

# SALES AND USE TAX REPORT

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### I. NEW SEARCH FUNCTION FOR SALES AND USE TAX REPORTS

A new search function is now available on the [Sales and Use Tax Report index page](#). Rather than having to search the entire DOR website for the information you are looking for, this search function allows you to quickly perform a search of just the *Sales and Use Tax Reports* (from June 1999 and forward), using a word or phrase. [↗](#)

### II. SALES AND USE TAX EXEMPTION CERTIFICATE REQUIREMENTS

The Streamlined Sales Tax Governing Board’s (SSTGB) Audit Committee has prepared a Power Point presentation that explains how states that have conformed their laws to the requirements of the Streamlined Sales and Use Tax Agreement (SSUTA) will administer the provisions relating to sales and use tax exemption certificates received by sellers. The presentation explains the requirements of obtaining exemption certificates, what information is required to be entered on the exemption certificates, how incomplete exemption certificates will be handled, and what “good faith” means and when it applies. The presentation is available on the [Streamlined Sales and Use Tax web page](#) on the Department of Revenue’s web site. See the bullet titled “Sales and Use Tax Exemption Certificate Requirements – [January 2011 PowerPoint Presentation](#).” [↗](#)

### III. EXEMPTION CERTIFICATE REQUIREMENTS FOR SELLERS OF PROPANE

If 100% of the propane sold to a customer in Wisconsin is for use in the person's permanent residence or for farm use, an exemption certificate is not required. However, the seller must maintain adequate records to identify which sales are exempt.

What is residential use? What is not residential use? What does it mean to maintain adequate records? These questions are answered in the article titled "[Do I Need a Wisconsin Sales and Use Tax Exemption Certificate for Every Residential Customer to Sell Them Propane Without Wisconsin Sales Tax?](#)" This article on the Department of Revenue's web site also includes helpful examples. [↗](#)

### IV. REGISTRATION OF SNOWMOBILES AND ATVS IN WISCONSIN BY NONRESIDENTS

A person who is not a resident of Wisconsin but who registers or titles or is required to register or title his or her snowmobile or ATV in Wisconsin, is required to pay the applicable Wisconsin sales or use tax due on the purchase of the snowmobile or ATV at the time the snowmobile or ATV is registered or titled in Wisconsin. This would include snowmobiles and ATVs that are registered or titled in Wisconsin by non-residents for the purpose of obtaining a trail pass from the Wisconsin Department of Natural Resources. However, if the person has already paid a sales or use tax that was legally due and owing to another state, the sales or use tax paid to the other state may be used to offset some or all of the sales or use tax due in Wisconsin.

**Example 1:** Nonresident A purchases an ATV in the state in which he lives from a private party (as opposed to a dealer) for \$5,000. Nonresident A did not pay any sales or use tax on his purchase of the ATV since the state in which he lives does not impose tax on the purchase price of an ATV when it is purchased from a private party. If Nonresident A wants to ride the ATV on public trails in his home state, Nonresident A is required to pay a flat \$25 trail fee every 2 years. Nonresident A brings the ATV to Wisconsin to ride on Wisconsin trails in Jackson County. In order to get the required trail pass in Wisconsin, Nonresident A registers the ATV with the Wisconsin Department of Natural Resources. At the time the ATV is registered in Wisconsin, Nonresident A is required to pay the applicable Wisconsin state and county use tax due ( $\$5,000 \times 5.5\% = \$275$ ) on his purchase of the ATV. The \$25 trail fee that Nonresident A was required to pay to his home state may not be used to reduce the \$275 Wisconsin use tax due on Nonresident A's purchase of the ATV, since this was not a sales or use tax paid to the other state.

**Example 2:** Same as *Example 1* except that the \$25 fee that Nonresident A was required to pay to his home state was a sales, use, or excise tax imposed on the use of the ATV in his home state. In this example, the \$25 may be used to reduce the \$275 Wisconsin use tax due and Nonresident A would only be required to pay the \$250 difference between the total Wisconsin use tax (\$275) and the \$25 use tax Nonresident A previously paid to his home state.

**Example 3:** Same as *Example 1* except that Nonresident A was required to pay 6.5% sales tax to his home state at the time the ATV was registered in his home state. In this example, since the sales tax Nonresident A was required to pay to his home state was equal to or greater than the Wisconsin use tax due, no additional sales or use tax is due to Wisconsin at the time Nonresident A registers the ATV in Wisconsin if Nonresident A

provides proof (i.e., a copy of registration form and receipt from his home state showing the 6.5% sales tax was paid), that the sales tax was paid to his home state. [↗](#)

## V. DISCOUNT/MEMBERSHIP CARDS

The examples below explain the proper Wisconsin sales and use tax treatment of membership fees charged by a retailer that a customer is required to pay before being allowed to purchase products from the retailer. A summary of the examples is as follows:

- A. *Sales of Taxable Products*
- B. *Sales of Nontaxable Products*
- C. *Sales of Both Taxable and Nontaxable Products*
- D. *Sales to Persons Providing a Continuous Exemption Certificate*
- E. *Sales to Exempt Entities*

### A. Sales of Taxable Products

Membership fees charged by a retailer that allow the purchaser of the membership to purchase taxable products from the retailer are subject to Wisconsin sales or use tax.

**Example 1:** Retailer A requires that its customers purchase a membership for \$30 to its store before the customer is allowed to make purchases at the store. The membership is good for one year from the date purchased. Retailer A only sells products that are subject to Wisconsin sales or use tax. The \$30 membership fee is subject to Wisconsin sales or use tax.

### B. Sales of Nontaxable Products

Membership fees charged by a retailer that only allow the purchaser of the membership to purchase nontaxable products from the retailer are not subject to Wisconsin sales or use tax.

**Example 2:** Retailer B requires that its customers purchase a membership for \$30 to its store before the customer is allowed to make purchases at the store. The membership is good for one year from the date purchased. Retailer B only sells products that are not subject to Wisconsin sales or use tax. The \$30 membership fee is not subject to Wisconsin sales or use tax.

### C. Sales of Both Taxable and Nontaxable Products

Membership fees charged by a retailer to a customer that allow the customer to purchase both taxable and nontaxable products from the retailer are subject to tax to the same extent the products being purchased are subject to tax. If the percentage of taxable products being purchased by the customer is not known by the retailer at the time the membership is sold, the retailer may charge Wisconsin sales or use tax on the entire membership fee. The retailer is liable for Wisconsin sales or use tax on the entire membership fee, unless the retailer can document the amount of its nontaxable sales to the customer.

**Example 3:** Retailer D requires that its customers purchase a membership for \$30 to its store before the customer is allowed to make purchases at the store. The membership is good for one year from the date purchased. Retailer D sells both items that are subject to Wisconsin sales or use tax and items that are not subject to Wisconsin sales or use tax.

Retailer D does not know what percentage of a particular customer's purchases will be subject to tax at the time the membership is sold. Retailer D may charge Wisconsin sales or use tax on the entire \$30 membership fee.

#### **D. Sales to Persons Providing a Continuous Exemption Certificate**

A retailer is not liable for Wisconsin sales or use tax on its receipts from membership fees charged to customers who provide the retailer with fully completed continuous exemption certificates (e.g., Form S-211, Form S-211-SST), claiming a valid exemption on all of their purchases from the retailer.

**Example 4:** Retailer X requires that its customers purchase a membership for \$30 to its store before the customer is allowed to make purchases at the store. The membership is good for one year from the date purchased. Customer Y resells all of the items it purchases from Retailer X and provides Retailer X with a fully completed continuous Form S-211, claiming resale, at the time Customer Y purchases the membership from Retailer X. Since Customer Y has provided Retailer X with a fully completed continuous exemption certificate for all its purchases from Retailer X, Retailer X is not required to collect Wisconsin sales or use tax on the \$30 membership fee.

#### **E. Sales to Exempt Entities**

A retailer is not liable for Wisconsin sales or use tax on its receipts from membership fees charged to Wisconsin governmental units, federal governmental units, and certain nonprofit organizations that hold a Wisconsin Certificate of Exempt Status (CES) number. In order to claim the exemption, a federal or Wisconsin governmental unit must provide the seller with one of the following:

- A fully completed exemption certificate (e.g., Form S-211, Form S-211-SST).
- A completed purchase order or similar document clearly identifying the purchaser.
- The CES number issued to the governmental unit to be recorded by the seller on the invoice it keeps.

In order to claim the exemption, a nonprofit organization holding a Wisconsin CES number must provide the seller with one of the following:

- A fully completed certificate (e.g., Form S-211, Form S-211-SST).
- The CES number issued to the nonprofit organization to be recorded by the seller on the invoice it keeps.

**Example 5:** Retailer G requires that its customers purchase a membership for \$30 to its store before the customer is allowed to make purchases at the store. The membership is good for one year from the date purchased. Nonprofit Organization H holds a Wisconsin CES number and provides Retailer G with its CES number at the time Nonprofit Organization H purchases the membership from Retailer G. Since Nonprofit Organization H has provided Retailer G with its CES number, Retailer G is not required to collect Wisconsin sales or use tax on the \$30 membership fee. Retailer G should record Nonprofit Organization H's CES number on the copy of the invoice that it keeps for its records. [☞](#)

## VI. TAX TREATMENT OF ONLINE SEMINARS

The sale, license, lease, or rental of specified digital goods became taxable on October 1, 2009. The article on the Department of Revenue's web site titled "[Tax Treatment of Online Seminars](#)" discusses how the tax on specified digital goods affects the tax treatment of online seminars. [↗](#)

## VII. QUESTIONS AND ANSWERS

**Q** Is the service of removing snow and clearing ice dams from roofs subject to Wisconsin sales tax?

**A** No. Service to a roof is not taxable, because it is a service to real property.

**Q** Are swimming pool cleaning and maintenance services subject to tax?

**A** Yes, performing cleaning and other maintenance services to swimming pools is subject to Wisconsin sales tax. These cleaning and maintenance services are taxable, regardless of whether the swimming pool is an above-ground pool or an in-ground pool.

Certain types of property, including swimming pools, are deemed to retain their character as tangible personal property for purposes of services to such property, regardless of the extent to which the property is fastened to, connected with, or built into real property. See Part III. of [Publication 207](#), *Sales Tax Information for Contractors*, for additional information. [↗](#)