



SALES AND USE TAX REPORT

September 2014
Issue 3-14

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I. REMINDER! VILLAGE OF STOCKHOLM'S PREMIER RESORT AREA TAX BECOMES EFFECTIVE OCTOBER 1, 2014

Beginning October 1, 2014, the 0.5% premier resort area tax will be in effect in the Village of Stockholm.

Retailers who (1) make sales of taxable products or taxable services that take place in the Village of Stockholm after September 30, 2014 **and** (2) are classified under one of the Standard Industrial Classification numbers noted in the department's [Premier Resort Area Tax common questions, Answer 4](#), must remit premier resort area tax on such sales.

If you are a retailer who meets both of the conditions above, you must be registered to report premier resort area tax. If you are not already registered for premier resort area tax, send us your legal name, address and 15-digit sales tax number by one of the following:

Email DORRegistration@revenue.wi.gov
Fax (608) 327-0232
Mail Wisconsin Department of Revenue
 Registration Unit
 PO Box 8902
 Madison, WI 53708-8902

Note: The premier resort area tax return is filed separately from the sales and use tax return.

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

II. INTERNET ACCESS SERVICES ARE TAXABLE

Sales of Internet access services are subject to Wisconsin sales or use tax when the customer's place of primary use is in Wisconsin.*

The federal Internet Tax Freedom Act was scheduled to expire November 1, 2014, but the expiration date of this law has been extended through December 11, 2014. Regardless of whether the Internet Tax Freedom Act expires, Wisconsin will continue to tax Internet access services.

Exception: If federal legislation is passed that would affect how Wisconsin taxes Internet access services, a notice will be sent to persons who are subscribed to the department's "Sales & Use Tax" [electronic mailing list](#).

Wisconsin sales or use tax also continues to apply to taxable products and services purchased over the Internet. If a buyer does not pay tax to the seller on the purchase of a taxable product, the buyer must pay use tax to the Wisconsin Department of Revenue. For example, if you buy clothing or appliances from a seller located outside Wisconsin, and the seller does not charge you tax, you are liable for the payment of use tax. Businesses may report this use tax on their Wisconsin *Sales and Use Tax Return* or on [Form UT-5](#). Individuals may report their use tax on their individual income tax return or on [Form UT-5](#).

*[Section 77.522\(4\)\(a\)9.](#), Wis. Stats. (2011-12), defines "place of primary use" to mean the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" means a street address within the licensed service area of the home service provider. [☞](#)

III. MOTOR VEHICLE DEALERS' MEASURE OF USE TAX INCREASED TO \$152

Wisconsin licensed motor vehicle dealers are permitted to report use tax on a certain dollar amount per plate per month for the use of motor vehicles assigned to certain employees and dealership owners.

The reason for the increase to \$152 per plate is that [sec. 77.53\(1m\)\(a\)](#), Wis. Stats. (2011-12), requires that the Department of Revenue annually adjust the amount subject to use tax to reflect the annual percentage change in the U.S. Consumer Price Index for All Urban Consumers, U.S. City Average, as determined by the U.S. Department of Labor for the 12 month period ending June 30. This index was 233.504 as of June 30, 2013 and increased to 238.343 as of June 30, 2014. Consequently, since the index changed over this period by 2.0723%, the measure of use tax for dealers' motor vehicle license plates is adjusted upward from \$149 to \$152 as of January 1, 2015 ($\$149 \times (238.343/233.504) = \152 , rounded to the nearest whole dollar). [☞](#)

IV. WISCONSIN TAX UPDATE SEMINARS

Last fall, the Department of Revenue sponsored a free, half-day Wisconsin tax update seminar for the upcoming tax filing season. At that time, attendees overwhelmingly said that they would attend future half-day updates covering Wisconsin information.

The department is finalizing plans to provide seminars in October and November in the cities listed below. A video of the seminar will also be posted to the department's website.

Online registration is available at "2014 Wisconsin Tax Update Seminars" on the [department's training web page](#).

Wisconsin Update Seminar Schedule (9:00 – 11:30 a.m.)

October 20, Monday – Eau Claire

October 21, Tuesday – Stevens Point

October 29, Wednesday – Madison

October 31, Friday – Pewaukee

November 4, Tuesday – Menasha

November 7, Friday – Madison

November 10, Monday – Kenosha [☞](#)

V. AMUSEMENT DEVICE OPERATORS: HOW DO WISCONSIN SALES/USE AND INCOME/FRANCHISE TAXES APPLY?

Who is the "operator" of an amusement device?

You are the "operator" of an amusement device if you have access to the device for stocking or restocking or for removing the receipts or if you, in general, have control over the device and its contents.

Do I have to pay sales and use taxes on the amusement devices that I buy?

You must pay sales or use tax when you buy taxable products that you use in your business. Following are examples of taxable purchases by amusement device operators:

- Pool tables
- Video game machines, including video gambling machines
- Dart boards
- Pinball machines
- Foosball tables
- Air hockey tables
- Shuffleboard tables
- Juke boxes
- Songs for juke boxes, regardless of whether you receive them on tangible media such as a hard drive or receive them via the Internet

Do I have to pay sales tax on my sales from amusement devices?

If you are the operator of an amusement device, you must pay sales tax on your receipts from customers for using the device, including your receipts from all of the devices listed above. Commissions you pay to the owner of an establishment where you place a device do not reduce your amount subject to sales tax.

Correct Example:	Gross receipts from amusement device	\$2,000
	Sales tax rate	5.5%
	<u>Sales tax due</u>	<u>\$110</u>

Incorrect Example:	Gross receipts from amusement device	\$2,000
	Payouts on video gambling winnings	(\$1,200)
	Commissions paid to owner of establishment	(\$400)
	Subtotal	\$400
	Sales tax rate	5.5%
	<u>Sales tax due</u>	<u>\$22</u>

What amount do I have to pay income or franchise tax on?

The gross income from operating amusement devices must be reported with other income from an operator's business. Income and expenses are reported on the operator's federal and Wisconsin income or franchise tax returns. An operator of video gambling machines is entitled to deductions from income for ordinary and necessary business expenses in the same manner as other business expenses.

Example:	Gross receipts reported by amusement device operator	\$2,000
	<u>Sales tax paid (see example above)</u>	<u>(\$110)</u>
	Net receipts	\$1,890
	Business Expenses:	
	Commissions paid to owner of establishment	(\$400)
	Payouts of winnings to players	(\$1,200)
	Repairs and maintenance	(\$55)
	Depreciation	(\$180)
	Supplies	(\$20)
	Travel expenses	(\$15)
	<u>Net profit (taxable income) from operations</u>	<u>\$20</u>

What are common issues found during audits?

Sales Tax Issues:

- Poor records or lack of records to substantiate gross receipts
 - No log book or documentation showing the amount of cash removed from the machines
 - No receipt given to owner of establishment showing amount of commission paid or receipt does not show computation of sales tax due or commission paid (as shown in example above)
- Sales tax incorrectly calculated using net receipts (e.g., payouts of winnings to gambling machine players are incorrectly deducted before calculating sales tax due)
- Financial account statements show deposits of cash in excess of receipts reported on the return

Use Tax Issues:

4. Failure to pay sales or use tax on purchases of amusement devices
5. Failure to pay sales or use tax on purchases of parts or repair services for amusement devices

Income/Franchise Tax Issues:

6. Poor records or lack of records
 - A. Failure to substantiate gross receipts (see sales tax issues above)
 - B. Failure to substantiate commissions or rents paid to owners of establishments
 - C. Failure to substantiate payouts made to video gambling machine players
7. Failure to issue Form 1099 information returns for gambling winnings, commissions, or rents paid
8. Personal expenses deducted as business expenses

Where can I find more information?

Information about the tax treatment of receipts from video gambling machines can be found on pages 4-6 of [Wisconsin Tax Bulletin #140](#) (October 2004), and pages 14-15 of [Wisconsin Tax Bulletin #146](#) (February 2006). In addition, refer to [sec. Tax 11.52, Wis. Adm. Code](#), "Coin-operated vending machines and amusement devices," for more information.

You may also email us at dorbusinessstax@revenue.wi.gov or call us at (608) 266-2776. [✉](#)

VI. JANITORIAL SERVICES

This article explains the sales and use tax treatment of janitorial and other related services. The department previously published an article in the June 1980 *Sales and Use Tax Report* stating that routine and repetitive janitorial services are not taxable. This article provides additional guidance.

Routine and Repetitive Janitorial Services

Routine and repetitive janitorial services (e.g., vacuuming carpets, washing windows, dusting and cleaning desks, file cabinets, and bathroom fixtures, etc.) are not taxable.

"Janitorial services," as used in this article, means a variety of cleaning services in a building to both tangible personal property and real property, performed under a single contract or agreement.

"Routine and repetitive," as used in this article, does not include janitorial services performed for a customer only once.

Example 1: Individual contracts with Cleaning Company to clean and vacuum her home on a weekly basis, including the bathroom fixtures, floors, appliances, furnishings, and windows. Cleaning Company is providing routine and repetitive janitorial services to Individual.

Example 2: Cleaning Company contracts with Building Owner to clean and vacuum its office building nightly, including the bathroom fixtures, floors, furnishings, and windows. Cleaning Company is providing routine and repetitive janitorial services for Building Owner.

Example 3: Builder contracts with Cleaning Company to clean a newly remodeled home, including bathroom and kitchen fixtures, appliances, floors, and windows. This is a one-time service. Cleaning company is not providing repetitive janitorial cleaning services for Builder.

Specialized or Non-Repetitive Cleaning Services

Specialized or non-repetitive cleaning services to tangible personal property are taxable. Specialized or non-repetitive services to real property are not taxable.

Example 1: Cleaning Company contracts with Building Owner to clean carpets on a quarterly basis in its building. Cleaning Company is providing specialized cleaning services to tangible personal property (i.e., carpet). Therefore, the charges for these services are taxable.

Example 2: Cleaning Company contracts with Building Owner to clean the windows on a quarterly basis in its building. Cleaning Company is providing specialized cleaning services to real property (i.e., windows). Therefore, the charges for these services are not taxable.

If a service provider makes a single charge for cleaning tangible personal property and real property, the service provider should make a reasonable allocation of the charge between the amount for cleaning tangible personal property (taxable) and the amount for cleaning real property (nontaxable). Using the number of hours spent performing each of the services is an example of a reasonable way to make this allocation.

If there is a single charge for providing both taxable and nontaxable services and the seller does not make an allocation, the entire charge is subject to tax, unless the Department of Revenue determines that another method more accurately reflects the tax.

Example 1: Cleaning Company charges Individual \$100 to clean her home. The charge is for a one-time cleaning service. Cleaning Company does not clean the home routinely and repetitively. Cleaning Company determines that it spent two hours cleaning tangible personal property (i.e., cleaning bathroom fixtures, carpeting, and appliances) and three hours cleaning real property (i.e., cleaning floors, walls, light fixtures, and windows). Of the \$100 charge, \$40 is taxable, as computed below:

$$\frac{\text{Two hours taxable services}}{\text{Five total hours}} = 40\% \times \$100 \text{ total charge} = \$40$$

Example 2: Cleaning Company is hired by Contractor to clean an office building after it was remodeled. The charge is for a one-time cleaning service. Cleaning Company charges Contractor \$20 per hour and spends 100 hours cleaning the office building. Cleaning Company determines that it spent 25 hours cleaning tangible personal property and 75 hours cleaning real property. Cleaning Company's \$500 charge (\$20 X 25 hours) for cleaning tangible personal property is taxable.

Example 3: Cleaning Company provides janitorial services for Car Dealer under a single contract. The contract indicates that Cleaning Company will clean the bathrooms, empty the trash containers, and vacuum the carpet nightly in Car Dealer's showroom and offices. In addition, the contract also provides that twice per year, the carpets will be cleaned. All of

the above services will be provided for \$15,000 per year. The \$15,000 annual charge is not taxable since the services are routine and repetitive janitorial services.

Example 4: Same facts as *Example 3*, except that charges for each service provided under the single contract are separately stated as follows: \$14,000 for the nightly cleaning and \$1,000 for the semi-annual carpet cleaning. Even though the charges are separately stated for each of the services provided under the single contract, the charges are not taxable since the services are routine and repetitive janitorial services.

Example 5: Same facts as *Example 4*, except that the semi-annual carpet cleaning of \$1,000 is NOT included in the overall janitorial services contract. Instead, Car Dealer contacts Cleaning Company when Car Dealer wants the carpets to be cleaned. Cleaning Company charges Car Dealer \$500 each time it clean the carpets in the showroom and offices. The amounts charged for the janitorial services are not taxable because the services are routine and repetitive. However, the \$500 charge for each carpet cleaning is taxable, since the carpet cleaning is specialized and is not part of the overall janitorial services contract. [↩](#)

VII. HOSPITALS AND MEDICAL CLINICS: DO YOU OWE WISCONSIN SALES TAX ON YOUR SALES?

Although most of the medical services you provide are nontaxable, you may also make sales that are subject to Wisconsin sales tax. This article provides information about taxable sales commonly made by hospitals and medical clinics.

Which sales are taxable?

Your sales price from selling, licensing, leasing, or renting tangible personal property, taxable services, and certain digital goods is subject to Wisconsin sales tax, unless you receive a fully completed exemption certificate from your customer, or your customer is an exempt organization and provides you with their Certificate of Exempt Status (CES) number. A business or organization cannot use the CES number of a separate exempt organization to claim an exemption on its purchases.

A hospital or medical clinic is liable for sales tax on its sales of taxable products or services to other business entities.¹ Also, a hospital or medical clinic is liable for sales tax on taxable sales made by auxiliaries that are part of the same entity as the hospital or medical clinic (e.g., gift shop sales and fundraising sales such as ice cream socials and cookbooks).

Examples of taxable sales and rentals made by hospitals and medical clinics include, but are not limited to:

1. Medical alarm monitoring services².
2. Medical equipment, supplies, and fixed assets³.
3. Soft drinks.
4. Parking or providing parking spaces for motor vehicles.
5. Copies of medical records under the following circumstances:
 - A. The hospital or clinic begins with a physical medical record and provides a photocopy, reprint, or tangible medium (such as a CD) of the record to the customer, and the sale occurs at a location in Wisconsin. In this case, the hospital or clinic has made a sale of tangible

personal property in Wisconsin. The hospital or clinic's receipts from this sale are subject to Wisconsin sales taxes.

Example (1): Attorney requests copies of various medical records from Hospital on behalf of his client, Individual. The original records are paper records in a patient's file. An employee of Hospital retrieves Individual's file and makes photocopies of the records. Individual authorizes Hospital to send the copies to Attorney. Hospital uses a shipping company to send the copies and the bill to Attorney at his office in Madison, Wisconsin. Hospital charges Attorney \$45.00 for the copies of Individual's medical records. For purposes of Wisconsin sales taxes, Hospital has made a sale of tangible personal property which is subject to Wisconsin sales tax.

Example (2): Same facts as Example (1), except Hospital furnishes the record to Attorney in a digital format on a CD. Same answer as in Example (1).

- B. The hospital or clinic begins with a digital version of the medical record (e.g., a .pdf document) and produces a physical copy of the medical record, such as on paper or a digital version on a CD, and the sale of the copies to the purchaser occurs in Wisconsin. The hospital or clinic's receipts from this sale are subject to Wisconsin sales tax.
- C. The hospital or clinic starts with a physical medical record, scans the document, and emails a digital copy to the customer. The service furnished by the hospital or clinic is a photographic service and is subject to Wisconsin sales tax if the customer receives the email in Wisconsin. If the hospital or clinic does not know where the customer receives the email, the hospital or clinic should use the customer's billing address to determine the location where the service is furnished.

Note: If the hospital or clinic maintains medical records in an electronic format and, upon request, transfers them electronically by email or some other type of electronic file transfer method, the hospital or clinic's charges for the medical records are not subject to sales tax.

- ¹ Sales of taxable products or services to other business entities are taxable, unless an exemption applies. For example, a hospital's sales of equipment sterilization services to a separate entity (medical clinic) operating within the hospital are taxable, unless the separate entity claims a valid exemption.
- ² Medical alarm monitoring services are taxable telecommunications message services. More information is provided in Part X.B.13. on page 38 of [Publication 201](#), *Wisconsin Sales and Use Tax Information*.
- ³ An exemption may apply to the sale of medical equipment and supplies, such as those described in Part XI.B.7. on page 46 and Parts XV. and XVI. on page 73 of [Publication 201](#), *Wisconsin Sales and Use Tax Information*.

Obtaining a seller's permit?

If you make taxable sales in Wisconsin, you must have a Wisconsin seller's permit. You may apply for a seller's permit using one of the following methods:

- Use the Department of Revenue's online [Business Tax Registration Process](#) to submit the application electronically.
- Register through the [Streamlined Sales Tax Governing Board's website](#).

- Complete [Form BTR-101](#), *Application for Business Tax Registration*, and mail it to the Department of Revenue. Keep a copy of the completed application for your records.

Questions?

If you have questions, email us at dorbusinessstax@revenue.wi.gov or call us at (608) 266-2776. [↗](#)

VIII. DISREGARDED ENTITIES – NOTICE OF NAME CHANGE

The Department of Revenue is in the process of implementing changes that will improve the identification of disregarded entities in the department's computer system. As part of this project, taxpayers may receive a "Notice of Name Change" in the mail.

A disregarded entity is a legal entity that is disregarded as a separate entity from its owner for federal income tax purposes. If an entity is disregarded for federal income tax purposes, it is also disregarded for Wisconsin income/franchise taxes, sales/use taxes, and excise taxes (i.e., the owner and the disregarded entity are treated as a single entity). However, each disregarded entity is a separate entity for federal and Wisconsin withholding tax purposes.

For sales/use tax purposes, the owner of a disregarded entity must report the sales and use taxes for all of its disregarded entities on the owner's sales and use tax return. However, the owner of a disregarded entity can elect to file separate electronic sales/use tax returns for all of its disregarded entities. In these cases, the disregarded entity is registered in the department's computer system with a separate account number. The name on a seller's permit will show the name of the disregarded entity, but not the name of the owner. Even though the disregarded entity has a separate account number, the disregarded entity is still disregarded as a separate entity from its owner for sales/use tax purposes.

What is a Notice of Name Change?

A Notice of Name Change tells you the department has changed the name associated with your tax account. Previously, some names contained the words "owned by." We are removing "owned by" if not part of your business's legal name.

Do you need to do anything if you receive a Notice of Name Change?

No. The department will mail you a new business registration certificate and, if applicable, a new seller's permit, within a few days of receiving the notice.

What if the name on the account is incorrect?

If the legal name on the certificate or permit is incorrect, send a copy of the business registration you received from the Wisconsin Department of Financial Institutions (or similar document received from another state agency) to the Department of Revenue at DORRegistration@revenue.wi.gov or mail to:

Wisconsin Department of Revenue
PO Box 8902
Madison, WI 53708-8902 [↗](#)

IX. SELLERS OF HEAVY TRUCKS AND TRAILERS – CHANGE IN REQUIREMENTS FOR REPORTING SALES TAX

This article is to advise you of a change in the requirements for reporting sales tax on sales of heavy trucks and trailers.

Beginning **September 1, 2014**, if you are subject to the 12% federal excise tax* on sales or rentals of heavy trucks and trailers, the federal excise tax should be included in the taxable sales price when calculating Wisconsin state, county, and stadium sales tax.

No part of the sales price of the truck or trailer is subject to Wisconsin state, county, or stadium sales tax if you receive a fully completed sales and use tax exemption certificate from your customer (e.g., the buyer will use the truck or trailer exclusively in common or contract carriage).

Example: A heavy truck seller sells a semi-truck to buyer for \$100,000 in Wisconsin. The heavy truck seller is subject to the 12% federal excise tax on its sale of the semi-truck and the buyer does not claim any exemption from sales tax. The Wisconsin state sales tax applies to taxable sales price of \$112,000.

* The federal excise tax on the first retail sale of heavy trucks and trailers is imposed under sec. 4051 of the Internal Revenue Code. You can find information about the federal excise tax in Part 6 of IRS Publication 510 (July 2013 revision), available at irs.gov/publications/p510/.

Important Information

Wisconsin Tax Bulletin 182 (October 2013), and *Sales and Use Tax Report 3-13* (December 2013) incorrectly stated that this federal excise tax is included in the retailer's taxable sales price effective July 2, 2013.

If you followed this guidance and overpaid sales tax as a result, you may file a claim for refund. Information about filing a claim for refund of overpaid sales tax is provided in Publication 216, *Filing Claims for Refund of Sales or Use Tax*.

If you receive a refund of sales tax and interest for tax that you collected from a buyer, you must return the tax and interest to the buyer or to the Wisconsin Department of Revenue within 90 days after the refund. *Wisconsin Tax Bulletin 182* and Publication 216 are available on our website at revenue.wi.gov.

If you have questions about this change, email us at dorbusinessstax@revenue.wi.gov or call us at (608) 266-2776. [✉](#)

X. SALES AND USE TAX RULES AMENDED TO REFLECT STATUTORY CHANGES

Several sales and use tax rules were amended in [CR 14-006](#) to reflect statutory changes made by [2013 Wis. Act 20](#), as well as other changes. These rule changes became effective on September 1, 2014.

The following changes are reflected in the amended rules:

- A prosthetic device must be a replacement, corrective, or supportive device to qualify for exemption. (Section Tax 11.08(4)(a) and 11.45(3)(a), Wis. Adm. Code)

- “Custom farming services” include services performed by a veterinarian to animals that are farm livestock or work stock used exclusively in the business of farming. (Section Tax 11.12(2)(b), Wis. Adm. Code)
- Exemptions for printers were created. (Section Tax 11.56(7)(bm) and (9), Wis. Adm. Code)
- Changes were made to exemptions involving qualified research and animal raising. (Section Tax 11.20, Wis. Adm. Code)
- Lists of taxes, fees, and charges that are included or excluded from sales price and purchase price are added to a rule. (Section Tax 11.26, Wis. Adm. Code)
- The self-service laundry exemption was expanded. (Section Tax 11.52(5)(a), Wis. Adm. Code)
- The definitions of “place of primary use” and “prepaid wireless calling service” in the telecommunications sourcing provision were amended. (Section Tax 11.66(1)(u) and (1)(x), Wis. Adm. Code)
- An exemption was created for taxable products and services sold by a contractor as part of a lump-sum contract if certain requirements are satisfied. (Section Tax 11.68(7)(b), Wis. Adm. Code)
- Services resulting in advertising and promotional direct mail became exempt. (Section Tax 11.19(2)(a), 11.56(7)(bm), and 11.70(2)(e), Wis. Adm. Code)

Other rules that were amended include sec. Tax 11.04, 11.05, 11.11, 11.33, 11.39, 11.48, 11.49, and 11.67, Wis. Adm. Code. [↗](#)

XI. MY TAX ACCOUNT EMAIL ADDRESS UPDATE

The Wisconsin Department of Revenue (DOR) will occasionally send you emails using the address you provide with your [My Tax Account](#) logon Id. To keep your logon Id secure and ensure you receive our communications, you will be expected to update your email address the next time you log into [My Tax Account](#).

To protect your tax information, do not share your logon Id or password with others. If you need access to another person's account, create your own MTA logon Id and password and request access to the account with their permission.

If you have questions or need help, please contact us at DORMyTaxAccountHelp@revenue.wi.gov. [↗](#)

XII. RENTALS OF MULTIPURPOSE FACILITIES MAY BE TAXABLE

Admissions to amusement, athletic, entertainment, or recreational events or places and the dues, fees, or other considerations received for access to, or the use of, amusement, entertainment, athletic, or recreational facilities are subject to Wisconsin sales and use taxes. This includes the rental of a facility, such as multipurpose facility, if the multipurpose facility is used for an amusement, athletic, entertainment, or recreational purpose.

For example, the rental of an athletic field for a ball game is taxable, since the athletic field will be used in an amusement, athletic, entertainment, or recreational manner. The rental of an athletic

field used only for providing lessons is not taxable, since using the field to provide lessons is not using the field in an amusement, athletic, entertainment, or recreational manner.

A new fact sheet for [Multipurpose Facility Rentals \(Fact Sheet 2107\)](#) has been posted to the department's website. The fact sheet includes a chart that provides the tax treatment for certain uses of a facility. [↗](#)