



# SALES AND USE TAX REPORT

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## I. NEW PUBLICATIONS

The Department of Revenue has developed two new sales and use tax publications. Both of the new publications are available on the department's website.


- **Restaurants and Bars** - [Publication 236](#) explains how Wisconsin sales and use taxes affect restaurants, bars, and similar businesses that sell food, food products, and beverages.
- **Commercial Radio and Television Stations** - [Publication 247](#) provides sales and use tax information for persons operating commercial radio and television stations in Wisconsin, including the exemption for commercial radio and television stations that became effective July 1, 2014. [↗](#)

## II. EXEMPTION CERTIFICATE REVISED

The *Wisconsin Sales and Use Tax Exemption Certificate* ([Form S-211](#)) has been revised. Notable changes are:

- Section 1 on page 2 was previously titled "Federal and Wisconsin Governmental Units." This section has been retitled to "Governmental Units and Other Exempt Entities."
- The check boxes list fewer of the individual exempt entities. Although not listed on the certificate, these entities' purchases continue to be exempt from tax. This list of exempt entities is now provided in the Instructions (page 3), rather than on the certificate itself.

- Nonprofit organizations that hold a Certificate of Exempt Status (CES) previously checked the appropriate exemption box in the "Other" section. This check box has been moved to the section titled "Governmental Units and Other Exempt Entities."
- Two new check boxes have been added in the "Other" section to claim the exemption for commercial radio and television stations who use property and fuel and electricity exclusively and directly 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 subscription or service agreement.

If you need assistance in completing the exemption certificate, please email the department at [DORSalesandUse@revenue.wi.gov](mailto:DORSalesandUse@revenue.wi.gov). 

### III. MOTOR VEHICLE PROTECTION PLANS

The purchase or lease of a motor vehicle may be offered with optional protection plans for an additional fee. When these plans protect the customer from perils outside of and unrelated to defects in the property, they are treated as insurance\* for Wisconsin sales and use tax purposes. Insurance is not taxable when the amount charged for insurance is separately listed on the invoice or contract that the customer receives.

Examples of protection plans that are treated as insurance for sales tax purposes are:

- **Ding and minor scratch protection** – Plan covers minor dings or scratches that can be repaired without repainting the vehicle.
- **Tire and wheel protection** – Plan covers repair or replacement for tires or wheels (but not the hub assembly) for damage received from road hazards.
- **Windshield protection** – Plan covers repair or replacement of windshields that are cracked or chipped from perils, such as tree branches and road hazards.
- **Key replacement** – Plan replaces keys or key fobs if lost or stolen.
- **Excess Wear and Tear (lease only)** – Plan protects the lessee from excessive wear or going over allowable mileage.
- **GAP** – Plan covers difference between what the automobile insurance plan will pay and the amount that is owed on the vehicle, in the event that the vehicle is "totaled" in an accident.

An auto repair shop's sale of the replacement items and/or repair work to the insurance provider is subject to tax. For example, when a customer gets a door ding on his or her car and the insurance provider hires a repair company to fix the ding, the repair company's sale of the repair service to the insurance provider is subject to tax. The sale of the ding protection plan from the insurance provider to the customer is not taxable. **Exception:** If the insurance provider is also the seller/lessor of the vehicle, the insurance provider may provide the repair company with an exemption certificate claiming resale, assuming that the repair work is being performed on a vehicle that the lessor is using solely to lease to others.

\* "Insurance" is defined in [sec. Tax 11.27\(1\)\(b\)](#), Wis. Adm. Code (May 2010 Register), to mean a contract or agreement which promises indemnity against loss or damage resulting from perils outside of and unrelated to defects in property.

**CAUTION:** These plans are treated as insurance for Wisconsin sales and use tax purposes. They may or may not be treated as insurance for other purposes. [↗](#)

#### IV. COMMON AND CONTRACT CARRIER - TAX RELEASE UPDATED

The tax release titled "Common and Contract Carrier Exemption" was updated and published in [Wisconsin Tax Bulletin #186](#) (October 2014). This updated tax release replaces the tax release by the same title that appeared in [Wisconsin Tax Bulletin #110](#) (July 1998), pages 31 through 37, and reflects the change in the definition of "common carrier" in sec. 194.01(1), Wis. Stats., as amended by [2013 Wis. Act 364](#). It also reflects the Wisconsin Tax Appeals Commission's decision in *Freight Lime and Sand Hauling, Inc. vs. Wisconsin Department of Revenue* (November 20, 2002). [↗](#)

#### V. SELLERS AT TEMPORARY EVENTS - WISCONSIN SALES ARE TAXABLE THROUGH THE END OF THE YEAR

Sellers who make \$1,000 or more in sales of taxable products or services during a calendar year are required to have a seller's permit. (Certain exemptions may apply.) A seller's permit allows a seller to make sales of taxable products at all temporary events in Wisconsin.

If a seller is engaged in business in Wisconsin for a "one-time" event and does not intend to return to Wisconsin, the seller is liable for Wisconsin sales or use tax on its Wisconsin sales through the end of the seller's tax year. Even if a seller does not make sales at the event itself, but promotes future sales (e.g., gives potential customers business cards or other promotional materials), the seller is still liable for Wisconsin sales or use tax on its Wisconsin sales through the end of the seller's tax year.

If a seller has no further business activity in Wisconsin after the conclusion of its tax year, the seller may surrender its seller's permit to the Department of Revenue. In this case, the seller is not liable for Wisconsin sales or use tax on its sales made after the conclusion of the tax year in which it held a seller's permit.

**Example:** Seller, a calendar year taxpayer, displayed its products at a trade show on June 1, 2014. Seller did not make any sales at the trade show, but gave potential customers flyers and business cards. Seller does not intend to return to Wisconsin and Seller does not have any other business activity in Wisconsin. In August of 2014, Seller took orders for its products and shipped products to locations in Wisconsin. Seller's Wisconsin sales (i.e., sales that were delivered to Wisconsin locations) are subject to Wisconsin sales or use tax. Seller is liable for such tax since Seller is engaged in business in Wisconsin until December 31, 2014. If Seller has no further business activity in Wisconsin after December 31, 2014, Seller may surrender its seller's permit to the Wisconsin Department of Revenue. If Seller does not return to Wisconsin, Seller is not subject to Wisconsin sales or use tax on its Wisconsin sales made on or after January 1, 2015.

Additional information for sellers at "one-time" or other temporary events in Wisconsin is available on the department's website:

- Temporary Events web page
- [Common Questions – Temporary Events](#)
- [Publication 228, Temporary Events](#) [↗](#)

## VI. **MY TAX ACCOUNT WEBINAR REFRESHER FOR ANNUAL FILING**

The Department of Revenue will host a training webinar for *My Tax Account* users on Tuesday, January 6 and January 13, 2015 from 9:30 to 11:30 a.m. The same information will be covered in both webinars.

In this webinar, we will review a variety of topics, including:

- Updating profile information
- Updating business information
- Ceasing accounts
- Filing a Withholding Deposit Report (Form WT-6)
- Filing an Annual Reconciliation (Form WT-7)
- Filing W-2s
- Filing a Sales and Use Tax Return (Form ST-12)
- Request an extension

Registration is available online on the department's [Training page](#). 