

# SALES AND USE TAX REPORT

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known as the Main Street Equity Act, becomes effective in Wisconsin on October 1, 2009.

Please continue to check the Department of Revenue's Streamlined Sales and Use Tax web page at <http://www.revenue.wi.gov/sstp/index.html> for additional information, as it becomes available.

### III. POLICE AND FIRE PROTECTION FEE

Effective September 1, 2009, a police and fire protection fee is imposed on two types of transactions:

1. A fee of \$0.38 on each retail transaction for prepaid wireless telecommunications plans; and
2. A monthly fee of \$0.75 on each voice communications connection with an assigned telephone number (including landline, cellular line, and a communication service provided via a VoIP connection). If a communications provider provides multiple connections to a subscriber, the fee will be \$0.75 for each of the first 10 connections and one additional fee of \$0.75 for each 10 additional connections per billed account (i.e., \$0.075 fee for each connection over 10).

### I. PREMIER RESORT AREA TAX RATES TO INCREASE FOR CITY OF WISCONSIN DELLS AND VILLAGE OF LAKE DELTON

Effective January 1, 2010, the premier resort area tax rates for the City of Wisconsin Dells and the Village of Lake Delton will be increasing from 0.5% to 1.0%. The authority to increase this tax was provided in 2009 Wis. Act 28.

### II. REMINDER: STREAMLINED SALES AND USE TAX PROVISIONS EFFECTIVE OCTOBER 1, 2009

The Wisconsin Legislature has passed the legislation necessary to conform Wisconsin's sales and use tax laws to the requirements of the Streamlined Sales and Use Tax Agreement (SSUTA) as part of 2009 Wisconsin Act 2. The conforming legislation,

To determine who is required to impose the police and fire protection fees, please see "Fees for Prepaid Transactions" and "Fees for Assigned Telephone Numbers," below.

The fees will be reported to the Department of Revenue on an electronic return on a monthly basis. Returns will be due and payable on the last day of the month following the month in which the fees are collected (the first return is due on the last day of October 2009).

Although the Department of Revenue will be administering the \$0.38 per-transaction fee on retail transactions for prepaid wireless telecommunications plans and the Public Service Commission will be administering the \$0.75 monthly fee on all communications service connections with assigned telephone numbers, a mechanism is currently being developed to report both fees on one electronic form filed with the Department of Revenue. Persons subject to the fees will be required to register with the Department of Revenue for the collection, reporting, and remittance of the fees. Please continue to check the Department of Revenue's web site at <http://www.revenue.wi.gov/html/pfprofee.html> for additional information about how to register to report and remit the fees.

Also, please see the Frequently Asked Questions on the Public Service Commission's web site at <http://psc.wi.gov/hottopics/documents/PoliceFireProtectionFAQs.pdf>.

### **Fees for Prepaid Transactions**

Communications providers and other retailers who sell prepaid wireless telecommunications plans, such as a \$15 card for a prepaid wireless account, are subject to the fee on *retail transactions* for *prepaid wireless telecommunications plans*.

A "retail transaction" includes the sale of a prepaid wireless telecommunications plan or service by a seller for any purpose other than resale.

"Prepaid wireless communications plan" means a plan for a wireless communications service that provides the right to utilize wireless voice service, is paid for prior to use and sold in predetermined dollar amounts whereby a number of units declines with use of a known amount.

Examples of retail transactions that are subject to the \$0.38 fee include:

- The sale of a wireless handset that is activated for use with a prepaid plan.
- The sale of additional prepaid minutes, a dollar amount, or days of use for an existing account that declines with usage, regardless of whether it is purchased at a retailer's physical location, via the Internet, or via the telephone (e.g., a 200 minute card that extends the amount of use of a prepaid account).

Examples of transactions that are not subject to the \$0.38 fee include:

- Sales of handset accessories, such as batteries, chargers, phone covers, etc.
- Sales of ringtones.
- Sales of prepaid minutes by a communications provider to a retailer for resale.

A communications provider or a retailer may state the amount of the fee separately on a bill for the retail transaction, and if a communications provider or retailer does so, the communications provider or retailer must identify the fee as "police and fire protection fee."

### **Fees for Subscription Communications Services**

Communications providers are required to impose a monthly fee of \$0.75 on each communications service connection with an assigned telephone number, including landline, cellular line, and a communication serviced provided via a Voice over Internet Protocol connection.

If multiple communications service connections are provided to a subscriber, the communications provider shall impose a separate fee of \$0.75 on each of the first 10 connections and a \$0.75 fee for each 10 additional connections (i.e., a separate fee of \$0.075 for each additional connection) per billed account.

Therefore, lines 1 through 10 of an account will each be billed a \$0.75 police and fire protection (PFP) fee. Lines 11 and on would be billed at \$0.075 each. (This is 1/10th of the \$0.75 charge.) For example:

10 lines = \$7.50 PFP fee  
11 lines = \$7.50 + \$0.075 = \$7.58 PFP fee  
12 lines = \$7.50 + \$0.150 = \$7.65 PFP fee  
21 lines = \$7.50 + \$0.825 = \$8.33 PFP fee  
30 lines = \$7.50 + \$1.500 = \$9.00 PFP fee

If you have questions relating to the fee, please continue to check the following web sites:

Public Service Commission (PSC) –  
<http://psc.wi.gov/>

Department of Revenue (DOR) -  
<http://www.revenue.wi.gov/html/pfprofee.html>

PSC e-mail: [PoliceAndFireFee@psc.state.wi.us](mailto:PoliceAndFireFee@psc.state.wi.us)  
DOR e-mail: [sales10@revenue.wi.gov](mailto:sales10@revenue.wi.gov)

#### IV. ATTENTION PAYROLL DEPARTMENT

The *Wisconsin Employer's Withholding Tax Guide* (Publication W-166) has been updated to reflect changes to the Wisconsin withholding tax tables and alternate methods of computing withholding due to the new top individual income tax rate (7.75%) and bracket adjustment resulting from inflation. You can view or download a copy of Publication W-166 from the department's web site at [www.revenue.wi.gov/pubs/pb166.pdf](http://www.revenue.wi.gov/pubs/pb166.pdf).

**Note:** The revised withholding tables or alternate methods should be implemented no later than **October 1, 2009**.

**Remember:** The bank EFT system will no longer be available to file withholding after December 31, 2009! Get ahead of the rest and register for *My Tax Account* now. Do this at [www.revenue.wi.gov/faqs/my\\_tax\\_account/quick\\_start.html](http://www.revenue.wi.gov/faqs/my_tax_account/quick_start.html).

For additional information, e-mail the department's Customer Service Bureau at [sales10@revenue.wi.gov](mailto:sales10@revenue.wi.gov) or call (608)266-2776.

#### V. FUEL SURCHARGES, ENERGY SURCHARGES, AND MILEAGE CHARGES INCLUDED IN AMOUNT SUBJECT TO SALES TAX

With the increasing cost of fuel, many businesses have found it necessary to pass on these additional costs to their customers. Rather than increasing the selling price of the property or services sold, they choose to pass on this additional cost as a separate line item on the invoice given to their customers.

For example, rather than increasing room rates by a certain percentage, some hotels add an “energy surcharge” to each customer’s lodging bill. Other sellers, rather than increasing their selling price of their merchandise or services, add a “fuel surcharge” to each customer’s bill. The “energy surcharge” or “fuel surcharge” is included in the selling price of tangible personal property or taxable services sold for purposes of computing Wisconsin sales or use tax. Therefore, if the property or service sold is subject to Wisconsin sales or use tax, the amount of the energy surcharge is subject to Wisconsin sales or use tax (and local exposition taxes, if applicable).

**Example 1:** Hotel A charges \$70 per night of lodging. To recover some of its increased heating costs, Hotel A also charges an “energy surcharge” equal to 2% of the room rate (\$70 X 2% = \$1.40). The amount subject to Wisconsin sales or use tax (and local exposition room tax, if applicable) is \$71.40.

**Example 2:** Furnace Repair Company B charges Customer C \$100 for cleaning Customer C’s furnace. Furnace Repair Company B adds a \$50 “fuel surcharge” for its added cost of fuel to travel to Customer C’s house. Because the furnace cleaning services sold by Furnace Repair Company B are subject to Wisconsin sales or use tax, the “fuel surcharge” is also subject to Wisconsin sales or use tax.

**Note:** The tax treatment would be the same if Furnace Repair Company B listed the fee as “service call,” “mileage charge,” or by any other name.

## VI. LANDSCAPING

The service of lawn rolling is a taxable lawn maintenance service under s. 77.52(2)(a)20, Wis. Stats. .

Section 77.52(2)(a)20, Wis. Stats., provides that, "[t]he sale of landscaping and *lawn maintenance services* including landscape planning and counseling, lawn and garden services such as planting, mowing, spraying and fertilizing and shrub and tree services" are subject to Wisconsin sales and use tax. (Emphasis Added.)

“Lawn maintenance services” includes several different services. For example, watering lawns, aerating lawns, and raking leaves are lawn maintenance services.

## VII. REMEMBER TO REPORT USE TAX ON FUEL TAXES REFUNDED

Section 77.54(11), Wis. Stats., provides an exemption from Wisconsin sales or use tax for motor vehicle fuel or alternate fuel that is subject to fuel taxes under ch. 78, Wis. Stats. However, if the motor vehicle fuel or alternate fuel tax under ch. 78, Wis. Stats., is refunded because the buyer does not use the fuel to operate a motor vehicle upon public highways, the fuel becomes subject to Wisconsin use tax unless another sales or use exemption applies (e.g., used in farming).

The use tax should be reported on one of the following forms:

- Form ST-12, *Wisconsin Sales and Use Tax Return*, used by persons already registered for Wisconsin sales and use tax purposes.
- Form UT-5, *Consumer Use Tax Return*
- Individual income tax return (Form 1, 1A, or WI-Z)

For more information, refer to Wisconsin Publication 222, *Motor Vehicle Fuel Users: Do You Owe Use Tax?*, which is available at <http://www.revenue.wi.gov/pubs/pb222.pdf>.

## VIII. NO MORE PAPER SALES AND USE TAX RETURNS WILL BE MAILED

The Wisconsin Department of Revenue will no longer mail paper *Sales and Use Tax Returns* (Form ST-12). If you need a paper copy of Form ST-12, Schedule CT or Form ST-12 instructions, go to <http://www.revenue.wi.gov/forms/sales/index.html>.

## IX. QUESTION AND ANSWER

**Q** Are charges by municipal swimming pools to enter the pool subject to Wisconsin sales tax? If so, does it matter if the majority of the persons using the pool are under the age of 19?

**A** Yes, charges by swimming pools, including municipal swimming pools, are subject to Wisconsin sales tax. The fact that the majority of the persons using the pool are under the age of 19 does not affect the tax treatment.

NOTE: Effective July 1, 2009, admissions, such as league entry fees, sold by a nonprofit organization to participate in any sports activity in which more than 50 percent of the participants are 19 years old or younger are not subject to Wisconsin sales tax. The fee to access a swimming pool is not considered a sports activity for purposes of this new law.