



# SALES AND USE TAX REPORT

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## I. NO CHANGE TO MOTOR VEHICLE DEALERS' MEASURE OF USE TAX FOR 2016

### Dealer Plate Measure of Use Tax Stays at \$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.

[Section 77.53\(1m\)\(a\)](#), Wis. Stats. (2013-14), 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 238.343 as of June 30, 2014 and increased to 238.638 as of June 30, 2015. Since the index changed over this period by 0.12%, the measure of use tax for dealers' motor vehicle license plates does not change by a full dollar (after rounding) and will, therefore, remain at \$152. [↗](#)

## II. REMINDER: FOOTBALL STADIUM TAX ENDS SEPTEMBER 30, 2015

If you make taxable sales in Brown County, the 5.5% sales tax rate you currently charge will change to 5% beginning October 1, 2015. The football stadium tax will not apply to:

- Sales and purchases made after September 30, 2015
- Services billed after September 30, 2015\*

- The lease, rental, or license of taxable products billed after September 30, 2015\*

**\*Special Sunset Rules** - Bills issued on or after October 1, 2015, for services or for the lease, rental, or license of taxable products should not include football stadium tax, regardless of whether the services are furnished or the taxable products are leased, rented, or licensed to the customer before that date. [↗](#)

### III. WISCONSIN/MINNESOTA SALES TAX SEMINARS

The Wisconsin and Minnesota Departments of Revenue will present a series of free sales and use tax seminars in September and October 2015. The seminars provide an overview of Minnesota and Wisconsin sales and use tax laws for companies that do business in both states. They are designed for business owners, bookkeepers, purchasing agents and accountants who need a working knowledge of each state's laws and how to meet their obligations. Topics covered will include:

- Who needs to register for sales and use taxes in Minnesota, Wisconsin or both states
- What cities, counties and other jurisdictions in each state have local taxes
- What's taxable in each state
- Exceptions to the general taxation rules and exemptions
- How and when to use or accept an exemption certificate

Seminar dates, times, and locations, as well as registration information, are available on the Wisconsin Department of Revenue's [Sales and Use Tax Training web page](#).

If you have questions, please call the Practitioner Only Line at (608) 261-5199 or email to [DORtaxpractitioners@revenue.wi.gov](mailto:DORtaxpractitioners@revenue.wi.gov). [↗](#)

### IV. NEW TAX LAWS

#### A. Exemption Created for Materials, Supplies, Equipment and Landscaping Services Used to Build Sports and Entertainment Arena Facilities (2015 Act 60, amend sec. 229.42(4)(d), create secs. 77.54(62m) and 229.41(11e) and (11g), effective August 13, 2015.)

A sales and use tax exemption is created for the sale of building materials, supplies, equipment, and landscaping services to; and the storage, use, or other consumption of the same property and services by; owners, lessees, contractors subcontractors, or builders if that property or service is acquired solely for, or used solely in, the construction or development of sports and entertainment arena facilities, as defined in sec. 229.41(11g), Wis. Stats. The exemption will no longer apply one year after the Secretary of Administration issues the certification under sec. 229.42(4e)(d), Wis. Stats.

Section 229.41(11e), Wis. Stats., defines "sports and entertainment arena" as the arena structure and the land necessary for its location that is used as the home arena of a professional basketball team and for other sports, recreation, and entertainment activities.

Section 229.41(11g), Wis. Stats., further defines "sports and entertainment arena facilities" as the sports and entertainment arena and structures, including all fixtures, equipment, and tangible personal property that are used primarily to support the operation of the sports and entertainment arena or are functionally related to the sports and entertainment arena, located on land not to exceed 9 contiguous acres in area. Such sports and entertainment arena facilities

shall include such land and may include offices of the professional basketball team or its affiliate, parking spaces and garages, storage or loading facilities, access ways, sidewalks, a skywalk, plazas, transportation facilities, and sports team stores located on such land. In addition, "sports and entertainment arena facilities" also includes a parking structure to be constructed by a professional basketball team or its affiliate in conjunction with the construction of the sports and entertainment arena and to be owned by the sponsoring municipality.

**B. Local Exposition Tax Exemption Created for Sales by Food and Beverage Stores - Not Effective Until After District's Bonds and Debt Are Retired** (2015 Act 60, amend sec. 77.98(3), create sec. 77.98(4), effective August 13, 2015.)

The local exposition food and beverage tax will no longer apply to sales by a person engaged in the retail trade as a food and beverage store, as classified under sector 44-45, subsector 445, of the North American Industry Classification System, 1997 edition, beginning the first day of the calendar quarter that is at least 120 days after the date on which the bonds issued by the district subch. II of ch. 229 during the first 60 months after April 26, 1994, and any debt issued to fund or refund those bonds, are retired. The district shall notify the department of revenue when such bonds and debt are retired.

Currently, a 0.5% local exposition food and beverage tax applies to sales of candy, soft drinks, and prepared food sold in Milwaukee County. The tax also applies to alcoholic beverages sold for consumption on the seller's premises.

The new law also gives the district board the authority, by a majority vote of its members, to reimpose the local food and beverage tax on sales by the food and beverage stores described above. [↗](#)

**V. CHANGE IN TAX TREATMENT OF WATERSLIDES IN WATER PARKS**

The sale and installation of a waterslide in a water park, including the waterslide flumes and the steel support beams that hold up the flumes, is the sale of a real property improvement. Previously, the department considered the waterslide flumes and steel support beams to remain tangible personal property when installed.

The sale of a real property improvement in Wisconsin is not subject to sales tax. A contractor that purchases waterslide materials and installs them in a water park is the consumer of all materials and supplies that it uses in making the real property improvement and is liable for tax on its purchase of such materials and supplies (e.g., flumes, support beams that hold up the flumes, supports, concrete, bolts).

The repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance of any waterslide remains subject to Wisconsin sales or use tax. The service provider may purchase without tax, for resale, any materials that are physically transferred to the customer in the repair or other service to a waterslide.

Buyers of Installed Waterslides in Water Parks:

If a buyer paid tax on its purchase of an installed waterslide in a water park, the buyer may do either of the following:

1. Do nothing. The department will not adjust your sales and use tax liability for these items.
2. File a claim for refund for purchases made within the statute of limitations:\*

- If the tax was paid to the seller, the buyer may request a refund of the tax from the seller. The seller may reduce the amount of the tax it refunds to the buyer by its use tax liability on its purchase of the materials that were physically transferred to the buyer, or
- If the tax was paid to the seller or paid directly to the Department of Revenue, the buyer may file a [Buyer's Claim for Refund](#) with the department.

#### Sellers of Installed Waterslides in Water Parks:

Sellers are required to pay sales or use tax on the purchase price of materials that are physically transferred to the customer on the sale and installation of waterslides in water parks that take place on or after October 1, 2015. **Exception:** If, prior to October 1, 2015, a seller entered into an irrevocable contract to sell and install a waterslide in a water park, the sale will be treated as if it took place prior to October 1, 2015.

For sales that take place prior to October 1, 2015 where a seller charged tax on the sale of an installed waterslide at a water park, the seller may do either of the following:

1. Do nothing. The department will not adjust your sales and use tax liability for these items.
2. File a claim for refund for sales tax paid to the Department of Revenue for sales of installed waterslides in water parks if the sale took place within the statute of limitations\*. However, the seller will owe Wisconsin use tax based on your purchase price of the materials used in making the real property improvement (e.g., flumes, structural supports).

**CAUTION:** If tax was collected from buyers, the seller must return the tax and related interest refunded by the department to the buyers from whom the tax was collected. The seller may reduce the refund given to the buyer by the amount of tax and interest due and paid on the seller's purchase of materials that are physically transferred to the buyer in the seller's sale and installation of the waterslide.

\*The statute of limitations for claiming refunds is generally four years from the unextended due date of the claimant's income or franchise tax return. See [Publication 216, Filing Claims for Refund of Sales or Use Tax](#), for exceptions and additional information about filing claims. [↗](#)

## **VI. SWIMMING POOL CLEANING AND MAINTENANCE SERVICE ARE TAXABLE**

Summertime means that swimming pools are open for a season of splashing good times!

Swimming pools (both in-ground and above-ground) retain their character as tangible personal property for purposes of service, maintenance, and repairs, regardless of the degree to which they are affixed to real property. This means that charges for opening, closing, cleaning, maintenance, repairs, and other services performed to swimming pools are subject to Wisconsin sales tax. Persons in the business of performing such services must have a Wisconsin seller's permit and collect sales tax on the charges for these services performed in Wisconsin. [↗](#)

## **VII. TAXABLE SALES AND SERVICES TO SEASONAL DOCKS, FLOATING PIERS, SWIM RAFTS AND OTHER SIMILAR PROPERTY**

Sales and rentals of seasonal piers, floating docks, swim rafts, and similar items that are removed each fall are subject to Wisconsin sales tax. Charges for installing or removing these piers, docks, and rafts are taxable. Charges for repairing, cleaning, maintaining, or providing other services to

these items are also taxable. The sale of or service to an anchoring system for one of these items is a real property improvement (not taxable) if the anchoring system is permanently affixed to the real estate (that is, remains installed year-round).

The charge for moving a seasonal pier, floating dock, swim raft, or similar item from one location to another is not taxable if no repair or other service is performed to that item. For example, a seasonal pier is removed from one location, hauled to another location, and reinstalled at the new location and no repair or other service is performed to the pier. The only reason for the removal and reinstallation of the pier is to move it to a different location (that is, the pier is not being removed in the fall and reinstalled in the spring). The charge for moving the pier is not taxable.

A permanently-installed dock or pier is a nontaxable real property improvement (that is, a dock or pier that is affixed to the real estate and is intended to remain installed year-round, rather than be removed at the end of the season, is a real property improvement). The seller must pay sales or use tax on its purchase of the pier and other materials and supplies used in making the real property improvement.

Charges to use a pier for boat docking are taxable. [✎](#)

## VIII. SALES OF WATERCRAFT, SUCH AS BOATS AND JET SKIS

Wisconsin sales and rentals of watercraft, such as boats and jet skis, are subject to Wisconsin sales taxes. When a watercraft is stored or docked in Wisconsin, use tax is due on the purchase price of the watercraft. This applies to both new and used watercraft.

### *Sales of Watercraft by Dealers and Other Retailers*

A Wisconsin retailer is required to collect sales or use tax on its sale of a watercraft when the purchaser takes possession of the watercraft in Wisconsin (for example, the purchaser picks up the watercraft at the dealer's Wisconsin business location or the seller delivers the watercraft to the Wisconsin location designated by the purchaser). Wisconsin tax is due, even if the purchaser takes the watercraft to a location outside Wisconsin.

If the retailer does not collect the tax (for example, an out-of-state retailer ships the watercraft to a purchaser in Wisconsin), the purchaser will pay the tax at the time the watercraft is registered in Wisconsin. If no registration is required for the watercraft, use tax is due. Use tax can be paid on an individual's Wisconsin income tax return.

### *Sales of Watercraft by a Private Party*

An individual is not required to collect sales or use taxes when selling his or her personal watercraft. Sales or use taxes are paid at the time the watercraft is registered in Wisconsin. If no registration is required for the watercraft, the purchaser owes use tax.

The rental of a watercraft is also taxable, including mandatory charges for fuel.

**Note:** Separate and optional charges for fuel by a watercraft rental company to a person who rents a watercraft are not subject to Wisconsin sales and use tax if the excise taxes were paid by the watercraft rental company to the fuel supplier. However, if no excise taxes were paid on the fuel (that is, the fuel was purchased for off-road use without paying the excise taxes), the watercraft rental company may purchase the fuel without tax, for resale, but its separate and optional charge for the fuel to the renter of the watercraft is taxable. See [Publication 222](#), *Motor Vehicle Fuel Users: Do you Owe Use Tax?*, for additional information.

Charges for storage and boat docking in Wisconsin are subject to tax. The repair or other maintenance to a watercraft is also a taxable service. [↗](#)

## **IX. SALES AND USE TAX EXEMPTION FOR FUEL AND ELECTRICITY USED IN MANUFACTURING**

The sale of fuel and electricity consumed in the process of manufacturing tangible personal property is exempt from sales and use tax. To claim the exemption, manufacturers must provide an exemption certificate, [Form S-211](#), *Wisconsin Sales and Use Tax Exemption Certificate*, to the supplier of the fuel and/or electricity. It may be necessary for the manufacturer to make a proration of the fuel and electricity used and claim exemption from tax on the percentage that is exempt.

Fuel and electricity consumed in manufacturing means only the fuel and electricity used to operate the machinery and equipment that is used directly in the step-by-step manufacturing process. Fuel and electricity used in providing plant heating, cooling, air conditioning, communications, lighting, safety and fire prevention, research and product development, receiving, storage, sales, distribution, warehousing, shipping, or advertising or administrative department activities does not qualify for exemption. [↗](#)