



# SALES AND USE TAX REPORT

June 2014  
Issue 2-14

If you would like to receive notification when a new *Sales and Use Tax Report* is available, subscribe to the sales and use tax electronic mailing list at [revenue.wi.gov/html/lists.html](http://revenue.wi.gov/html/lists.html). All of the *Sales and Use Tax Reports* are available at [revenue.wi.gov/ise/sales/index.html](http://revenue.wi.gov/ise/sales/index.html).

## In This Issue

	Page
<b>I. Reminder! Premier Resort Area Tax Increase Becomes Effective July 1, 2014</b> .....	1
<b>II. Village of Stockholm Adopts Premier Resort Area Tax Effective October 1, 2014</b> .....	1
<b>III. New Tax Laws</b> .....	2
<b>IV. Seller's Permit Wallet Cards</b> .....	6
<b>V. Sales of Kombucha</b> .....	6
<b>VI. Sales of Prepaid Telephone Cards</b> .....	7
<b>VII. Educational Products, Goods, and Services</b> .....	8
<b>VIII. Huber Law Fees</b> .....	10
<b>IX. Aircraft Parking</b> .....	11
<b>X. Snowmobiles, ATVs, UTVs, and Similar Property Sold to Nonresidents</b> .....	12

### **I. REMINDER! PREMIER RESORT AREA TAX INCREASE BECOMES EFFECTIVE JULY 1, 2014**

Effective July 1, 2014, the premier resort area tax rates for the City of Wisconsin Dells and the Village of Lake Delton are increasing from 1.0% to 1.25%. The authority to increase this tax was provided in [2013 Wis. Act 20](#). [↗](#)

### **II. VILLAGE OF STOCKHOLM ADOPTS PREMIER RESORT AREA TAX EFFECTIVE OCTOBER 1, 2014**

**Beginning October 1, 2014**, the 0.5% premier resort area tax will be in effect in the Village of Stockholm. The authority to impose this tax was provided in [2013 Wis. Act 20](#).

Every retailer making retail sales, licenses, leases, or rentals of taxable products or taxable services are subject to premier resort area tax if the sale, license, lease or rental takes place in a premier resort area and if the retailer is classified in the Standard Industrial Classification Manual (1987 Edition) under certain numbers. These numbers are listed in *Answer 4* of the department's [Common Questions relating to the Premier Resort Area Tax](#).

For more information about the premier resort area tax, see [Publication 403](#), *Premier Resort Area Tax*. [↗](#)

### III. NEW TAX LAWS

#### A. Aircraft Parts and Repair – New Exemptions ([2013 Act 185](#), amend sec. 77.52(2)(a)10. and (13) and repeal and recreate sec. 77.54(5)(a), effective July 1, 2014).

Effective July 1, 2014, charges for the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of any aircraft or any aircraft parts are no longer subject to sales tax.

Effective July 1, 2014, the sales of and the storage, use, and consumption of parts used to modify or repair aircraft are exempt.

Prior to July 1, 2014:

- The repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of any aircraft is taxable, unless the purchaser of the service could buy the aircraft being serviced without tax at the time the service is performed.
- Repair parts for any aircraft are taxable unless an exemption applies.

**Note:** Sales of aircraft supplies are taxable both before and after July 1, 2014. For example, hydraulic fluid is an aircraft supply. See the article titled "[New Sales and Use Tax Exemptions for Aircraft](#)" on the department's website for additional information.

#### B. Definition of Common Motor Carrier Amended ([2013 Act 364](#), amend sec. 194.01(1), first applies to motor carrier operations occurring on April 25, 2014).

Wisconsin law provides an exemption from sales and use taxes for the sale of and the storage, use, or other consumption of motor trucks, truck tractors, road tractors, buses, trailers and semitrailers, and accessories, attachments, parts, supplies and materials therefor, sold to common or contract carriers who use such motor trucks, truck tractors, road tractors, buses, trailers and semitrailers exclusively as common or contract carriers. (Section 77.54(5)(b), Wis. Stats.)

For purposes of this exemption, "common carrier" has the same meaning as "common motor carrier" in sec. 194.01(1), Wis. Stats. Therefore, the amendment of the definition of "common motor carrier" in 2013 Wis. Act 364 also applies to "common carrier," as used in sec. 77.54(5)(b), Wis. Stats.

Notable changes in the definition of "common motor carrier" are:

1. The requirement that a common carrier transports passengers "between fixed end points or over a regular route upon the public highways or property over regular or irregular routes" upon public highways was removed.
2. The definition previously excluded the transportation of passengers in commuter car pool or van pool vehicles with a passenger-carrying capacity of less than 16 persons. The new law limits this exclusion to commuter car pool or van pool vehicles with a passenger-carrying capacity of less than 8 passengers, including the driver.

- C. Fertilizer Blending, Feed Milling, and Grain Drying Operations – New Exemptions (2013 Act 324,** renumber sec. 77.54(6) to 77.54(6)(am), renumber sec. 77.54(6r) to 77.54(6)(cn) and amend as renumbered, and create sec. 77.54(6)(am)4. and 5. and (bn), effective April 19, 2014).

Effective April 19, 2014, sales and use tax exemptions are created for the following:

- Machines and specific processing equipment used exclusively and directly in a fertilizer blending, feed milling, or grain drying operation, including holding structures used for weighing and dropping feed or fertilizer ingredients into a mixer, wet corn holding bins, grain dryers, mixers, conveying equipment, and grinding, mixing, and saturation bins, regardless of whether such items become an addition to, a component of, or a capital improvement of real property. The exemption includes repair parts, replacements, and safety attachments for such machines and equipment.
- Building materials acquired solely for and used solely in the construction or repair of holding structures used for weighing and dropping feed or fertilizer ingredients into a mixer or for storage of grain, if such structures are used in a fertilizer blending, feed milling, or grain drying operation.

The exemptions apply only to:

- Items located on the same parcel of property where the fertilizer blending, feed milling, or grain drying operation activities are conducted, or on an adjoining parcel, including parcels that are separated only by a public road, and
- Persons who are primarily engaged in fertilizer blending, feed milling, or grain handling operations which include grain drying operations, or primarily engaged in any combination of fertilizer blending, feed milling, or grain handling operations which include grain drying operations, and to contractors providing real property construction activities to such persons.

The exemptions are to be strictly construed.

Prior to April 19, 2014, these items were taxable. However, an exemption may have applied if the item was tangible personal property and was used exclusively and directly in the business of farming or in manufacturing.

Also, prior to April 19, 2014, purchases of the building materials described above were taxable if they were used in the construction or repair of holding structures and the construction or repair was a real property improvement.

- D. Printers – Tax Exemptions (2013 Act 145,** amend sec. 77.54(61), as created by [2013 Act 20](#), and create sec. 77.54(61)(c), both effective retroactively to October 1, 2013).

Effective retroactively to October 1, 2013, the following sales and use tax exemptions apply to purchases by a person primarily engaged in, as determined by the Department of Revenue: (a) commercial printing as described under code 323111 of the North American Industry Classification System (NAICS); (b) book printing as described under code 323117 of the NAICS; or (c) support activities for printing as described under code 323120 of the NAICS:

- (1) Purchases of computers and servers used primarily to store copies of the product that are sent to a digital printer, a plate-making machine, or a printing press or are used primarily in prepress or postpress activities.
  - "Primarily" means more than 50%.
  - "Prepress activities" include making print-ready plates, typesetting, trade binding, and sample mounting.
  - "Postpress activities" include paper bronzing, die-cutting, edging, embossing, folding, gilding, gluing, and indexing.
- (2) Purchases from out-of-state sellers of tangible personal property that are temporarily stored, remain idle, and not used in Wisconsin and that are then delivered and used solely outside Wisconsin. "Temporarily" means not more than 180 days.

**NOTE:** Wisconsin [Sales and Use Tax Report 2-13](#) (September 2013) Part V.B., provides eight examples of the application of sec. 77.54(61), Wis. Stats., as created by [2013 Act 20](#). These examples are not affected by [2013 Act 145](#) (i.e., the examples are still valid).

**E. Radio and Television Broadcasting Equipment Exemption** ([2013 Act 346](#), create sec. 77.54(23n), effective July 1, 2014).

A sales and use tax exemption is created for property that is sold to a person who is licensed to operate a commercial radio or television station in Wisconsin, if the property is used exclusively and directly in, or is fuel or electricity consumed in, the origination or integration of various sources of program material for commercial radio or television transmissions that are generally available to the public free of charge without a subscription or service agreement. This exemption applies to vehicles licensed for highway use and equipment used to transmit or receive signals from a satellite.

**F. Sellers Will be Allowed to Claim Bad Debt Deductions for Uncollectible Debts of Private Label Credit Card Company** ([2013 Act 229](#), renumber sec. 77.585(1)(a) to sec. 77.585(1)(a)(intro) and amend as renumbered, amend sec. 77.585(1)(b) and (c), and create sec. 77.585(1)(a)2. to 6. and (bm), effective July 1, 2015).

Effective July 1, 2015, a seller will be allowed to claim a deduction on its sales and use tax return for the amount of any bad debt that the seller or lender (see *Definitions*) writes off as uncollectible in the seller's or lender's books and records. In order to claim the deduction, the bad debt must be eligible to be deducted as a bad debt for federal income tax purposes, regardless of whether the seller or lender is required to file a federal income tax return.

A seller who claims a bad debt deduction must claim the deduction on its sales and use tax return that is submitted for the period in which the seller or lender writes off the amount of the deduction as uncollectible in the seller's or lender's books and records and in which such amount is eligible to be deducted as bad debt for federal income tax purposes.

If the seller or lender subsequently collects in whole or in part any bad debt for which a deduction is claimed, the seller must include the amount collected in the return filed for the period in which the amount is collected and must pay the tax with the return.

A seller may compute the seller's bad debt deduction using an estimate, if the Department of Revenue approves the method for computing the estimate. The department may audit the seller's books and records to review the estimate and adjust the estimate as necessary to reflect the actual allowable bad debt amount.

For purposes of computing a bad debt deduction or reporting a payment received on a previously claimed bad debt, any payment made on a debt or on an account is applied first to the price of the product or service sold, and the proportionate share of the sales tax on that product or service, and then to interest, service charges, and other charges related to the sale. If payment is received on an account for which the balance reflects multiple sales transactions, the payment is applied to the sales transactions in the same order in which the sales transactions occurred.

*Prior to July 1, 2015*, a seller is not allowed to claim a bad debt deduction for amounts that the lender writes off as uncollectible in its books and records. A seller is, however, allowed to claim a bad debt deduction for amounts that the seller writes off as uncollectible in its books and records, as described above.

*Also, prior to July 1, 2015*, a seller may not compute a bad debt deduction using an estimate.

### ***Definitions***

The following definitions apply with respect to bad debts:

**“Bad debt”** means the portion of the sales price or purchase price that the seller has previously reported as taxable under this Chapter 77, Subsection III, Wis. Stats., and for which the seller has paid the tax, and that the seller or lender may claim as a deduction under section [166](#) of the Internal Revenue Code.

“Bad debt” does not include financing charges or interest, sales or use taxes imposed on the sales price or purchase price, uncollectible amounts on tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) that remain in the seller's possession until the full sales price or purchase price is paid, expenses incurred in attempting to collect any debt, debts sold or assigned to 3rd parties for collection, not including dual purpose credit debts and private label credit debts, and repossessed property or items.

**“Dual purpose credit card”** means a credit card that may be used as a private label credit card or to make purchases from persons other than the seller whose name or logo appears on the card or the seller's affiliates or franchisees, if the credit card issuer is able to determine the sales receipts of the seller and the seller's affiliates or franchisees apart from any sales receipts of unrelated persons.

**“Dual purpose credit debt”** means accounts and receivables that result from credit sale transactions using a dual purpose credit card, but only to the extent the account or receivable balance resulted from purchases made from the seller whose name or logo appears on the card.

**“Lender”** means any person who owns a private label credit debt, an interest in a private label credit debt, a dual purpose credit debt, or an interest in a dual purpose credit debt, if the person purchased the debt or interest directly from a seller who remitted the tax imposed under Chapter 77, Subchapter III, Wis. Stats., or from a third party or if the person originated the debt or

interest pursuant to the person's contract with the seller who remitted the tax imposed under Chapter 77, Subchapter III, Wis. Stats., or with a third party.

"Lender" includes any person who is a member of the same affiliated group, as defined under section 1504 of the Internal Revenue Code, as a lender or is an assignee or other transferee of a lender.

**"Private label credit card"** means any charge card or credit card that identifies a seller's name or logo on the card and that may be used only for purchases from that seller or from any of the seller's affiliates or franchisees.

**"Private label credit debt"** means accounts and receivables that result from credit sale transactions using a private label credit card, but only to the extent the account or receivable balance resulted from purchases made from the seller whose name or logo appears on the card. [↗](#)

#### IV. SELLER'S PERMIT WALLET CARDS

Retailers who hold a Seller's Permit are issued a personal wallet card so that the retailer can have easy access to the permit number. In the past, these wallet cards were issued on the Business Tax Registration (BTR) Certificate. When the BTR Certificate was renewed, a new wallet card was provided.

A change was recently made to place the wallet card on the Seller's Permit. The wallet card is no longer issued on the BTR Certificate. Therefore, when a retailer receives a renewed BTR Certificate, the retailer will not receive a wallet card with a new expiration date. Your seller's permit, including the wallet card, does not expire until you cease your business.

If you need a new wallet card:

- Contact the department\* to request that we post your Seller's Permit to your account in *My Tax Account*. Then log into [My Tax Account](#) to reprint a copy of your Seller's Permit with the wallet card.

OR

- Request that the department mail you a new Seller's Permit.\*

\*Email the Department of Revenue at [DORRegistration@revenue.wi.gov](mailto:DORRegistration@revenue.wi.gov) or call (608) 266-2776. [↗](#)

#### V. SALES OF KOMBUCHA

The department was recently asked to provide guidance as to whether the sale of Kombucha beverages are subject to Wisconsin sales tax. In general, sales of food and food ingredients are not taxable; however, sales of the following food and food ingredients are taxable:

- Candy
- Soft drinks
- Dietary supplements
- Prepared food



Sales of Kombucha beverages that meet the definition of "soft drink" under [sec. 77.51\(17w\)](#), Wis. Stats. (2011-12), are subject to Wisconsin sales tax. "Soft drink" includes beverages that contain less than 0.5% of alcohol and that contain natural or artificial sweeteners (e.g., sugar).

Making Kombucha beverages requires a fermentation process and sugar is a necessary ingredient for the process. Although the amount of sugar remaining in the beverage at the end of the fermentation cycle may be reduced, the sugar is not completely eliminated. Since sugar is remaining at the end of the fermentation cycle, these Kombucha beverages contain natural or artificial sweeteners (i.e., sugar). There is no requirement for the natural or artificial sweetener (e.g., sugar) to be added to the final product after the fermentation process to be considered a "soft drink."

**Note:** Sales of Kombucha beverages that contain 0.5% or more of alcohol are also subject to Wisconsin sales tax. [↗](#)

## VI. SALES OF PREPAID TELEPHONE CARDS

Wisconsin sales of prepaid phone cards are subject to Wisconsin sales or use tax. ([Section 77.52\(2\)\(a\)5.am.](#), Wis. Stats. (2011-12)) This includes prepaid calling services and prepaid wireless calling services.

The sale of a prepaid phone card takes place in Wisconsin if either of the following apply:

- The customer purchases the prepaid phone card at the retailer's Wisconsin location, or
- The retailer ships the prepaid phone card to the customer's Wisconsin address.

**Example 1:** Customer purchases a prepaid phone card from Retailer at Retailer's store located in Wisconsin. Retailer's sale of the prepaid phone card is subject to Wisconsin sales tax.

**Example 2:** Customer orders a prepaid phone card from Retailer through Retailer's website. Retailer ships the prepaid phone card to Customer's Wisconsin address. Retailer's sale of the prepaid phone card is subject to Wisconsin sales or use tax.

**Example 3:** Customer purchases additional minutes for its prepaid phone card from Retailer through Retailer's website. Retailer provides Customer with a code that allows Customer to activate the additional minutes. Retailer's sale of the additional minutes to Customer is subject to Wisconsin sales or use tax if Customer is located in Wisconsin when Customer receives the additional minutes.

- If Retailer does not know Customer's physical location, Retailer should determine that the sale takes place at Customer's address as indicated in the Retailer's business records, if the records are maintained in the ordinary course of Retailer's business and if using that address to establish the location of the sale is not in bad faith.
- If Retailer is still unable to determine where the sale takes place, Retailer should use Customer's address as obtained during the consummation of the sale (e.g., address used on Customer's credit card or other payment method).

If Retailer is not engaged in business in Wisconsin and is not registered to collect Wisconsin sales or use tax, Retailer is not required to collect Wisconsin sales or use tax from Customer. Customer is liable for Wisconsin use tax on its Wisconsin purchase or use of the prepaid phone card.

**Note:** Retail transactions for prepaid wireless telecommunications plans are subject to the \$0.38 per transaction police and fire protection fee. A "retail transaction" includes the sale of a prepaid wireless telecommunications plan or service by a seller for any purpose other than resale (e.g., the sale of additional prepaid minutes for an existing wireless account). A "retail transaction" does not, however, include sales of prepaid minutes that can be used from any telephone. See *Answer 6* of the [Common Questions - Police and Fire Protection Fee](#) for additional information. [↗](#)

## VII. EDUCATIONAL PRODUCTS, GOODS, AND SERVICES

Educational products, goods, and services are sold in many different formats. This article discusses the sales tax treatment of the following educational products, goods, and services:

- Live in-person educational services
- Live digital online educational services
- Tangible books and videos
- Digital books and videos

### Sales of Live In-Person Educational Services

Sales of live in-person educational services are not taxable in Wisconsin. When a person provides live in-person training seminars or furnishes classes at a college or technical school, the charge for the educational services is not taxable, including the service provider's charge for mandatory training materials (e.g., charge by the service provider for a required manual). The service provider must pay tax on its purchase of the mandatory training materials that it provides incidentally with the nontaxable training services.

### Sales of Live Digital Online Educational Services

Sales of live digital online educational services are not taxable in Wisconsin. When a person provides live educational webinars (i.e., live online classes or seminars) for people to view from their personal computer, charge for the educational services is not taxable, including the service provider's charge for mandatory training materials (e.g., charge by the service provider for a required manual). The service provider must pay tax on its purchase of the mandatory training materials that it provides incidentally with the nontaxable training services.

### Sale of Tangible Books and Videos

Sales of tangible personal property are taxable in Wisconsin, unless an exemption applies. There is no exemption for the sale of educational products. For example, sales of books, video tapes, CDs, and DVDs are taxable in Wisconsin, regardless of whether the content is educational to the purchaser. In this case, the seller is not performing an educational service, but rather selling tangible personal property.

### Sale of Digital Books and Videos

Sales of certain digital goods are taxable in Wisconsin, unless an exemption applies. Taxable digital goods include digital audio works, digital audiovisual works, and digital books. When a person sells pre-recorded webinars, whether downloaded or viewable online, the person is selling a taxable digital good. A digital good is exempt if such digital good sold in tangible form is exempt. However, since the sale of a tangible video is taxable, the sale of a pre-recorded webinar is also taxable.



**Note:** In some cases, the sale of a digital good (e.g., pre-recorded webinar) may not be taxable if the purchaser is receiving an educational service, and the pre-recorded webinar is transferred to the purchaser incidentally to the educational service.

*Example:* Seller provides an online class that qualifies for college credits. The class does not require Purchaser to attend an in-person or live class. Purchaser is given a password to view pre-recorded classes online at any time. Purchaser must, however, complete three exams during the semester upon which the instructor's evaluation determines whether Purchaser receives a passing grade. In this case, Seller is selling a nontaxable educational service rather than a taxable digital good.

### Bundled Transactions

When the sale of taxable and nontaxable products, goods, or services are sold for one nonitemized price, and the value of the taxable products or services is 10% or more, the entire sales price is taxable if the sale takes place in Wisconsin. However, the seller may report and remit tax on the portion of the sales price attributable to the taxable products or services if the seller can show in his books and records the portion of the sales price attributable to the taxable and nontaxable products or services. These rules do not apply to sales in which a product (e.g., digital good) is transferred incidentally to the purchaser in connection with a service as described in the example above.

### References:

DOR article on "Tax Treatment of Online Seminars":  
<http://www.revenue.wi.gov/taxpro/news/onlinesem.html>

Wisconsin Sales/Use Tax Publication 240, *Digital Goods*:  
<http://www.revenue.wi.gov/pubs/pb240.pdf>

DOR tax release on "Sales of Education Services and Course Materials":  
<http://www.revenue.wi.gov/ise/wtb/092tra.pdf>

### **Imposition of tax:**

- Tangible Personal Property – Sec. [77.52\(1\)\(a\)](#), Wis. Stats.(2011-12)
- Specified Digital Goods and Additional Digital Goods – Sec. [77.52\(1\)\(d\)](#), Wis. Stats. (2011-12) (eff. 10/1/09)
- Bundled Transactions – Sec. [77.52\(20\)](#), Wis. Stats. (2011-12) (eff. 10/1/09)

### **Definitions:**

Tangible Personal Property - Sec. [77.51\(20\)](#), Wis. Stats. (2011-12)

Specified Digital Good - means digital audio works, digital audiovisual works, and digital books. For purposes of this subchapter, the sale, license, lease, or rental of or the storage, use, or other consumption of a digital code is treated the same as the sale, license, lease, or rental of or the storage, use, or other consumption of any specified digital goods for which the digital code relates. (Sec. [77.51\(17x\)](#), Wis. Stats. (2011-12))

Digital Audio Works - means works that result from the fixation of a series of musical, spoken, or other sounds that are transferred electronically, including prerecorded or live music, prerecorded or

live readings of books or other written materials, prerecorded or live speeches, ringtones, or other sound recordings... (Sec. [77.51\(3pa\)](#), Wis. Stats. (2011-12))

**Digital Audiovisual Works** – means a series of related images that, when shown in succession, impart an impression of motion, along with accompanying sounds, if any, and that are transferred electronically. 'Digital audiovisual works' includes motion pictures, musical videos, news and entertainment programs, and live events... (Sec. [77.51\(3p\)](#), Wis. Stats. (2011-12))

**Digital Books** – means works that are generally recognized in the ordinary and usual sense as books and are transferred electronically. "Digital books" includes any literary work, other than a digital audio work or digital audiovisual work, that is expressed in words, numbers, or other verbal or numerical symbols or indicia, if the literary work is generally recognized in the ordinary and usual sense as a book, work of fiction or nonfiction, or a short story... (Sec. [77.51\(3pb\)](#), Wis. Stats. (2011-12))

**Additional Digital Good** – means a greeting card, finished artwork, periodical, video or electronic game, newspaper or other news or information products, if they are transferred electronically. (Sec. [77.51\(1a\)\(a\)](#), Wis. Stats. (2011-12))

**Bundled Transaction** – means the retail sale of 2 or more products, not including real property and services to real property, if the products are distinct and identifiable products and sold for one non-itemized price... (Sec. [77.51\(1f\)](#), Wis. Stats. (2011-12), and sec. Tax [11.985](#), Wis. Adm. Code (August 2013 Register))

### **Exemption:**

Section [77.54\(50\)](#), Wis. Stats. (2011-12), provides an exemption from the sales price from the sale of and the storage, use, or other consumption of specified digital goods or additional digital goods, if the sale of and the storage, use, or other consumption of such goods sold in a tangible form is exempt from, or not subject to, taxation under this subchapter. [↗](#)

## **VIII. HUBER LAW FEES**

This article explains the proper Wisconsin sales tax treatment of certain charges made by Huber Law facilities. It also explains what Huber Law facilities should do if they have not been properly collecting and remitting the appropriate Wisconsin sales taxes.

1. Charges for lodging to Huber law inmates, including transfer fees, are not taxable.
2. Charges for electronic monitoring are taxable.
3. Sales of tangible personal property by Huber Law facilities, such as vending machine sales of candy, are taxable, unless an exemption applies.\*
4. Separate and optional charges for meals to Huber law inmates are taxable, unless an exemption applies.\*
5. Separate, but not optional, charges for meals to Huber law inmates are not taxable (this is considered part of the charge for the lodging).
6. If there is a single, non-itemized charge for both meals and lodging, the charge is not taxable.

**Note:** Huber Law facilities may not have been aware of how a law change effective October 1, 2009 affected the Wisconsin sales tax due on a single, non-itemized charge that includes both

meals and lodging. This may have resulted in some facilities charging more sales tax than what was due on these fees. (The "bundled transaction" provisions in secs. [77.51\(1f\)\(b\)1.](#) and [\(d\), 77.52\(22\)](#), and [77.54\(51\)](#), Wis. Stats., were created in [2009 Wis. Act 2.](#))

If a Huber Law facility collected and paid sales tax on single, non-itemized charges that included both meals and lodging, the facility may choose to file a claim for refund with the Wisconsin Department of Revenue for the amount of tax it charged in error. The facility must then return the tax and related interest to the inmates from whom the tax was collected. If the facility is unable to return the tax and interest to the inmates, it must return the tax and interest to the Wisconsin Department of Revenue.

Information about filing a claim for refund is provided in [Publication 216](#), *Filing Claims for Refund of Sales or Use Tax*.

\*Additional information about sales of tangible personal property, and exemptions that may apply, is provided in [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Parts X. and XI. Additional information about meals or "prepared food" is provided in [Publication 220](#), *Grocers*, Part II.D. [↗](#)

## IX. AIRCRAFT PARKING

The service of providing parking or providing parking space for aircraft is subject to Wisconsin sales or use tax. "Parking" includes occupying space in a hangar when an aircraft is available for use without requiring a substantial expenditure of time or effort to make it operational.

For example, a ready-to-fly aircraft occupying space in a hangar when the aircraft is available for immediate use is "parked." However, an aircraft occupying space in a hangar with its wings off is not parked, since it would require a substantial expenditure of time or effort to make it operational.

### Providing Space at Airports

An airport may provide space for an aircraft or an airline at the airport. These charges may or may not be taxable parking services.

**"T" Hangar and "Tie-Down" Parking** – Indoor parking, such as a single or multiple "T" hangar parking is taxable. Outdoor or "tie-down" parking is also a taxable parking service.

**Apron Charge** – The fee charged by an airport for use of the apron is not taxable when the fee includes use of gates and terminals and the airlines use the apron space typically to load and unload passengers and cargo, lavatory servicing, maintenance, cleaning, fueling, catering, replenishing potable water supply, deicing, and towing.

**Storage After Repair** – The charge for storing an aircraft that is not available for immediate use is not taxable. However, the charge for storing an aircraft after it has been repaired and is available for immediate use is taxable.

**Example 1:** Company repairs aircraft. Owner is unable to pick up the aircraft for a week. Company charges Owner \$200 for "storing" Owner's aircraft until it can be picked up. Because the aircraft is available for immediate use upon repair of the aircraft, the \$200 charge by Company is considered a charge for parking and is subject to Wisconsin sales tax.

**Example 2:** Company brings Owner's aircraft to its repair shop. The aircraft is damaged and cannot be used. Company charges Owner \$300 for "storing" the aircraft until Owner's insurance company can estimate the cost of the damage and approve repairs. Because the aircraft is not available for immediate use, the \$300 charge by Company is not considered a charge for parking and is not subject to Wisconsin sales tax. [✎](#)

## X. SNOWMOBILES, ATVS, UTVS, AND SIMILAR PROPERTY SOLD TO NONRESIDENTS

This article supersedes the article titled "[Reporting Sales Tax on Sales of Used Motor Vehicles, Boats, Snowmobiles, Recreational Vehicles, Trailers, Semitrailers, All-Terrain Vehicles, and Aircraft](#)," which was published on pages 9-10 of [Sales and Use Tax Report \(4-10\)](#) (December 2010).

### Sellers:

A dealer or other retailer is required to collect and remit Wisconsin sales or use tax on sales of tangible personal property in Wisconsin, including:

- Snowmobiles
- All-terrain vehicles (ATVs)
- Utility-terrain vehicles (UTVs)
- Non-motorized campers
- Trailers (e.g., trailers for snowmobiles, ATVs, and UTVs, utility trailers, cargo trailers)
- Off-road motorcycles
- Boats, including personal watercraft
- Recreational vehicles as defined in [sec. 340.01\(48r\)](#), Wis. Stats.

The dealer or other retailer's sale is taxable if the purchaser takes possession of the property in Wisconsin, regardless of whether the purchaser is a resident or nonresident of Wisconsin. The tax includes Wisconsin 5% sales tax, as well as any applicable 0.5% county and 0.1% or 0.5% stadium tax.

The chart titled "State, County, and Stadium Sales and Use Taxes Due on Items Registered or Titled in Wisconsin" is helpful in determining which tax rate applies to sales of certain vehicles that are required to be registered in the State of Wisconsin.

**Exception:** An exemption exists for motor vehicles that are sold to a nonresident whose only use of the motor vehicle is in the removal of the property from Wisconsin. This exemption does not apply to snowmobiles, ATVs, UTVs, off-road motorcycles, boats, and other motorized vehicles that are not designed or used primarily for transporting persons or property on a public highway. The exemption also does not apply to non-motorized campers, trailers, and recreational vehicles as defined in [sec. 340.01\(48r\)](#), Wis. Stats., that are not self-propelled.

**Note:** An individual that sells a snowmobile, ATV, UTV, or other motorized vehicle is not required to collect the tax when selling his or her personal vehicle. If the purchaser is a nonresident of Wisconsin who does not register or title the snowmobile, ATV, UTV, or other motorized vehicle with the State of Wisconsin (e.g., Department of Transportation, Department

of Natural Resources) and is not required to register the vehicle with the State, the nonresident does not owe Wisconsin use tax on its purchase of the vehicle.

The chart titled "State, County, and Stadium Sales and Use Taxes Due on Items Registered or Titled in Wisconsin" is helpful in determining which tax rate applies to sales of certain vehicles that are required to be registered in the State of Wisconsin.

The following articles that are posted on the department's website may also be helpful:

- [Non-Motorized Campers Purchased by Nonresidents of Wisconsin](#)
- [Boats and Trailers: Determining Which County and Stadium Taxes Apply](#)

### **Nonresident Purchasers:**

A person who is not a resident of Wisconsin may be required to register his or her property with the Wisconsin Department of Natural Resources or Wisconsin Department of Transportation. If the property is registered or required to be registered, the nonresident is required to pay the applicable Wisconsin sales or use tax due at the time the property is registered or titled in Wisconsin. This includes snowmobiles, ATVs, and UTVs that are registered or titled in Wisconsin by nonresidents 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 purchases an ATV in the state in which he lives from a private party (as opposed to a dealer) for \$5,000. Nonresident 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 wants to ride the ATV on public trails in his home state, he is required to pay a flat \$25 trail fee every two years. Nonresident brings the ATV to Wisconsin to ride on Wisconsin trails in Jackson County. In order to get the required trail pass in Wisconsin, Nonresident 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 was required to pay to his home state may not be used to reduce the \$275 Wisconsin use tax due on Nonresident'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 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. The \$25 may be used to reduce the \$275 Wisconsin use tax due and Nonresident is only required to pay the \$250 difference between the total Wisconsin use tax (\$275) and the \$25 use tax Nonresident previously paid to his home state.

**Example 3:** Same as *Example 1* except that Nonresident was required to pay 6.5% sales tax to his home state at the time the ATV was registered in his home state. Since the sales tax Nonresident 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 registers the ATV in Wisconsin if Nonresident 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. [✎](#)