

# SALES AND USE TAX REPORT

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## I. NEW TAX LAWS

### A. Wisconsin Economic Development Corporation Exempt From Wisconsin Sales and Use Taxes (2011 Act 7, amend sec. 77.54(9a), effective February 24, 2011.)

Section 77.54(9a), Wis. Stats., was amended to add the newly created Wisconsin Economic Development Corporation as an entity that is exempt from Wisconsin sales and use taxes on its purchases. [↗](#)

**B. Repeal of Law that Limited Discounts Given by Retailers** (2011 Act 18, repeal sec. 77.52(4), amend secs. 66.0615(1m)(f)2., 77.982(2), 77.991(2), 77.9951(2), and 77.9972(2), effective June 8, 2011.)

The law that prohibited retailers from offering discounts equal to the amount of state and local sales tax has been repealed. Retailers may now offer and advertise such discounts.

Under prior law, retailers were not allowed to advertise that they would absorb or pay the sales tax for their customers. The following advertising statements violated Wisconsin sales and use tax law, even when the retailer paid the correct amount of the sales tax to the Department of Revenue:

“Pay no sales tax!”

“We’ll pay your sales tax.”

“Receive a discount equal to the sales tax.” [☞](#)

**C. Products Provided Free of Charge** (2011 Act 32, renumber sec. 77.52(21) to 77.52(21)(a) and amend as renumbered, and create sec. 77.52(21)(b), effective September 1, 2011.)

Effective September 1, 2011, if a retailer provides an item free of charge with the required purchase of another **taxable** product, the retailer may purchase the item provided free of charge without tax, for resale.

Currently, a retailer is the consumer of the items it provides free of charge in conjunction with the required purchase of another product and is required to pay Wisconsin sales or use tax on its purchases of these free items. This is true under current law regardless of whether the customer is required to purchase a separate taxable or nontaxable item before getting the free item. [☞](#)

**D. Exemption Created for Modular and Manufactured Homes Used in Real Property Construction Activities Outside Wisconsin** (2011 Act 32, create sec. 77.54(5)(am), effective September 1, 2011.)

Effective September 1, 2011, an exemption is created for the sales price from the sales of and the storage, use, or other consumption of modular homes, as defined in sec. 101.76, Wis. Stats., and manufactured homes, as defined in sec. 101.91(2), Wis. Stats., that are used in real property construction activities outside Wisconsin.

Currently, the sale of and the storage, use, or other consumption of a modular or manufactured home in Wisconsin that is subsequently used in real property construction activities is subject to Wisconsin sales or use tax, regardless of whether such real property construction activities take place in or outside Wisconsin. [☞](#)

**E. Exemption Created for Vegetable Oil or Animal Fat Converted to Motor Vehicle Fuel** (2011 Act 32, create sec. 77.54(11m), effective September 1, 2011.)

Effective September 1, 2011, an exemption is created for the sales price from the sales of and the storage, use, or other consumption of vegetable oil or animal fat that is converted into

motor vehicle fuel that is exempt under sec. 78.01(2n), Wis. Stats., from the taxes imposed under sec. 78.01(1), Wis. Stats. [☞](#)

- F. Repeal of Regional Transit Authorities** (2011 Act 32, among other provisions renumber sec. 77.9973 to 77.9973(1), amend sec. 59.58(7)(e)(intro.), and create secs. 77.708(3) and 77.9973(2), effective July 10, 2011. Repeal sec. 59.58(6), sec. 59.58(7) as affected by Act 32, sec. 66.1039 as affected by Act 32, and sec. 77.708 as affected by Act 32, amend Ch. 77 (title), subch. V (title) of Ch. 77, secs. 77.71, 77.73(2) and (3), 77.75, 77.76(1), (2), (3r), (4), and (5), 77.77(1) and (3), 77.78, subch. XIII (title) of Ch. 77, sec. 77.9971, sec. 77.9972, and sec. 77.9973 as affected by Act 32, effective September 28, 2011.)

The existing Dane County and Southeastern Regional Transit Authorities are terminated. The authorization to create the Chequamegon Bay and Chippewa Valley Regional Transit Authorities is repealed. [☞](#)

- G. Exemption Created for Advertising and Promotional Direct Mail** (2011 Act 32, create sec. 77.54(59), effective July 1, 2013.)

Effective July 1, 2013, an exemption is created for the sales price from the sales of and the storage, use, or other consumption of advertising and promotional direct mail. "Advertising and promotional direct mail" is defined in sec. 77.51(1ag), Wis. Stats., to mean 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" is defined in sec. 77.51(3pd), Wis. Stats., to mean 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 under s. 77.52 (1) (b), (c), or (d) 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 under s. 77.52 (1) (b), (c), or (d) 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. [☞](#)

- H. Exemption Created for Snowmaking and Snow-Grooming Machines and Equipment** (2011 Act 32 create sec. 77.54(58), effective July 1, 2013.)

Effective July 1, 2013, an exemption is created for the sales price from the sales of and the storage, use, or other consumption of snowmaking and snow-grooming machines and equipment, including accessories, attachments, and parts for the machines and equipment and the fuel and electricity used to operate such machines and equipment, that are used exclusively and directly for snowmaking and snow grooming at ski hills, ski slopes, and ski trails. [☞](#)


## II. REMINDER – WIND, SOLAR, AND GAS FROM AGRICULTURAL WASTE EXEMPTION BECAME EFFECTIVE JULY 1, 2011

Section 77.54(56), Wis. Stats., was created by 2007 Wis. Act 20, with an effective date of July 1, 2009. The effective date of the exemption was amended to July 1, 2011 in 2009 Wis. Act 28.

Section 77.54(56), Wis. Stats., provides an exemption from sales and use taxes for:

(a) Beginning July 1, 2011, the sales price from the sale of and the storage, use, or other consumption of a product whose power source is wind energy, direct radiant energy received from the sun, or gas generated from anaerobic digestion of animal manure and other agricultural waste, if the product produces at least 200 watts of alternating current or 600 British thermal units per day, except that the exemption under this subsection does not apply to an uninterruptible power source that is designed primarily for computers.


(b) Except for the sale of electricity or energy that is exempt from taxation under sub. (30), beginning on July 1, 2011, the sales price from the sale of and the storage, use, or other consumption of electricity or energy produced by a product described under par. (a).

An Emergency Rule was published on June 29, 2011. The text of the rule has been posted to the Department of Revenue's web site: "[Emergency Rule for Wind, Solar, and Certain Gas-Powered Products' Exemption.](#)" 

## III. MY TAX ACCOUNT – YOUR WAY

You asked and we listened. From your feedback, the Department of Revenue has made upgrades to *My Tax Account*. The improved version was launched on June 6, 2011 and is easier to use, understand, and navigate.

- Simple registration – self-register in one easy step
- Faster filing – password and name entry has been replaced with a quick check box
- Modern, intuitive forms – fewer screens to navigate and enter only what you need
- More helpful “Help” – user-friendly help messages guide you along the way
- File, pay and go – file and pay your WT-6 in the same place
- New functionality [functions/capabilities/tools] – file a claim for refund, make an appeal and more

Visit [www.revenue.wi.gov](http://www.revenue.wi.gov) for information about the changes, including a step-by-step training webinar, how-to videos, and commonly asked questions. 

## IV. FILING A CLAIM FOR REFUND JUST GOT EASIER!

When a buyer pays state, county, or stadium (baseball and football) sales tax to a seller in error, the buyer may file a claim for refund from the Wisconsin Department of Revenue if the claim for refund of sales tax totals \$50 or more. If the claim for refund totals less than \$50, a claim may also be filed if one or more of the following conditions apply:

- The seller has ceased business operations,
- The buyer is being field audited, or
- The periods covered in the claim for refund are within the statute of limitations for the buyer and are closed to the seller.

A new electronic application for filing claims for refund is now being used by the Department of Revenue. Electronic claims are filed through [My Tax Account](#).

Paper claims will also continue to be accepted using [Form S-220](#), *Buyer's Claim for Refund of Wisconsin State, County, and Stadium Sales Taxes*, and [Schedule P](#), *Attachment to Buyer's Claim for Refund of Wisconsin State, County, and Stadium Sales Taxes*. [↗](#)

## V. REMINDER: CHANGES TO MEDICAL-RELATED EXEMPTIONS

Effective October 1, 2009, sales and use tax law changes were made to exemptions for drugs and certain medical equipment and devices. These changes are reflected in the following regulations:

- Section [Tax 11.08](#), Wis. Adm. Code, “Durable medical equipment, mobility-enhancing equipment, and prosthetic devices.”
- Section [Tax 11.09](#), Wis. Adm. Code, “Drugs.”
- Section [Tax 11.17](#), Wis. Adm. Code, “Hospitals, clinics and medical professions.”
- Section [Tax 11.18](#), Wis. Adm. Code, “Dentists and their suppliers.”
- Section [Tax 11.45](#), Wis. Adm. Code, “Sales by pharmacies and drug stores.” [↗](#)

## VI. ARTICLES

### A. Shipments of Tangible Personal Property – Where Do the Sales Take Place?

Sales and use taxes are imposed based on the location where the sale takes place. For sales of tangible personal property, this is generally the location where the purchaser “receives” the property. An article titled "[Shipments of Tangible Personal Property – Where Do the Sales Take Place?](#)" is available on the department's web site, which provides examples to illustrate the law before and October 1, 2009 and thereafter. [↗](#)

### B. Credit for Taxes Paid to Other States

Wisconsin allows a credit for taxes paid to another state on a transaction taxable to Wisconsin. Two articles have been posted to the Department of Revenue's web site explaining this credit:

- “[Credit for Taxes Paid to Other States - Tax on Repair Labor](#)” discusses how the credit applies in situations where the other state does not impose its sales tax on repair labor, but does impose its tax on the repair parts. Examples are also provided in the article.
- “[Construction Contractors - Credit for Taxes Paid to Other States – Wisconsin Treats Transaction as Sale and Installation of Tangible Personal Property But Other State Treats Transaction as Real Property Construction Activity](#)” provides a common example of when this credit applies to materials used in real property construction activities. [↗](#)

### C. Sourcing Sales of Admissions

A tax release titled “[Admissions to Amusement, Athletic, Entertainment, or Recreational Events or Places](#)” has been prepared that explains the proper sourcing of sales of admissions to amusement, athletic, entertainment, or recreational events and places occurring on and after October 1, 2009. The release contains numerous examples and explains who is responsible for remitting Wisconsin tax on the sales of these admissions, and also when and where the sales of the admissions take place. [↗](#)

### D. New Design for Foreign Diplomat Tax Exemption Card

Certain foreign diplomats are exempt from Wisconsin sales and use taxes on their purchases. In order to claim this exemption, a foreign diplomat must provide the seller with his or her *Diplomatic Tax Exemption Card*. Information about the new card design is provided in the article titled “[New Foreign Diplomat Tax Exemption Card Design!](#)” [↗](#)

### E. E-Mail Services Provided With Web Hosting

A tax release that explains the sales and use tax treatment of web hosting services and the service of providing e-mail services has been posted to the Department of Revenue’s web site. See the article titled “[E-Mail Services Provided with Web Hosting.](#)” [↗](#)

### F. Nurse Tanks, Fertilizer Tender Units, and Liquid Fertilizer and Chemical Storage Tanks

A tax release titled “[Sales and Use Tax Treatment of Liquid Nurse Tanks, Dry Fertilizer Tender Units, and Liquid Fertilizer and Chemical Storage Tanks](#)” has been posted to the department’s web site. This tax release explains when sales and use tax exemptions apply to sales and purchases of these products. [↗](#)

### G. When is the Sale of a Dishwasher Taxable?

The tax treatment of the sale of a dishwasher depends on whether the dishwasher is sold installed. The tax treatment may also be different for residential versus commercial sales. The tax treatment, including examples, is provided in the article titled “[Is the Sale of a Dishwasher Taxable?](#)” [↗](#)

### H. Are Disaster Relief Payments Taxable?

When a natural disaster occurs, it can lead to financial losses for individuals. The Federal Emergency Management Agency (FEMA) and the American Red Cross (ARC) provide disaster victims funds to those in need. Information about how Wisconsin sales and use tax applies to purchases using such disaster relief payments is provided in the article titled “[Disaster Relief Payments.](#)” [↗](#)