of the charges for the services in 1. – 3. are listed separately on the invoice that Advertising Company gives Customer. Customer may cancel one or two of the services and still receive the other one or two

services from Advertising Company for the same price. Advertising Company may hire another party to do one or more of the services or may choose to have its own employees do one or more of the services. Advertising Company will only charge Customer for such services that it chooses to receive.

Services 1. and 3. are subject to tax, while Service 2. is not. **Note:** If Customer was required to purchase one or more of the services from Advertising Company in order to receive one or more of the other services OR Advertising Company did not reduce its charge to Customer for services that Customer performed itself or hired another party to perform, the sale of the services are not separate and optional sales.

5. **When Does a Sale of E-Blasts, Text Marketing, and E-Newsletters Take Place in Wisconsin?**

Since the customer will not receive the e-mail blasts, text marketing, and e-newsletters at the seller's business location, the sale takes place at the locations where the e-mail messages, text messages, and e-newsletters are sent to and are taxable to the extent that they are sent to locations in Wisconsin. An allocation should be made between the e-mail messages, text messages, and e-newsletters sent to Wisconsin locations (taxable to Wisconsin) and those sent to locations outside Wisconsin (not taxable to Wisconsin).

If the advertising company is not able to determine the physical location where the e-mail messages, text messages, and e-newsletters are being sent, the sale takes place at the purchaser's address as indicated by the advertising company's business records, if the records are maintained in the ordinary course of the advertising company's business and if using that address to establish the location of the sale is not in bad faith.

For detailed information about "Where a Sale Takes Place," see Part IV.

F. **Radio and Television Commercials**

An advertising company may be hired to produce a radio or television commercial. A master tape may be produced and copies or "dubs" of the master tape are then sent to the radio and television stations. The advertising company may be hired to do all or some of these production functions. The radio and television stations will generally be paid to air the commercial by the advertising company's customer.

Sales of tapes or other items of tangible personal property; or items, property, or goods in Part III.2. to 4.; are subject to tax, unless an exemption applies. For example, the sale of a master tape alone is subject to tax, unless the master tape is consumed in the manufacture of tangible personal property that is destined for sale, or some other exemption applies.

However, when an advertising concept does not result in a final product, the charge for creating the concept is not taxable. The creation of the concept only is preliminary artwork.

Also, see Part VII.A. "Preliminary and Finished Artwork."

Example 1: Real Estate Company contracts with Advertising Agency to produce a radio commercial. Advertising Agency produces a demonstration tape (demo) which contains several different jingles which could be used in the commercial. Real Estate Company selects one of the jingles, and the commercial is produced.

The charge by Advertising Agency for the demo is subject to tax. The demo is preliminary artwork. Since finished artwork was produced from the preliminary artwork, the charge is subject to tax, unless an exemption applies to the sale of the finished artwork.

Example 2: Construction Company contracts with Advertising Agency to create a jingle for a commercial that will be produced by Construction Company's employees and e-mailed to certain radio stations. Advertising Agency produces a demonstration tape (demo) which contains several different jingles which could be used in the commercial. Construction Company does not select any of the jingles for its commercial. Since the preliminary artwork (i.e., the demo tape containing the jingles) did not result in any finished artwork, the charge by the advertising company is not subject to tax.

Example 3: Same as *Example 2*, except that Construction Company chose a jingle for its commercial. Advertising Agency prepared a tape containing the chosen jingle for Construction Company's employees to use in their production of the radio commercial. Advertising agency's charge to Construction Company for finished artwork is subject to tax. Construction Company may not provide Advertising Agency with an exemption certificate claiming the manufacturing exemption, since the tape will not be consumed in the manufacture of tangible personal property that is destined for sale.

When an advertising company is hired to produce a radio or television commercial for its customer and to send or transmit the commercial to radio or television stations designated by its customer, the advertising company's entire charge to its customer is subject to tax. The entire charge is taxable, even if the advertising company separately lists any of the charges on its invoice to the customer, such as the charge for the master tape or the advertising company's charges for reimbursement of its expenses or subcontractors' fees. The entire charge is taxable, regardless of whether the advertising company transfers the commercial copies or "dubs" to the radio and/or television stations on a tangible medium (e.g., tape) or an electronic medium (e.g., an Internet web site, e-mail, through an electronic transmission company).

Although the entire charge is taxable, the Wisconsin tax only applies to the extent that the copies or "dubs" were sent to locations in Wisconsin. **Note:** An exemption exists for the sale of motion picture film or tape, and motion pictures or radio or television programs for listening, viewing, or broadcast, and advertising materials related to them, sold to motion picture theater or radio or television station. A radio or television station does not, however, generally purchase a commercial. Rather, the radio or television station's customer provides the radio or television station with the commercial when the customer purchases advertising air time from the radio or television station.

Example 1: Department Store decides to have a television advertising campaign and contracts with Advertising Agency. Advertising Agency produces a master tape. The master tape remains at Advertising Agency's studio, and ten copies or "dubs" are produced by Advertising Agency. One dub is given to Department Store in Wisconsin, and the other nine dubs are mailed by the advertising agency directly to various Wisconsin television stations. The air time is arranged by Department Store. Advertising Agency charges Department Store X a total of \$100,000.

The entire charge by Advertising Agency for the production of the master tape and dubs (i.e., \$100,000) is subject to Wisconsin tax.

Example 2: Same as *Example 1*, except that four dubs are mailed by to Advertising Agency to television stations outside Wisconsin.

Sixty percent of the entire charge by Advertising Agency for the production of the master tape and dubs is subject to Wisconsin tax ($\$100,000 \times 60\% = \$60,000$). The remaining 40% is not subject to Wisconsin tax because that portion of the sale took place outside Wisconsin ($\$100,000 \times 40\% = \$40,000$).

Example 3: Same as *Example 1*, except that Advertising Agency's contract with Department Store states that it will pay Advertising Agency \$70,000

plus expenses for the master tape that results in the dubs and \$1,000 for each of the dubs. Advertising Agency provides Department Store with an invoice which separately lists each of the following:

Master tape	\$70,000
Expenses	20,000
<u>Dubs (\$1,000 x 10 dubs)</u>	<u>10,000</u>
Total Due	\$100,000

The entire charge by Advertising Agency for the production of the master tape and dubs (i.e., \$100,000) is subject to tax. The tax treatment does not change due to the fact that the items are separately stated on Advertising Agency's invoice to its customer.

An advertising company may purchase finished artwork (e.g., photo, video) without tax if the advertising company consumes that finished artwork in its creation of a master tape that it will sell to its customer. The advertising company is, however, liable for sales or use tax on its purchase of photography or videography services used in its creation of the master tape. The exemption for property consumed in manufacturing does not extend to services such as photographic services.

Example 1: Advertising Agency is creating a master tape, which it will sell to its customer. Advertising Agency purchases a stock video which will be incorporated into the master tape. Advertising Agency may purchase the video without tax, since it will be consumed in the manufacture of the master tape.

Example 2: Advertising Agency is creating a master tape, which it will sell to its customer. Advertising Agency hires a videographer to shoot a video on Advertising Company's hard drive. Advertising Company will incorporate the video into the master tape. Advertising Agency is liable for sales or use tax on its purchase of the photographic services used in its manufacture of the master tape.

Example 3: Advertising Agency is creating a master tape, which it will sell to its customer. Advertising Agency hires a videographer to shoot a

video. The videographer shoots the video and gives Advertising Agency a tape containing the video. The videotape will be incorporated into the master tape. Advertising Agency may purchase the videotape without tax, since it will be consumed in the manufacture of the master tape.

The advertising company may hire a third party to produce a master tape and the advertising company may then duplicate the master tape and send the dubs to a radio or television station. The Wisconsin sales and use tax treatment of the advertising company's purchase of the master tape depends on whether the advertising company will be sending the dubs in a tangible format (e.g., a tape) or a digital format (e.g., transmitted electronically).

- If the dubs are transferred to the radio or television station in a tangible format, the advertising company may purchase the master tape without tax, since it will be consumed in the manufacture of tangible personal property that is destined for sale (i.e., the dubs in a tangible format).
- If the dubs are transferred to the radio or television station in a digital format, the advertising company's purchase of the master tape is subject to tax. Since a digital good cannot be manufactured, the manufacturing consumables exemption does not apply.

Note: The advertising company's sale of the dubs is subject to tax, regardless of whether the dubs are transferred in a tangible or digital format. If a third-party transmitter is hired by the advertising company, the purchase of the electronic transmission of the dubs is also taxable to the extent that the electronic dubs are transmitted to locations in Wisconsin.

Example of the Production of a Television Commercial

Facts:

- Advertising Company is hired by Customer to provide 15 television stations in Wisconsin with a commercial for the contracted amount of \$50,000.
- Advertising Company hires Producer to create the master tape for \$20,000 plus its expenses for subcontracting a company to provide Producer with a videotape. The contract states that Advertising Company is required to provide Producer with an audiotape. Both the videotape and the audiotape will be consumed in the manufacture of the master tape that Producer sells to Advertising Company.
- Producer hires Videographer to shoot a videotape and provide Producer with a videotape in Wisconsin for \$5,000.
- Advertising Company hires Company B to create an audiotape. Advertising Company will pay Company B \$1,500 for the audiotape. Company B will send the finished audiotape to Producer, at the direction of Advertising Company.
- Producer will create two master tapes (one for duplication and one that it will retain). Producer will consume the video and audiotapes in its manufacture of a master tape of a commercial.
- Transmitter is hired by Advertising Company for \$5,000 to send electronic transmissions of the commercial to 15 television stations hired by Advertising Company's customer. The television stations are all located in Wisconsin.
- Producer will send the master tape to Transmitter, at the direction of Advertising Company.

Tax Treatment:

Advertising Company's sale of the electronically transmitted commercials to Customer is subject to Wisconsin sales tax. Sales of the television commercials are sales of digital audiovisual works, which are taxable.

Advertising Company's purchase of the master tape from Producer is subject to Wisconsin sales or use tax, including Producer's charge to Advertising for reimbursement of the videotape. The charge for the reimbursement of the videotape is a part of Producer's sales price of its sale of the master tape (as opposed to a sale of the videotape and a separate sale of the videography services). Producer may, however, purchase the videotape from Videographer without tax, since Producer will be consuming the tape in its manufacture of the master tape that it sells to Advertising Company.

Advertising Company's purchase of the audiotape from Company B is exempt from tax, since it will be consumed in the manufacture of tangible personal property (i.e., the master tape) destined for sale. Advertising Company should provide Company B with a fully completed exemption certificate ([Form S-211](#) or [Form S-211-SST](#)) claiming the exemption for property consumed in manufacturing.

Advertising Company's purchase of the service of electronically transmitting the commercials to the 15 television stations in Wisconsin is subject to tax, since Transmitter is providing telecommunications messaging services to addresses in Wisconsin.

VII. PURCHASES BY AN ADVERTISING COMPANY

A. Purchases of Items Used By an Advertising Company

Items purchased and used by an advertising company in its business are taxable. Examples of taxable items used by an advertising company are as follows (this list is not all-inclusive):

- Computer hardware and prewritten computer software
- Furniture
- Office supplies
- Cameras
- Wall art for the office
- Promotional items that will be given to prospective customers (e.g., keychains)
- Certain digital goods (See Part III.C.)

B. Don't Forget Use Tax!

An advertising company is liable for Wisconsin use tax if it purchases taxable property, items, goods, or services that it uses and the seller does not charge Wisconsin sales or use tax to the advertising company.

Two common situations are:

- a. Buying items (e.g., computers, office supplies) from an out-of-state seller that does not charge Wisconsin sales tax, and
- b. Buying items without tax by providing an exemption certificate indicating resale to the seller and then using the item, rather than reselling it (e.g., paper purchased for brochures, but used by advertising company in printing invoices).

C. Purchases of Items Which Are Sold to Customers

Tangible personal property and items, property, or goods listed in Part III.2. to 4., and taxable services, purchased by an advertising company that it

will not use, but will sell to its customers, may be purchased without tax for resale. Sales tax is collected by the advertising company when the tangible personal property, item, property, or good, or taxable service is sold to its customers.

Examples of items that may be purchased by an advertising company without tax if they are purchased to sell to others are (this list is not all-inclusive):

- Printed materials
- Promotional items (not including those given away by the advertising company)
- Calendars
- Books
- Photographs

VIII. WHERE A SALE TAKES PLACE - DIRECT MAIL

There are special provisions in the law for determining where the sale of "direct mail" takes place. "Direct mail" means printed material that is delivered or distributed by the U.S. Postal Service or other delivery service to a mass audience or to addressees on a mailing list provided by or at the direction of the purchaser of the printed material, if the cost of the printed material or any tangible personal property; or items, property, or goods described in Part III.2. to 4.; included with the printed material is not billed directly to the recipients of the printed material.

"Direct mail" includes any tangible personal property; or items, property or goods described in Part III.2. to 4.; provided directly or indirectly by the purchaser of the printed material to the seller of the printed material for inclusion in any package containing the printed material, including billing invoices, return envelopes, and additional marketing materials.

"Direct mail" does not include multiple items of printed material delivered to a single address.

Note: Sales of catalogs and their mailing envelopes that are designed to advertise and promote the sale of merchandise or to advertise the services of individual business firms are exempt from tax. An exemption also applies to printing or imprinting services that result in such catalogs and their mailing envelopes. “Catalog” means a printed and bound, stitched, sewed, or stapled book containing a list and description of property or services for sale, regardless of whether a price is specified. Printed materials that are not bound, stitched, sewed, or stapled, cannot meet the definition of “catalog.” For example, an advertising pamphlet that is printed on a single sheet of paper and simply folded one or more times, without being bound, stitched, sewed or stapled, does not meet the definition of “catalog,” and the exemption does not apply.

The sales price of direct mail does not include separately stated delivery charges. For purposes of the sale of direct mail, “separately stated delivery charges” means charges by a seller to prepare and deliver the direct mail to a location designated by the purchaser of the direct mail, including charges for transportation, shipping, postage, handling, crating, and packing, that are separately stated on the invoice, bill of sale, or similar document that the seller gives to the purchaser.

1. Sales from October 1, 2009 through May 26, 2010

Parts a. through c., below, give the location of a sale of direct mail. Part d., below, provides the location of a sale of services (e.g., the customer provides the paper and a printer provides the printing and mailing services).

- a. Purchaser does not provide a direct pay permit, exemption certificate claiming direct mail, or certain other information.** The sale of direct mail takes place at the location from which the direct mail is shipped if the purchaser does not provide the seller one of the following:

- A direct pay permit,
- An exemption certificate ([Form S-211](#) or [Form S-211-SST](#)) claiming direct mail, or
- Other information that indicates the appropriate taxing jurisdiction to which the direct mail is delivered to the ultimate recipients.

If the seller ships the direct mail from Wisconsin, the seller’s entire charge for the direct mail is subject to tax, excluding separately stated delivery charges.

If the seller ships the direct mail from a location outside of Wisconsin, the purchaser is liable for the use tax on its purchase price of direct mail, excluding any separately stated delivery charges, that relate to direct mail shipped to addresses in Wisconsin. No credit for taxes paid to another state is allowed as a credit against the Wisconsin use tax due.

- b. Purchaser provides direct pay permit or exemption certificate claiming direct mail.** If the purchaser provides an exemption certificate claiming direct mail or a direct pay permit to the seller, the purchaser shall pay or remit, as appropriate, to the department the use tax on all purchases for which the tax is due. The seller is relieved from liability for collecting sales tax. Wisconsin tax is due for charges by the seller, excluding any separately stated delivery charges, that relate to direct mail shipped to addresses in Wisconsin.

- c. Purchaser provides delivery information.** If the purchaser provides delivery information indicating the jurisdictions to which the direct mail is to be delivered to the recipients, the sale takes place in those jurisdictions. The seller must collect and remit the tax according to the delivery information provided by the purchaser and, in the absence of bad faith, the seller is re-

lieved of any further obligation to collect tax on the sale of direct mail based on information provided by the purchaser. Wisconsin tax is based on charges by the seller for the direct mail, but excluding any separately stated delivery charges, that relate to direct mail shipped to addresses in Wisconsin.

- d. Charges for taxable services.** The seller's charges for taxable services that result in the production of direct mail (e.g., printing services when the customer provides the paper) are subject to Wisconsin tax to the extent the direct mail is shipped to addresses in Wisconsin. The portion of the charges for services relating to direct mail that is shipped to addresses outside of Wisconsin is not subject to Wisconsin sales tax. **Note:** For the period of October 1, 2009 through May 26, 2010, the location of the sale of a taxable service relating to direct mail is determined under the General Sourcing Rules. See Part VII.C.

2. Sales occurring on and after May 27, 2010

Effective May 27, 2010, the law was amended to adopt definitions of "advertising and promotional direct mail" and "other direct mail."

"Advertising and promotional direct mail" means direct mail that has the primary purpose of attracting public attention to a product, person, business, or organization or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization.

"Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing. "Other direct mail" includes all of the following:

- Transactional direct mail that contains personal information specific to the addressee,

including invoices, bills, account statements, and payroll advices.

- Any legally required mailings, including privacy notices, tax reports, and stockholder reports.
- Other nonpromotional direct mail, including newsletters and informational pieces, that is delivered to existing or former shareholders, customers, employees, or agents.

"Other direct mail" does not include printed materials that result from developing billing information or providing any data processing service that is more than incidental to producing the other direct mail.

a. Charges for advertising and promotional direct mail or services that are an integral part of the production and distribution of advertising and promotional direct mail

1. Purchaser does not provide a direct pay permit, exemption certificate claiming direct mail, or certain other information. The sale of advertising and promotional direct mail, or services that are an integral part of the production and distribution of advertising and promotional direct mail, takes place at the location from which the advertising and promotional direct mail is shipped if the purchaser does not provide to the seller one of the following:

- A direct pay permit,
- An exemption certificate ([Form S-211](#) or [Form S-211-SST](#)) claiming direct mail, or
- Other information that indicates the appropriate taxing jurisdiction to which the advertising and promotional direct mail is delivered to the ultimate recipients.

If the seller ships the advertising and promotional direct mail from Wisconsin, the entire charge for the advertising and promotional direct mail, or a service that is an integral part of the production and distribution of advertising and promotional direct mail, is subject to tax, excluding any separately stated delivery charges.

If the seller ships the advertising and promotional direct mail from a location outside of Wisconsin, the purchaser is liable for use tax on its purchase price (excluding any separately stated delivery charges) of the advertising and promotional direct mail, or a service that is an integral part of the production and distribution of advertising and promotional direct mail, if the advertising and promotional direct mail is delivered to addresses in Wisconsin. No credit for taxes paid to another state is allowed as a credit against the Wisconsin use tax due.

- 2. Purchaser provides direct pay permit or exemption certificate claiming direct mail.** If the purchaser provides an exemption certificate claiming direct mail or a direct pay permit to the seller, the purchaser must pay or remit, as appropriate, to the department the use tax on all purchases of advertising and promotional direct mail or services that are an integral part of the production and distribution of advertising and promotional direct mail delivered to Wisconsin, excluding any separately stated delivery charges. The tax is calculated at the rate imposed by the jurisdiction(s) where the advertising and promotional direct mail is delivered to the recipients.

- 3. Purchaser provides delivery information.** If the purchaser provides delivery information indicating the jurisdictions to which the advertising and promotional direct mail is to be delivered to the recipients, the seller must collect and remit the tax according to the delivery information provided by the purchaser on all sales of advertising and promotional direct mail or services that are an integral part of the production and distribution of advertising and promotional direct mail delivered to Wisconsin, excluding any separately stated delivery charges. The tax is calculated at the rate imposed by the jurisdiction(s) where the advertising and promotional direct mail is delivered to the recipients.

- 4. Bundled transactions.** If a transaction is a bundled transaction that includes advertising and promotional direct mail, a.1. to 3., above, only apply if the primary purpose of the transaction is the sale of products or services that meet the definition of advertising and promotional direct mail.

- b. Charges for other direct mail or services that are an integral part of the production and distribution of other direct mail**

- 1. Purchaser does not provide a direct pay permit, exemption certificate claiming direct mail, or certain other information.** The sale of other direct mail or services that are an integral part of the production and distribution of other direct mail takes place at the purchaser's address as indicated by the seller's business records, if using that address to establish the location of the sale is not in bad faith. If that address is a Wisconsin address, Wisconsin tax is due on the entire charge by the Wisconsin seller for the other direct mail or the

services that are an integral part of the production and distribution of the other direct mail, but excluding any separately stated delivery charges.

- 2. Purchaser provides direct pay permit or exemption certificate claiming direct mail.** If the purchaser provides an exemption certificate claiming direct mail or a direct pay permit to the seller, the purchaser must pay or remit, as appropriate, to the department the use tax (excluding any separately stated delivery charges) on all purchases of other direct mail or services that are an integral part of the production and distribution of other direct mail if the advertising and promotional direct mail is delivered to addresses in Wisconsin. The tax is calculated at the rate imposed by the jurisdiction(s) where the other direct mail is delivered to the recipients.

- c. Single mailing including both advertising and promotional direct mail and other direct mail.** If advertising and promotional direct mail and other direct mail are included in a single mailing, the location of the sale of that mailing is determined in same manner as a sale of other direct mail.

Information about how to determine if a purchaser has provided the seller with delivery information indicating the tax jurisdictions can be found in the article on the department's web site titled "[Collecting Sales or Use Tax on Advertising and Promotional Direct Mail](#)." Examples are provided in the article.

Note: Effective July 1, 2013, the sale of advertising and promotional direct mail will be exempt from Wisconsin sales and use taxes. See Part VI.B.5.

IX. DO YOU HAVE QUESTIONS OR NEED ASSISTANCE?

If you are unable to find an answer to your question about sales and use taxes, e-mail, write, or call the department.

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

E-Mail DORSalesBusinessTaxandWithholding@wisconsin.gov

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

Telephone . . . (608) 266-2776

Fax . . . (608) 267-1030

You may also contact any of the Department of Revenue offices. Please see the department's web site for a [listing of offices](#) and their current hours.

X. BUSINESS DEVELOPMENT ASSISTANCE – WISCONSIN ECONOMIC DEVELOPMENT CORPORATION

If you have questions about what other permits may be needed for your business, or need assistance in obtaining a permit, check the Wisconsin Economic Development Corporation's web site for information about [Permits and Licensing](#).