



# SALES AND USE TAX REPORT

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### **I. MOTOR VEHICLE SALVAGE POOLS: HOW DO WISCONSIN SALES AND USE TAXES APPLY?**

#### **What is a motor vehicle salvage pool?**

A motor vehicle salvage pool is a business that is engaged primarily in selling or distributing damaged motor vehicles at wholesale, whether or not the motor vehicles are owned by that person.

#### **Are a pool's purchases of motor vehicles taxable?**

Purchases of motor vehicles are subject to sales or use taxes, unless an exemption applies. For example, if the pool purchases a motor vehicle that is not used for any purpose other than holding it for sale in the regular course of business, the pool may provide the seller of the vehicle with a fully completed sales and use tax exemption certificate (e.g., [Form S-211](#)) claiming resale.

#### **Are the pool's purchases of towing services and vehicle inspection or repair services taxable?**

The pool's purchases of towing services and motor vehicle inspection or repair services are subject to sales or use taxes, unless an exemption applies. For example, if the pool purchases a towing service for a vehicle that it owns at the time of the towing service, and it does not use the vehicle for any purpose other than holding it for sale, the pool may provide the towing company with a fully completed sales and use tax exemption certificate claiming resale.

**Note:** If the pool pays for towing service on behalf of another person, such as the motor vehicle owner or an insurance company, the towing service provider should issue its invoice in the name of the other person (vehicle owner or insurance company).

**Are the pool's sales of towing services and motor vehicle inspection or repair services taxable?**

The pool's sales of towing services and vehicle inspection or repair services are subject to sales tax, unless it receives a fully completed sales and use tax exemption certificate from its customer.

**Are the pool's receipts from sales of vehicles taxable?**

The pool's sales of motor vehicles are subject to sales or use taxes, unless it receives a fully completed sales and use tax exemption certificate from its customer. Sales of parts, accessories, and attachments for vehicles are also taxable, unless an exemption applies.

**Example – Motor Vehicle Totaled in Accident****Facts:**

- **Day 1.** After an accident, the sheriff's department comes to the scene and asks the motor vehicle owner ("Insured") if he or she has a preference for which towing company to call. Insured is an individual who is not engaged in the business of buying or selling motor vehicles. The sheriff calls Towing Company and the vehicle is towed to Towing Company's yard. Insured calls his or her insurance company ("Insurance Company").
- **Day 2.** Insurance Company has the vehicle towed from the yard to a dealership or body shop ("Body Shop").
- **Day 3.** Body Shop tears the vehicle down (takes parts off to expose damage). Body Shop inspects the vehicle for damage.
- **Day 4.** Insurance Company's adjuster determines that the vehicle is totaled and will not be repaired. The vehicle gets branded with a salvage title. Insurance Company takes ownership of the vehicle from Insured, and does not make any use of the vehicle. Salvage Pool Company takes possession of the vehicle from Body Shop on behalf of Insurance Company.
- **Day 5.** Salvage Pool Company pays all towing charges and body shop charges. The payment for the first tow is made on behalf of Insured. The payments for the second tow and for the tear down and inspection are made on behalf of Insurance Company. Salvage Pool Company does not make any use of the vehicle.
- **Day 6.** On behalf of Insurance Company, Salvage Pool Company sells the vehicle to a licensed salvage yard or dealership. The title for the vehicle is in the name of Insurance Company. Salvage Pool Company, who has a Power of Attorney to act on behalf of Insurance Company, endorses the vehicle title over to the licensed salvage yard or dealership. Salvage Pool Company charges Insurance Company for (1) the reimbursement of the towing charges and body shop charges, and (2) a commission for selling the vehicle on behalf of Insurance Company.

**Tax treatment:**

**Charge by Towing Company – First Tow:** Towing Company's charge for the first tow from the accident scene to its yard is taxable. When Salvage Pool Company pays for the towing service, it is making this payment on behalf of Insured, the purchaser of the towing service. There is no exemption that applies to Insured's purchase of the towing service. Salvage Pool Company may not provide an exemption certificate claiming resale for the towing service, because Salvage Pool Company is not the purchaser.

**Charge by Towing Company – Second Tow:** Towing Company's charge for the second tow from its yard to the Body Shop is taxable. When Salvage Pool Company pays for the second tow, it is making this payment on behalf of Insurance Company, the purchaser of the towing service. Insurance Company cannot purchase the second tow without tax, for resale, since, at the time of the towing service, Insurance Company is not holding the vehicle for sale.

**Charge by Body Shop:** Body Shop's charge for tearing down and inspecting the vehicle is taxable. When Salvage Pool Company pays for the tear down and inspection, it is making this payment on behalf of Insurance Company, the purchaser of the tear down and inspection service. Insurance Company cannot purchase the tear down and inspection service without tax, for resale, since, at the time the service is performed, Insurance Company is not holding the vehicle for sale.

**Sale of Vehicle by Insured to Insurance Company:** Insurance Company's purchase of the vehicle from Insured is not taxable (i.e., it is for resale).

**Sale of Vehicle by Salvage Pool Company on Behalf of Insurance Company:** Salvage Pool Company's sale of the vehicle, on behalf of Insurance Company, to the licensed salvage yard or dealership, is taxable, unless the licensed salvage yard or dealership provides a fully completed sales and use tax exemption certificate claiming resale. The licensed salvage yard or dealership may purchase the vehicle without tax, for resale, if it will not make any use of the vehicle other than to sell it in whole or as parts. If the purchaser does not provide a fully completed sales and use tax exemption certificate, Insurance Company, or Salvage Pool Company acting on their behalf, is liable for the payment of sales tax on the sale.

**Salvage Pool Company's Charges to Insurance Company:** Salvage Pool Company is not liable for the payment of sales tax on the charges for (1) reimbursement of the towing and body shop charges, or (2) the commission for selling the vehicle.

### Where can I find more information?

**Note:** Additional information about towing services and vehicle transactions is provided in [Publication 202](#), *Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs*, Part VI.B.

You may also email us at [DORSalesandUse@revenue.wi.gov](mailto:DORSalesandUse@revenue.wi.gov) or call us at (608) 266-2776. [☎](#)

## II. SPRING IS HERE!

### Don't Forget That Lawn Mowing and Other Landscaping Services Are Taxable

Wisconsin sales tax is imposed on the sale of landscaping and lawn maintenance services. Mowing lawns, watering lawns, aerating lawns, raking leaves, planting, spraying and fertilizing, and shrub and tree services are taxable services. Landscape design, planning, and counseling services are also taxable.

When a landscaper physically transfers property to its customer in conjunction with landscaping services, the sale of the property is considered a separate sale from the service. Therefore, the landscaper may purchase without tax for resale such property that it transfers to its customers with landscaping and lawn maintenance services.

**Example:** Landscaper is seeding a lawn for its customer for \$1,000. Landscaper is selling (1) the landscaping service of installing seed, and (2) the seed. Therefore, Landscaper's charge of \$1,000 to its customer is subject to sales tax. Landscaper may purchase the seed without tax for resale.

When a landscaper is not providing a landscaping service, such as the installation of a patio, sidewalk, or retaining wall, the landscaper cannot purchase materials without tax for resale. The landscaper must pay tax on the purchase of materials used or consumed in providing the realty improvements.

Additional information is provided in [Publication 210](#), *Sales and Use Tax Treatment of Landscaping*, which includes examples of taxable landscaping services and nontaxable services. [↗](#)

### III. DOES YOUR BUSINESS OWE USE TAX?

#### Use Tax Is the Most Common Audit Adjustment

When filing its *Wisconsin Sales and Use Tax Return*, a business should be sure to include its use tax liability. Businesses that are not required to file a sales and use tax return should report use tax on [Form UT-5](#), *Consumer Use Tax Return*.

What is the difference between Wisconsin **sales tax** and **use tax**?

**Sales tax** is imposed on sellers who make retail sales of taxable products or services in Wisconsin, unless an exemption applies. In addition to the 5% state sales tax, the 0.5% county sales tax, 0.1% baseball stadium tax, or 0.5% football stadium sales tax may also apply.


**Use tax** is the counterpart of sales tax. Use tax must be paid when Wisconsin sales tax is not paid on a taxable sale and no exemption applies. In addition to the 5% state use tax, a 0.5% county use tax, 0.1% baseball stadium use tax, or 0.5% football stadium use tax may apply. If Wisconsin did not have a use tax, persons could buy items in a nontaxable state to avoid paying Wisconsin tax.

If sales tax was properly paid in another state, the sales tax paid may be used to offset the Wisconsin use tax due. For example, if a business purchases a computer in another state, pays that other state's sales tax, and then brings the computer into Wisconsin, the sales tax that was properly paid to the state in which the sale was made may be used to offset the Wisconsin use tax due.

Examples of common situations in which use tax applies to purchases of taxable products and services:

- Property purchased on the Internet, by mail order, or from a catalog, delivered to Wisconsin address, and the seller does not charge tax.
- Property is purchased without tax for resale (to sell to others) or for a nontaxable use and then is used by the purchaser in a taxable manner.
- Property is purchased outside Wisconsin without payment of the Wisconsin sales tax and is then brought into Wisconsin and given away free. Exception: 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.
- Building materials that are purchased or stored in Wisconsin and later used in a real property improvement (either in Wisconsin or in another state).
- Building materials that are purchased or stored in another state and later used by a contractor (resident contractor or nonresident contractor) in a real property improvement in Wisconsin.
- Property is purchased from a supplier outside Wisconsin and is shipped to the purchaser's Wisconsin locations.
- Property that is purchased from a supplier outside Wisconsin and stored by the purchaser (including storage at a warehouse or distribution facility) and later shipped outside Wisconsin.

Additional information about what products are taxable and exemptions that may apply can be found in the department's Common Questions:

- [What is Taxable?](#)
- [Exemptions](#) 

#### IV. NEW PUBLICATIONS FOR DENTISTS AND CAMPGROUNDS

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.

- **Dentists** - [Publication 232](#) explains how Wisconsin sales and use taxes affect dentists.
- **Campgrounds** - [Publication 239](#) provides sales and use tax information for persons owning and campgrounds in Wisconsin. 