

SALES AND USE TAX REPORT

4-06

December 2006

I. ROCK COUNTY ADOPTS COUNTY TAX

Beginning April 1, 2007, the 0.5% county tax will be in effect in Rock County. Additional information will be published in the March 2007 issue of the *Sales and Use Tax Report*.

Information about which sales and purchases are subject to county sales or use tax and transitional provisions that apply to Rock County sellers can be found in Wisconsin Publication 201, *Wisconsin Sales and Use Tax Information*.

II. YOUR FILING FREQUENCY MAY BE CHANGED

The Department of Revenue will be conducting its annual review of all active accounts registered to collect sales tax. A change in filing frequency may be made to your account. If a change is made to your filing frequency, a notice of change will be sent to you by the end of December 2006. The filing frequency change will be effective January 1, 2007.

Please be sure to open all correspondence from the Department of Revenue promptly upon arrival. If your filing frequency has been changed, your new filing frequency will be shown on your 2007 *Wisconsin Sales and Use Tax Returns* (Form ST-12s).

III. SALES OF PROPERTY TO BE EXPORTED MAY BE EXEMPT

An exemption from Wisconsin sales and use tax is provided for sales of tangible personal property purchased for use solely outside Wisconsin that is delivered by the seller to a forwarding agent or export packer for export or to arrange for its exportation. In order to qualify for this exemption, the property must be delivered to a port outside the continental United States prior to its use.

This exemption does not apply to property that the purchaser or its agent has taken possession of prior to

delivery to the forwarding agent or export packer. Please note that a common carrier is deemed to be an agent of the seller.

For the following examples, assume that Purchaser A is buying a table from Retailer B. Transporter C is a forwarding agent that will arrange for the table to be shipped to Purchaser A's home in England.

Example 1: Retailer B arranges for a common carrier to deliver the table directly to Transporter C. Purchaser A is entitled to the exemption.

Example 2: Purchaser A arranges for a common carrier to pick up the table and transport the table directly to Transporter C. Purchaser A is entitled to the exemption. (The law deems a common carrier to be the agent of the seller; therefore, the sale of table takes place when the common carrier delivers the table to the forwarding agent.)

Example 3: Purchaser A picks up the table from Retailer B and delivers the table to Transporter C. Purchaser A is not entitled to the exemption, since Purchaser A took possession of the table before delivery to the forwarding agent.

Example 4: Retailer B is directed by Purchaser A to deliver the table to a storage facility, where Purchaser A stores the table and other property that it purchased. The storage facility is not a forwarding agent or export packer. Transporter C picks up the table and the other property from the storage facility and will arrange for the exportation of the property. Purchaser A is not entitled to the exemption, since Purchaser A took possession of the table through its agent (the storage facility) before delivery to the forwarding agent.

IV. BURGLAR ALARMS, FIRE ALARMS, AND SECURITY CAMERAS

This article provides sales and use tax information about the sale of and service to burglar alarms, fire

alarms, and security cameras. It also explains when a seller of or service provider to such equipment may purchase its materials without tax and when its purchases are subject to tax.

Sale of Installed Burglar Alarms, Fire Alarms, and Security Cameras

In order to determine the tax treatment of the transaction, an evaluation must be made of whether the seller is making a real property improvement or installing tangible personal property.

The sale and installation of a burglar alarm, fire alarm, or security camera that becomes a *real property improvement* when installed is not subject to Wisconsin sales or use tax. Persons making real property improvements are required to pay sales or use tax on their purchases of the property and materials they use in the real property improvement. (See *Purchase of Parts*, below.)

The sale and installation of a burglar alarm, fire alarm, or security camera that remains *tangible personal property* after installation is subject to Wisconsin sales or use tax (including labor and materials), unless an exemption applies (for example, sale to a federal governmental unit). Persons making sales and installations of tangible personal property may purchase such property without tax, for resale.

Real Property – Serves a Real Estate or Building Function

A burglar alarm, fire alarm, or security camera that is permanently attached to a building and monitors the building for unauthorized entry or for fire serves a real estate or building function and is considered a real property improvement.

Example 1: Company A sells an installed security camera to Business B, which is mounted on the outside of Business B's building and is used to monitor for unauthorized entry into the building. Since the security camera serves a real estate or building function, Company A's sale of the installed security camera to Business B is not subject to Wisconsin sales or use tax. Company A is deemed the consumer of the materials and supplies that it uses in its performance of the real property construction activity and is liable for Wisconsin sales and use tax on its purchase of such materials and supplies. (See *Purchase of Parts*, below.)

Tangible Personal Property – Serves a Process or Business Function

An installed burglar alarm, fire alarm, or security camera that is used to carry on a trade or business in a business, industrial, or commercial building, school, or hospital (but not in an apartment building, convalescent home, or other residential building), serves a process or business function and is considered to be tangible personal property.

Example 2: Company C sells an installed security camera to Store D, which is installed over Store D's cash register to prevent theft. Since the security camera serves a process or business function, the security camera remains tangible personal property after installation. Company C's sale of the security camera is subject to Wisconsin sales or use tax, unless an exemption applies. Company C may purchase without tax, for resale, the security camera that it sells to Store D.

Example 3: Company E sells an installed anti-theft device system to Retail Store F. The system consists of a doorway anti-theft alarm, and ink and security sensor tags. Retail Store F will attach the ink tags to clothing and sensor tags to other types of merchandise, such as videos and video games. If the cashier does not remove the tag from the merchandise, the doorway anti-theft alarm sounds, requesting the customer to return to the store. Company E's sale of the anti-theft device system to Retail Store F is subject to Wisconsin sales or use tax, unless an exemption applies. Company E may purchase without tax, for resale, the doorway anti-theft alarm and ink and security sensor tags that it sells to Retail Store F.

Combination of Real Property and Tangible Personal Property

Some burglar alarm, fire alarm, and camera security systems contain a combination of real property and tangible personal property. The sale of an installed system that contains both types of property (real property and tangible personal property) must be allocated to reflect the taxable portion of the sale.

Example 4: Company G sells an installed burglar alarm system to Business H for \$10,000. The burglar alarm system monitors unauthorized entry into Business H's building. The components of the system include (1) a sensor that is affixed to the door of the building that detects unauthorized entry; (2) a siren that is affixed to the building and sounds a loud alarm when the door is opened after hours; and (3) a telephone with an

auto-dialer that sits on a desk in the security office, which dials the police directly and plays a recorded message when the door is opened after hours. Since Company G is selling both real property (the affixed door sensor and siren) and tangible personal property (the telephone that is not affixed to the building), Company G must make an allocation of the real property and tangible personal property that it sells and is liable for Wisconsin sales or use tax on its portion of the sale that is allocated to the telephone. Company G may purchase the telephone without tax, for resale. Company G is liable for Wisconsin sales or use tax on its purchase of the door sensor and siren.

Electrical Wiring for Systems

Electrical wiring and associated equipment such as transformers, breakers, fuse boxes, buss ducts, relays, piping, and outlet sockets serving real property are real property, regardless of whether they provide electrical power to real property components or personal property within the structure.

Wiring and associated equipment serving tangible personal property are real property from the source of electricity entering the building to the outlet point within the building where the tangible personal property is connected by a plug or other means to the electrical supply. If the power supply consists of continuous wire and circuit breakers from the power source to the item of tangible personal property, the wiring and circuit breakers are real property to the point they connect directly with the item of tangible personal property. *For example, the wiring from a circuit breaker directly to the point where it connects to a security camera that is used for surveillance to prevent shoplifting is real property, and the material and labor charge for installing such wiring is not subject to tax.*

Wiring between and within items of tangible personal property is tangible personal property. *For example, the charge for wiring a security camera that is used for surveillance to prevent shoplifting to a video recorder that records the activity (that is, both components are tangible personal property) is subject to tax.*

Service or Repair to Installed Burglar Alarms, Fire Alarms, and Security Cameras

Burglar Alarms and Fire Alarms

The repair of or other service to burglar alarms or fire alarms is subject to Wisconsin sales or use tax. The law deems certain items, such as burglar alarm and fire

alarm fixtures, to retain their character as tangible personal property for purposes of repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance. The service provider may purchase without tax, for resale, the repair parts that it physically transfers to its customer in the performance of such services.

NOTE: The tax treatment stated in the previous paragraph applies for burglar alarm fixtures and fire alarm fixtures in both residential and non-residential buildings. It also applies regardless of whether the burglar alarm fixture or fire alarm fixture was tangible personal property or a real property improvement when originally installed.

Example 5: Individual I hires Company J to repair the burglar alarm system in Individual I's home. The law deems burglar alarm fixtures to retain their character as tangible personal property for purposes of repair, service, etc. Company J is making a repair to tangible personal property; therefore, Company J's charge to repair the security system is subject to Wisconsin sales or use tax. Company J may purchase without tax, for resale, the property that it transfers to Individual I in its repair of the burglar alarm system.

Example 6: Nursing Home K has its fire alarm system periodically inspected by Company L to determine if it is functioning properly or if it needs repair. The law deems fire alarm fixtures to retain their character as tangible personal property for purposes of repair, service, etc. Company L is inspecting tangible personal property; therefore, Company L's charge to inspect the fire alarm system is subject to Wisconsin sales or use tax. Company L may purchase without tax, for resale, any property that it transfers to Nursing Home K in its inspection of the fire alarm system (for example, a sticker that lists the date that the fire alarm system was inspected that Company L attaches to the inspected fire alarm system).

Security Camera Systems

The tax treatment of the repair or other listed service to a security camera system is based on whether the security camera system is considered real property or tangible personal property.

Real Property - If the security camera system is real property, the repair or other service to the security camera system is not taxable. (Security camera systems *are not* among the items deemed to retain their character as tangible personal property for purposes of repair, ser-

vice, etc.) A service provider that is providing a repair or other listed service to real property is required to pay sales or use tax on the property and materials it uses in its repair of real property. (See *Purchase of Parts*, below.)

Tangible Personal Property - If the security camera system is tangible personal property, the repair or other service to the security camera system is subject to Wisconsin sales or use tax, unless an exemption applies. The service provider may purchase without tax, for resale, the repair parts that it physically transfers to its customer in the performance of the repair or other listed service to the security camera system.

Combination of Real Property and Tangible Personal Property – If the security camera system contains both types of property (real property and tangible personal property), the charge for the repair or other service must be allocated to reflect the taxable portion of the sale.

Example 7 – Service to Real Property: Apartment Building M hires Company N to repair its security camera system that is attached to the building and monitors the access to the building. Because the function of the security camera system is to monitor access to the building, the security camera system is a part of real property. Company N is making a repair to real property; therefore, Company N's charge to repair the security camera system is not subject to Wisconsin sales or use tax. Company N is deemed the consumer of the materials and supplies that it uses in its service to real property and is liable for Wisconsin sales or use tax on its purchase of such materials and supplies. (See *Purchase of Parts*, below.)

Example 8 – Service to Tangible Personal Property: Retailer O hires Company P to repair its security camera system that is attached to the building and monitors the storeroom for shoplifting and employee theft. Because the security camera system monitors business activity in the storeroom, the security camera system serves a process or business function and is tangible personal property. Company P's charge for the repair of the security camera system is subject to Wisconsin sales or use tax, unless an exemption applies. Company P may purchase without tax, for resale, the property that it transfers to Retailer O in its repair of the security camera.

Example 9 – Service to Combination of Real Property and Tangible Personal Property: Home Owner Q hires Company R to repair its home security camera system. The system consists of a security camera that is

attached to the building (home) and a video recorder that is not attached to the building by anything other than the wire from the camera. The video recorder sits on a desk in the homeowner's office and records all activity. If Company R services both real property (the security camera) and tangible personal property (the video recorder), Company R must make an allocation of its services and is liable for Wisconsin sales or use tax on the portion of its services that is allocated to the repair of the video recorder. Company R may purchase without tax, for resale, the property that it transfers to Home Owner Q in its repair of the video recorder. Company R is liable for Wisconsin sales or use tax on its purchase of the property that it uses in its repair of the security camera.

Purchase of Parts

A contractor is liable for tax on its purchase of parts that it uses in real property construction activities. However, a contractor who transfers parts to its customers with its sale of or service to tangible personal property (that is, the contractor sells the parts as tangible personal property), may purchase such parts without tax, for resale. If a contractor does not know at the time of purchase whether it will use the parts in a real property construction activity or sell them as tangible personal property, the contractor may do one of the following at the time of making purchases:

1. Give an exemption certificate, claiming resale, to suppliers and purchase the parts without tax. If the contractor later sells the parts as tangible personal property, the contractor must collect and remit sales tax on these retail sales. If the contractor later uses the parts in a real property construction activity, the contractor must pay use tax on its purchase price of such parts.
2. Pay sales tax to suppliers on all parts purchased. If contractor later uses the parts in a real property construction activity, the tax obligation is taken care of. If the contractor later sells the parts as tangible personal property, the contractor must collect and remit sales tax on these retail sales, but may take a credit for the sales tax that it paid to suppliers on the purchase of such parts.

Additional information about these options is found on page 16 of Publication 207, *Sales and Use Tax Information for Contractors*. This publication can be downloaded from the department's web site at www.revenue.wi.gov/pubs/pb207.pdf.