

SALES AND USE TAX

A. INTRODUCTION

Wisconsin imposes a 5% tax on the sale or use of most tangible personal property and on selected services. The tax is imposed on retailers for the privilege of selling, leasing or renting taxable tangible personal property. In addition, a 5% use tax is imposed on the storage, use or other consumption in this state of tangible personal property that is purchased out-of-state and that would be taxable if it were purchased in this state. The use tax complements the sales tax in that consumers cannot avoid sales tax by purchasing goods out-of-state, thereby ensuring that the sales tax does not place Wisconsin merchants at a competitive disadvantage compared with those in other states.

The sales tax is Wisconsin's second largest general purpose revenue (GPR) tax, generating \$5,233 million, or nearly 33.7% of total GPR taxes, in FY17.

B. HISTORY OF THE SALES TAX

The state first imposed a 3% selective sales and use tax in 1962 but replaced it with a 4% general sales and use tax in 1969. The current 5% rate has been in effect since 1982.

The initial 3% tax was selective in that sales of goods and services subject to the tax were specifically identified in the statutes. Taxable goods included household furnishings, motor vehicles, jewelry, tobacco products except cigarettes, fermented malt beverages, intoxicating liquors, and food sold in restaurants. Taxable services included hotel rooms and other short-term accommodations; admissions to amusement, athletic, entertainment or recreational places or events; and local telephone services billed to business users. In 1963, furs, automobile parts and services, cosmetics and industrial equipment became taxable.

The general tax imposed in 1969, in contrast to the selective tax, falls on all sales of tangible personal property except sales exempted by law. The sales tax remains selective in its treatment of services, imposed only on services specifically identified in the law as taxable. The 1969 law expanded taxable services to include the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of all items of tangible personal property unless the property would have been exempt from sales tax.

The sales tax base has changed over the years. Exemptions are discussed in detail in Section D of this paper. Major expansions of the sales and use tax base include:

- Cigarettes and cable television, including installation (1975);
- Interstate telephone and telegraph services, and landscaping and lawn maintenance services (1982);
- Tangible personal property transferred to the customer in conjunction with the performance or furnishing of a service, and magazines unless sold by subscription (1983);
- Telephone company central office equipment and coin-operated telephone services (1996)

- Telephone answering and messaging services, and telecommunications services terminating in and charged to a service address in the state (1997).
- Digital goods, including non-permanent digital goods regardless of whether the purchaser is required to make continued payments for usage (2009).

C. TAXABLE SERVICES

The law imposes a sales tax on selected services. Unlike tangible personal property, sales of which are taxable unless specifically exempt, services are not subject to the sales tax unless specifically identified in the statutes. The following services are taxable:

1. Rooms or lodging for less than one-month provided by hotelkeepers, motel operators and other persons furnishing accommodations to the public.
2. Admissions to amusement, athletic, entertainment or recreational places or events. However, admissions to places or events considered educational in nature, such as museums or zoos, and admissions to county fairs are exempt from sales tax.
3. Internet access, prepaid calling, telecommunications, and ancillary services, except interstate 800 services and interstate/international telecommunications service if the service occurs at a location outside Wisconsin.
4. Laundry, dry cleaning, pressing and dyeing services, except when performed on raw materials, on goods in process or on cloth diapers by a diaper service, and except when performed by the customer through the use of coin-operated, self-service machines.
5. Photographic services, including the processing, printing and enlarging of film, and the services of photographers for the taking, reproducing and sale of photographs.
6. Parking or providing parking space for motor vehicles and aircraft, and docking or providing storage space for boats.
7. Services to taxable tangible personal property, including the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of such property. Services are not subject to tax if the property, when installed or applied, constitutes an addition to or capital improvement of real property.
8. The production, printing or imprinting of tangible personal property for consumers who furnish directly or indirectly the materials used in such processes.
9. Cable television services, including installation charges.
10. Landscaping and lawn maintenance services.
11. Towing and hauling of motor vehicles.

D. EXEMPTIONS

The state provides sales tax exemptions for a variety of reasons. Exemptions on specific items may reduce the cost of production for businesses, or reduce the regressivity of the sales tax. In addition to providing exemptions for specific items, state law provides exemptions to certain buyers such as schools, charitable organizations, and government agencies.

Major Exemptions

- Food and food ingredients, except candy, soft drinks, dietary supplements, and prepared food.
- Motor fuels subject to excise taxes.
- Prescription drugs, corrective eye glasses, hearing aids, wheelchairs.
- Purchases by state, local, and federal governments and their agencies.
- Purchases by non-profit hospitals, schools, charitable organizations.
- Manufacturing raw materials.
- Machinery and equipment used exclusively and directly in manufacturing.
- Certain products used in the business of farming, such as seeds, fertilizer, and pesticides.
- Certain vehicles sold to common carriers, such as aircraft, trucks, and trailers.

For a more detailed list of sales tax exemptions, see the [Summary of Tax Exemption Devices](#)

E. ADMINISTRATION OF SALES AND USE TAXES

Sales tax is imposed on the gross receipts from retail sales while the use tax is imposed on the amount paid for a good. The retailer is responsible for paying sales tax, regardless of whether the tax is identified on the bill or collected directly from the customer. Every business that makes taxable sales is required to obtain a registration certificate and pay a business tax registration fee. A registration certificate is required for the Department to issue a Wisconsin employer identification number, a seller's permit and permits for other taxes.

Under 2003 Act 33, state agencies are prohibited from purchasing materials, supplies, equipment or services from any retailer that refuses, or whose affiliates refuse, to collect and remit sales and use taxes on sales to customers in Wisconsin.

Retailers may retain a portion of the taxes they collect as compensation for the costs they incur in collecting the tax. Since 1993, the retailer's discount has been 0.5% of the amount of tax liability if taxes are paid timely; in 1997 the law was amended to provide a minimum retailer's discount of \$10 per filing period. Under 2009 Act 28, the retailer's discount was capped at \$1,000 per filing period. Retailers file monthly, quarterly or annually, depending on the amount of tax owed.

In contrast to the sales tax that is paid by the seller, use tax is paid by the purchaser. Corporations may remit use tax on a sales and use tax return or file a use tax return. Individuals report their use tax liability on their individual income tax returns.

F. LOCAL SALES AND USE TAXES

Counties, the professional football stadium district, and the professional baseball park district may levy local sales and use taxes on the same tax base as the state sales tax. In addition, designated premier

resort areas and the Wisconsin Center District may impose a sales tax on separately defined tax bases. The Department of Revenue administers local sales taxes. The Department retains an administrative fee ranging from 1.5% (stadium taxes) to 3% (premier resort area tax) of collections to offset its administrative costs. Distributions paid to localities are the sales tax collections less the administrative fee.

As of January 1, 2018, 65 counties levied the 0.5% county sales tax. County sales tax distributions totaled \$363.1 million in FY17. Table 1 lists the state's 72 counties, the local sales taxes applicable in each county, the effective date of the county sales tax, and the combined state and local sales tax rate.

The Southeast Wisconsin Professional Baseball Park District began imposing a 0.1% sales tax in Milwaukee, Ozaukee, Racine, Washington and Waukesha Counties on January 1, 1996. Proceeds from this tax are used to finance Miller Park, the Milwaukee Brewers' home field. This tax will be discontinued upon retirement of the bonds issued to finance the ballpark and the funding of a maintenance and capital improvement fund for the ballpark. Distributions to the baseball park district totaled \$30.5 million in FY17

The Green Bay-Brown County Professional Football Stadium District began imposing a 0.5% sales tax in Brown County on November 1, 2000, to finance renovation of Lambeau Field. Having satisfied the statutory funding requirements, this tax was discontinued as of September 30, 2015. On January 1, 2018 Brown County adopted the county sales tax.

The City of Milwaukee created a local exposition district, the Wisconsin Center District, which is contiguous to Milwaukee County. Within the district, food and beverages for on-premises consumption are subject to a 0.50% tax (0.25% prior to July 1, 2010), rental cars to a 3% tax and hotel rooms and other temporary lodging to a tax of up to 9%. The room tax consists of a basic 2% room tax and, for rooms furnished within the City of Milwaukee, an "additional" 7% room tax. Local exposition district tax distributions totaled \$33.1 million in FY17.

Premier resort area taxes were authorized in 1997 as a method of funding infrastructure in tourist areas. Under the law, a county or municipality may designate itself a premier resort area and levy a premier resort area tax if tourism-related businesses account for at least 40% of its property value. Amendments to the law allowed the cities of Bayfield, Eagle River, Ephraim, Sister Bay, Stockholm, and Rhinelander to create premier resort areas despite not meeting the requirement that premier resort area have 40% of its property value in tourism-related businesses. The tax is imposed at 0.5% except that Lake Delton and Wisconsin Dells may impose the tax at 1.25%. A premier resort area tax is a sales tax only; it is not complemented by a use tax. Premier resort area tax distributions for Lake Delton, Wisconsin Dells, Eagle River, Bayfield, Stockholm and Rhinelander totaled \$9.2 million in FY 2017. Neither Ephraim nor Sister Bay has passed an ordinance creating a premier resort area and levying a tax therein.

**TABLE 1
WISCONSIN SALES AND USE TAX RATES AS OF JANUARY 2018***

COUNTY	EFFECTIVE DATE	TOTAL	COUNTY	EFFECTIVE DATE	TOTAL
Adams	1/1/1994	5.50%	Marathon	4/1/1987	5.50%
Ashland	4/1/1988	5.50%	Marinette	10/1/2001	5.50%
Barron	4/1/1986	5.50%	Marquette	4/1/1989	5.50%
Bayfield	4/1/1991	5.50%	Menominee		5.00%
Brown (FB)	1/1/2018	5.50%	Milwaukee (BB)	4/1/1991	5.60%
Buffalo	4/1/1987	5.50%	Monroe	4/1/1990	5.50%
Burnett	4/1/1989	5.50%	Oconto	7/1/1994	5.50%
Calumet			Oneida	4/1/1987	5.50%
Chippewa	4/1/1991	5.50%	Outagamie		5.00%
Clark	1/1/2009	5.50%	Ozaukee (BB)	4/1/1991	5.60%
Columbia	4/1/1989	5.50%	Pepin	4/1/1991	5.50%
Crawford	4/1/1991	5.50%	Pierce	4/1/1988	5.50%
Dane	4/1/1991	5.50%	Polk	4/1/1988	5.50%
Dodge	4/1/1994	5.50%	Portage	4/1/1989	5.50%
Door	4/1/1988	5.50%	Price	1/1/1993	5.50%
Douglas	4/1/1991	5.50%	Racine (BB)		5.10%
Dunn	4/1/1986	5.50%	Richland	4/1/1989	5.50%
Eau Claire	1/1/1999	5.50%	Rock	4/1/2007	5.50%
Florence	7/1/2006	5.50%	Rusk	4/1/1987	5.50%
Fond du Lac	4/1/2010	5.50%	St. Croix	4/1/1987	5.50%
Forest	4/1/1995	5.50%	Sauk	4/1/1992	5.50%
Grant	4/1/2002	5.50%	Sawyer	4/1/1987	5.50%
Green	1/1/2003	5.50%	Shawano	4/1/1990	5.50%
Green Lake	7/1/1999	5.50%	Sheboygan	1/1/2017	5.50%
Iowa	4/1/1987	5.50%	Taylor	7/1/1999	5.50%
Iron	4/1/1991	5.50%	Trempealeau	10/1/1995	5.50%
Jackson	4/1/1987	5.50%	Vernon	1/1/1997	5.50%
Jefferson	4/1/1991	5.50%	Vilas	4/1/1988	5.50%
Juneau	4/1/1992	5.50%	Walworth	4/1/1987	5.50%
Kenosha	4/1/1991	5.50%	Washburn	4/1/1991	5.50%
Kewaunee	4/1/2017	5.50%	Washington (BB)	1/1/1999	5.60%
La Crosse	4/1/1990	5.50%	Waukesha (BB)		5.10%
Lafayette	4/1/2001	5.50%	Waupaca	4/1/1989	5.50%
Langlade	4/1/1988	5.50%	Waushara	4/1/1990	5.50%
Lincoln	4/1/1987	5.50%	Winnebago		5.00%
Manitowoc		5.00%	Wood	1/1/2004	5.50%

FB indicates 0.5% football stadium tax imposed 11/1/00, retired 9/30/15.

BB indicates 0.1% baseball park tax imposed 1/1/96.

* Premier resort area and local exposition taxes are excluded from the table as the taxes are not imposed on the same tax base as state, county, and stadium district sales taxes.

G. OTHER STATES' SALES AND USE TAXES

State sales taxes are imposed by 45 states, of which 35 allow local sales taxes. Alaska, Delaware, Montana, New Hampshire and Oregon do not levy sales taxes, although Alaska allows local governments to levy sales taxes. The states that do not impose sales taxes have relatively few residents; consequently, most of the US population pays sales tax.

State sales and use tax rates range from 2.9% (Colorado) to 7.25% (California) for states that impose a sales tax. Louisiana has the highest allowable combined state and local rate – 12.00%. Wisconsin's 5.0% rate is below the median state sales tax rate (6.0%).

Table 2 shows state and local sales tax rates, including the rate for the District of Columbia. Table 2 includes population-weighted average local sales tax rates as prepared by the Tax Foundation. Wisconsin's combined state and local population-weighted sales tax rate of 5.42% (per Tax Foundation methodology) is lower than 43 other states.

**TABLE 2
COMPARISON OF STATE AND LOCAL RETAIL SALES TAXES AS OF JANUARY 2018**

State	State Tax Rate (%)	Max Local Rate (%)	Max State/Local Rate (%)	Avg. Local Tax Rate (%) (Pop. Weighted)	Avg. State/Local Tax Rate (%) (Pop. Weighted)
Alabama	4.00%	7.50%	11.50%	5.10%	9.10%
Alaska	0.00%	7.50%	7.50%	1.76%	1.76%
Arizona	5.60%	5.30%	10.90%	2.73%	8.33%
Arkansas	6.50%	5.13%	11.63%	2.91%	9.41%
California (b)	7.25%	2.50%	9.75%	1.29%	8.54%
Colorado	2.90%	8.30%	11.20%	4.62%	7.52%
Connecticut	6.35%	0.00%	6.35%	0.00%	6.35%
Delaware	0.00%	0.00%	0.00%	0.00%	0.00%
Florida	6.00%	2.00%	8.00%	0.80%	6.80%
Georgia	4.00%	4.90%	8.90%	3.15%	7.15%
Hawaii (c)	4.00%	0.50%	4.50%	0.35%	4.35%
Idaho	6.00%	3.00%	9.00%	0.03%	6.03%
Illinois	6.25%	4.75%	11.00%	2.45%	8.70%
Indiana	7.00%	0.00%	7.00%	0.00%	7.00%
Iowa	6.00%	1.00%	7.00%	0.80%	6.80%
Kansas	6.50%	4.00%	10.50%	2.18%	8.68%
Kentucky	6.00%	0.00%	6.00%	0.00%	6.00%
Louisiana	5.00%	7.00%	12.00%	5.02%	10.02%
Maine	5.50%	0.00%	5.50%	0.00%	5.50%
Maryland	6.00%	0.00%	6.00%	0.00%	6.00%
Massachusetts	6.25%	0.00%	6.25%	0.00%	6.25%
Michigan	6.00%	0.00%	6.00%	0.00%	6.00%
Minnesota	6.88%	2.00%	8.88%	0.55%	7.42%
Mississippi	7.00%	1.00%	8.00%	0.07%	7.07%
Missouri	4.23%	5.39%	9.62%	3.80%	8.03%
Montana (d)	0.00%	0.00%	0.00%	0.00%	0.00%

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TABLE 2 (continued)
COMPARISON OF STATE AND LOCAL RETAIL SALES TAXES AS OF JANUARY 2018

Nebraska	5.50%	2.00%	7.50%	1.39%	6.89%
Nevada	6.85%	1.42%	8.27%	1.29%	8.14%
New Hampshire	0.00%	0.00%	0.00%	0.00%	0.00%
New Jersey (e)	6.63%	3.31%	9.94%	-0.03%	6.60%
New Mexico (c)	5.13%	4.13%	9.25%	2.54%	7.66%
New York	4.00%	4.88%	8.88%	4.49%	8.49%
North Carolina	4.75%	2.75%	7.50%	2.20%	6.95%
North Dakota	5.00%	3.50%	8.50%	1.80%	6.80%
Ohio	5.75%	2.25%	8.00%	1.40%	7.15%
Oklahoma	4.50%	6.50%	11.00%	4.41%	8.91%
Oregon	0.00%	0.00%	0.00%	0.00%	0.00%
Pennsylvania	6.00%	2.00%	8.00%	0.34%	6.34%
Rhode Island	7.00%	0.00%	7.00%	0.00%	7.00%
South Carolina	6.00%	3.00%	9.00%	1.37%	7.37%
South Dakota (c)	4.50%	4.50%	9.00%	1.90%	6.40%
Tennessee	7.00%	2.75%	9.75%	2.46%	9.46%
Texas	6.25%	2.00%	8.25%	1.92%	8.17%
Utah (b)	5.95%	2.65%	8.60%	0.82%	6.77%
Vermont	6.00%	1.00%	7.00%	0.18%	6.18%
Virginia (b)	5.30%	0.70%	6.00%	0.33%	5.63%
Washington	6.50%	3.90%	10.40%	2.68%	9.18%
West Virginia	6.00%	1.00%	7.00%	0.37%	6.37%
Wisconsin	5.00%	1.75%	6.75%	0.42%	5.42%
Wyoming	4.00%	2.00%	6.00%	1.46%	5.46%
D.C.	5.75%	0.00%	5.75%	0.00%	5.75%

(a) City, county and municipal rates vary. These rates are weighted by population to compute an average local tax rate.

(b) Three states levy mandatory, statewide, local add-on sales taxes at the state level: California (1.25%), Utah (1.25%), Virginia (1%), we include these in their state sales tax.

(c) The sales taxes in Hawaii, New Mexico, North Dakota, and South Dakota have broad bases that include many services.

(d) Special taxes in local resort areas are not counted here.

(e) Salem County is not subject to the statewide sales tax rate and collects a local rate of 3.3125%. New Jersey's average local score is represented as a negative.

Sources: Sales Tax Clearinghouse, Tax Foundation calculations, State Revenue Department websites.

H. STREAMLINED SALES TAX PROJECT

States, including Wisconsin, have become increasingly concerned about the erosion of sales and use tax collections due to internet, mail order, catalog, e-commerce, and other sales to Wisconsin residents and businesses from out of state vendors. The Department of Revenue estimates uncollected taxes from remote commerce and business use tax payments at \$183.9 million for 2017. This figure includes an estimated \$114.4 million in sales tax losses due to internet sales by out of state retailers to Wisconsin consumers and businesses.

The courts have held that a company is not required to collect tax for a state unless the company has a substantial presence in that state. The courts have also indicated that only the US Congress has the power to require companies to collect taxes for states.

Although purchasers are liable for payment of use tax on such sales, compliance is poor, especially by private individuals.

The Streamlined Sales Tax Project is an initiative launched in 2000 to simplify sales taxes by limiting the number of rates and adopting common definitions and common procedures.

Goals of the Streamlined Sales Tax Project include:

- Uniform definitions within tax laws. Under the project, states, with private sector input, have agreed on definitions of products and terms, such as "computer," "delivered electronically," "medical equipment," "food," and "prepared food".
- Rate simplification. States will be allowed one general tax rate and a second rate for food and drugs. Local governments will be allowed only a single rate.
- State administration of all state and local sales and use taxes.
- Uniform sourcing rules.
- Uniform audit procedures.

Currently, 24 states, including Wisconsin, are in conformance with the Streamlined Agreement in that these states have enacted legislation adopting the common definitions and procedures.

I. STATISTICAL SECTION

Table 3 shows state sales and use tax collections since state FY2000, including the percentage change from the prior year. While collections grew an average of 2.6% during the FY2000 to FY2008 period, state sales tax collections declined a cumulative 7.7% from FY2008 to FY2010 during the recent recession. Starting in FY2011, collections began a positive growth trend and currently stand at \$5.066 billion in FY2016.

Table 3
Sales Tax Collections since FY 2000

Fiscal Year	Collections (\$ millions)	% Change from Prior Year
2000	3,501.66	
2001	3,609.90	3.09%
2002	3,695.80	2.38%
2003	3,737.91	1.14%
2004	3,899.26	4.32%
2005	4,038.77	3.58%
2006	4,127.58	2.20%
2007	4,158.61	0.75%
2008	4,268.05	2.63%
2009	4,129.50	-3.25%
2010	4,007.91	-2.94%
2011	4,158.79	3.76%
2012	4,325.04	4.00%
2013	4,483.03	3.65%
2014	4,660.52	3.96%
2015	4,923.13	5.63%
2016	5,111.23	3.82%
2017	5,223.94	2.21%

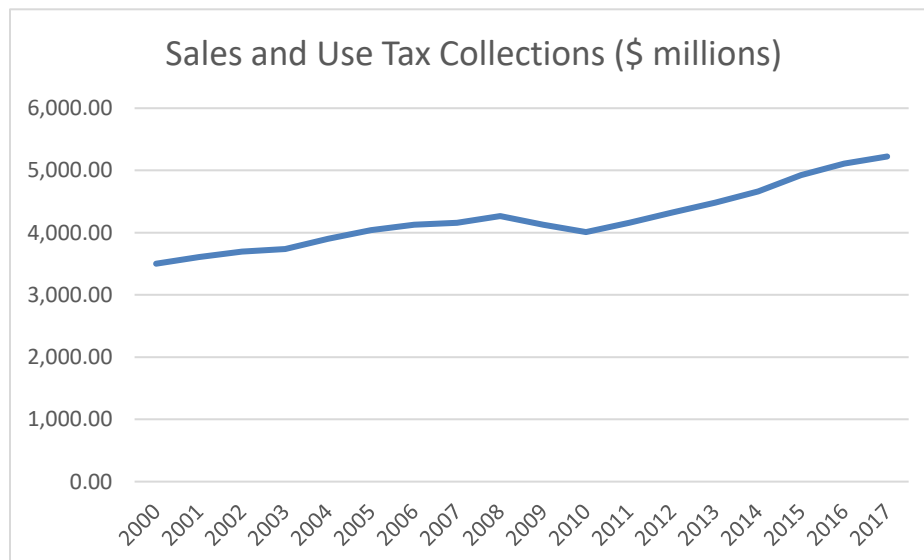


Table 4 shows the distribution of state sales tax, as reported by filers, by taxable receipts of businesses. While businesses with taxable receipts over \$5 million in 2017 made up only 1.3% of sales tax filers, these businesses remitted approximately 69.3% of sales tax revenues. Table 4 does not include audit adjustments, delinquent payments, or non-dealer sales of registered vehicles.

TABLE 4
FISCAL YEAR 2017 COLLECTIONS BY TAXABLE RECEIPTS OF BUSINESSES

Taxable Receipts	Filers		State Sales Tax	
	Number	Percent	Amount (\$)	Percent
Zero	43,131	24.2%	21,265	0.0%
\$1-\$25,000	64,917	36.5%	21,178,106	0.4%
\$25,001-\$50,000	12,709	7.1%	24,779,166	0.5%
\$50,001-\$100,000	12,736	7.2%	49,559,769	1.0%
\$100,001-\$500,000	26,732	15.0%	344,329,348	6.7%
\$500,001-\$1,000,000	7,862	4.4%	299,340,516	5.8%
\$1,000,001-\$2,500,000	5,753	3.2%	479,048,994	9.3%
\$2,000,001-\$5,000,000	1,959	1.1%	364,451,973	7.1%
Over \$5,000,000	2,250	1.3%	3,566,156,563	69.3%
Total	178,049	100.0%	5,148,865,700	100.0%