



# SALES AND USE TAX REPORT

December 2015  
Issue 4-15

**NOTICE:** The *Wisconsin Sales and Use Tax Report* will be discontinued. This is the last issue of the report. Information about sales and use tax law changes, news, updates, and reminders will be included in the *Wisconsin Tax Bulletin*. The *Wisconsin Tax Bulletin* is published four or five times per year. The next bulletin will be published in January 2016.

If you currently subscribe to the sales and use tax electronic mailing list, you will continue to receive notification when a new *Wisconsin Tax Bulletin* is available. If you do not subscribe to the sales and use tax electronic mailing list, sign up at [revenue.wi.gov/html/lists.html](http://revenue.wi.gov/html/lists.html).

All *Wisconsin Tax Bulletins* are available at [revenue.wi.gov/ise/wtb/index.html](http://revenue.wi.gov/ise/wtb/index.html), and all *Sales and Use Tax Reports* will continue to be available at [revenue.wi.gov/ise/sales/index.html](http://revenue.wi.gov/ise/sales/index.html).

## In This Issue

	Page
<b>I. Copies of Paper Medical Records No Longer Taxable</b> .....	1
<b>II. New Tax Laws</b> .....	2
<b>III. Fall Farm Events May be Subject to Sales Tax</b> .....	5
<b>IV. Winterizing (Dewinterizing) Vacation Homes, Cabins, and RV's</b> .....	6
<b>V. Holiday Tree Sales</b> .....	7
<b>VI. Fishing and Hunting Guide Services</b> .....	7
<b>VII. Donated Property</b> .....	9
<b>VIII. Questions and Answers (Holiday Dinners, Furnace Inspections)</b> .....	9
<b>IX. Caterers</b> .....	10
<b>X. Barters</b> .....	12

## I. COPIES OF PAPER MEDICAL RECORDS NO LONGER TAXABLE

As a result of the decision by the Wisconsin Tax Appeals Commission in *Cannon & Dunphy, S.C. vs. Wisconsin Department of Revenue* (August 15, 2015), sales of paper copies of patient health care records (medical records) are no longer subject to Wisconsin sales or use tax if the medical records are sold to the patient or to a person authorized by the patient to receive the medical records. Although the department appealed this decision, the department's appeal was dismissed on procedural grounds.

Sales of electronic copies of patient health care records (medical records) that are transmitted electronically continue to be nontaxable.

For purposes of this change in sales and use tax treatment, the terms "patient," "patient health care records," and "person authorized by the patient" have the same meaning as defined in sec. 146.81(3) through (5), Wis. Stats. (2013-14).

If you paid tax on sales or purchases of paper medical records, you may file a claim for refund with the Department of Revenue:

- Sellers may file a claim for refund for sales tax paid to the Department of Revenue for sales of copies of medical records if the sale took place within the statute of limitations.\* **Note:** If a seller files a claim for refund for tax that 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.
- Buyers that paid the tax to a seller may request a refund directly from the seller. If the tax was paid to the seller or paid directly to the Department of Revenue, a buyer may file a [Buyer's Claim for Refund](#) with the department within the statute of limitations.\*

\*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. [↗](#)

## II. NEW TAX LAWS

### A. Exemption for Building Materials for Local Government and Certain Nonprofit Organization Facilities ([2015 Wis. Act 126](#), create sec. 77.54(9m), first applies to contracts entered into on January 1, 2016)

A sales and use tax exemption is created for the sale of building materials sold to a construction contractor who, in fulfillment of a real property construction activity, transfers the building materials to exempt entities described below, if the building materials become part of a facility in Wisconsin, owned by the exempt entity.

For purposes of this exemption, a qualifying exempt entity is:

- Any county, city, village, town or school district in this state
- A county-city hospital established under sec. [66.0927](#), Wis. Stats.
- A sewerage commission organized under sec. [281.43 \(4\)](#), Wis. Stats., or a metropolitan sewerage district organized under secs. [200.01](#) to [200.15](#) or [200.21](#) to [200.65](#), Wis. Stats.
- Any joint local water authority created under sec. [66.0823](#), Wis. Stats.
- Any corporation, community chest fund, foundation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, except hospital service insurance corporations under sec. [613.80 \(2\)](#), Wis. Stats., no part of the net income of which inures to the benefit of any private stockholder, shareholder, member or corporation.

**Caution:** This exemption does not apply to all exempt organization facilities. It applies to building materials for facilities constructed for **only** the exempt entities listed above. For example, it **does not** apply to facilities constructed for state or federal governmental entities.

"Facility" is defined as any building, shelter, parking lot, parking garage, athletic field, athletic park, storm sewer, water supply system, or sewerage and waste water treatment facility, but does not include a highway, street, or road.

This law first applies to contracts entered into on January 1, 2016. Contractors who make qualifying purchases must provide a fully completed exemption certificate to the seller. The contractor should check "other purchases exempted by law" on the certificate and enter "exempt under sec. 77.54(9m), Wis. Stats."

**B. Tax Relief for Out-of-State Disaster Relief Responders** ([2015 Wis. Act 84](#), renumber and amend secs. 77.52(7) and 77.53(9)(b), amend sec. 77.52(12), and create secs. 77.52(7)(b), 77.53(9)(b), 77.53(19), and 323.12(5), effective November 13, 2015)

Upon a declared state of emergency declared by the governor, tax relief is provided to out-of-state businesses performing disaster relief work in Wisconsin. An "out-of-state business" is a business that is not organized under Wisconsin laws and, except for disaster relief work during a disaster period, was not doing business in Wisconsin during the three taxable years immediately preceding the disaster period or the current taxable year in which the declared state of emergency occurs. See *Definitions*, below.

For Wisconsin sales and use tax purposes, such out-of-state businesses are **not**:

- Required to register for and obtain a business tax registration certificate.
- Required to register for and obtain a Wisconsin seller's permit.
- Required to register for and obtain a use tax registration certificate.
- Liable for Wisconsin use tax on property, goods or services that it purchases **outside** Wisconsin and brings into Wisconsin for use solely in Wisconsin for disaster relief work.

Any out-of-state business and the employer of any out-of-state employee, that wants to claim exemption from registration, must notify the Department of Revenue within 90 days after the last day of a disaster period in the manner prescribed by the department.

**CAUTION:** Although the out-of-state business is not required to obtain a business tax registration certificate, Wisconsin seller's permit, or use tax certificate, the out-of-state business is responsible for Wisconsin sales or use tax on taxable sales or purchases **in** Wisconsin.

The department is developing a publication that will explain this new tax law, including notification requirements, how to remit sales or use tax on its taxable sales, etc.

### **Definitions**

"Declared state of emergency" means a state of emergency declared by the governor under sec. 323.10, Wis. Stats.

"Disaster period" means the time that begins 10 days before a declared state of emergency and ends 60 days after the declared state of emergency ends.

"Disaster relief work" means work, including repairing, renovating, installing, building, or performing other services or activities, relating to infrastructure in this state that

has been damaged, impaired, or destroyed in connection with a declared state of emergency.

“Doing business in this state” has the meaning in sec. 71.22(1r), Wis. Stats., except that members of a combined group, as defined in sec. 71.255(1)(a), Wis. Stats., are not considered to be doing business Wisconsin based solely on another member of the combined group doing business in Wisconsin. A business is doing business Wisconsin, for purposes of ch. 77, if it performs disaster relief work in Wisconsin.

“Infrastructure” means property and equipment owned or used by a telecommunications provider or cable operator or that is used for communications networks, including telecommunications, broadband, and multichannel video networks; electric generation, transmission, and distribution systems; gas distribution systems; water pipelines; and any related support facilities that service multiple customers or citizens, including buildings, offices, lines, poles, pipes, structures, equipment, and other real or personal property.

“Infrastructure” means property and equipment owned or used by a telecommunications provider or cable operator or that is used for communications networks, including telecommunications, broadband, and multichannel video networks; electric generation, transmission, and distribution systems; gas distribution systems; water pipelines; and any related support facilities that service multiple customers or citizens, including buildings, offices, lines, poles, pipes, structures, equipment, and other real or personal property.

“Out-of-state business” means a sole proprietorship, partnership, limited liability company, joint venture, corporation, or other organization or enterprise, whether operated for profit or not for profit, that is not organized under the laws of Wisconsin and that, except for disaster relief work during a disaster period, was not doing business in Wisconsin during the three taxable years immediately preceding the disaster period or the current taxable year in which the declared state of emergency occurs.

“Out-of-state employee” means an individual who does not work in this state, except for disaster relief work during a disaster period, and who immediately prior to that declared state of emergency was not a resident of Wisconsin, was not doing business in Wisconsin that required a tax return to be filed in Wisconsin, and was not performing services in Wisconsin that required a Wisconsin tax return to be filed.

“Taxable year” has the meaning in sec. 71.01 (12), Wis. Stats.

**C. Football Stadium Tax Distribution Changes ([2015 Wis. Act 114](#), amend sec. 77.76(3p) and create sec. 77.76(5), effective December 2, 2015)**

The football stadium district tax ended on September 30, 2015. The Department of Revenue (DOR) is directed to make distributions of excess football stadium district sales tax revenue to Brown County and the municipalities within Brown County. The new law provides:

- (1) The Green Bay/Brown County Football Stadium District ("District"), having previously made all certifications to the DOR required under sec. 229.825(3), Wis.

Stats., must return, to the DOR, all football stadium taxes paid to it for taxes imposed by or collected for the District from April 1, 2015 through September 30, 2015, except for taxes reported to the DOR prior to April 1, 2015 and that the DOR paid to the District.

- (2) The DOR must distribute the football stadium district taxes imposed by or collected for the District between April 1, 2015 through September 30, 2015, excluding taxes reported prior to April 1, 2015 that the DOR paid to the District, no later than December 31, 2015, as follows:
  - a. 25% to Brown County
  - b. 75% to the cities, villages, and towns in Brown County in proportion to the population of each such city, village, and town in the county compared to the county's entire population, using the population determined under sec. 16.96, Wis. Stats.

**Note:** Distributions were made to Brown County and its municipalities on December 21, 2015. See the [press release](#) on DOR's website.

- (3) Annually, beginning in 2016, the DOR must distribute any additional taxes collected for the District after September 30, 2015, including interest, penalties, and amounts due as a result of an audit determination, on October 1, 2016, and on October 1 of each year thereafter, as specified in (2).
- (4) Amounts paid by DOR as interest on refunds of football stadium district tax reduces the amounts payable under (2) and (3).

Under prior law, the DOR paid all football district stadium taxes solely to the District.



### III. FALL FARM EVENTS MAY BE SUBJECT TO SALES TAX

Charges for admission to an amusement, athletic, recreational, or entertainment event or place or for access to or the use of an amusement, athletic, recreational, or entertainment device or facility are taxable.

Examples of taxable charges for admission include fees for:

- The right to access land to hunt wild animals
- The right to hunt on a game farm
- The right to access horse riding trails
- Riding a horse
- Hayrides
- Attending a Halloween "fright night" event
- Access to a corn maze
- Access to playground equipment

- Access to petting zoos
- The right to use a campsite
- The use of a facility to hold a wedding dance/reception or birthday party

The sale of tangible personal property is also taxable, including sales of the following:

- Flowers, holiday trees, and other decorative trees, plants, or shrubs
- Food and food ingredients for human consumption that are candy, soft drinks, dietary supplements, or prepared food
- Farm produce that is not intended to be consumed by humans (e.g., items sold for pet or animal food) and food items that have been decorated, such as painted gourds or pumpkins
- Alcoholic beverages (more than 0.5% alcohol by volume), such as hard ciders and wine
- Pumpkin carving kits

Sales of the following products are not taxable:

- Unprocessed farm produce for human consumption (e.g., pumpkins, potatoes, squash, onions, apples, pears, popcorn, raw nuts)
- Uncooked meats and poultry sold for human consumption
- Other food or food ingredients that are not candy, dietary supplements, soft drinks, or prepared food [↗](#)

#### **IV. WINTERIZING (DEWINTERIZING) VACATION HOMES, CABINS, AND RV'S**

Winterizing services for a vacation home or cabin that consist of the following are not taxable (this list is not all inclusive):

- Draining water from a water heater.
- Opening water faucets to allow water to drain.
- Blowing air through the water lines and drain pipes to drain the water.
- Putting antifreeze in water lines, drain pipes, and toilets to prevent freezing of water left behind after draining.
- Installing temporary storm windows or plastic sheeting on the windows.
- Cleaning gutters.

Although some of the services listed above are performed to tangible personal property, the primary purpose of the winterizing or dewinterizing service is to ensure that no water is left in the pipes within the plumbing system (real property) that could cause damage to the vacation home or cabin. Because the service is to real property, it is not subject to Wisconsin sales and use tax. Other types of winterizing services may be taxable. For example, raking leaves and trimming bushes and plants are taxable landscaping services.



The tax treatment above also applies to manufactured homes. "Manufactured home" means a structure that is designed to be used as a dwelling with or without a permanent foundation and that is certified by the federal Department of Housing and Urban Development as complying with the standard established under 42 USC 5401 to 5425.

Recreational vehicles (RVs) are tangible personal property. Therefore, winterizing and dewinterizing services to RVs are subject to tax. [↗](#)

## V. HOLIDAY TREE SALES

Sales of holiday trees and wreaths, whether live, cut, or artificial, are subject to sales tax, unless an exemption applies. A nursery or person in the business of tree farming may purchase the seedlings or trees without tax, for resale, by providing the vendor with a fully completed exemption certificate (e.g., Form S-211).

### *Are the sales of holiday trees subject to sales tax?*

Yes, sales of holiday trees are taxable sales of tangible personal property, unless an exemption applies.

### *Are the sales of wreaths, boughs, and garland subject to sales tax?*

Yes, sales of wreaths, boughs, and garland are taxable sales of tangible personal property, unless an exemption applies.

### *What reasons could the sale be exempt from tax?*

- The sale is made to a nonprofit organization holding a valid Certificate of Exempt Status (CES) number issued by the Department of Revenue.
- The sale is made to another type of exempt entity (i.e., Wisconsin governmental agency).
- The sale is made to another retailer for resale.
- Seller qualifies for the occasional sale exemption. Information about the occasional sale exemption for nonprofit organizations can be found in [Fact Sheet 2106](#). The occasional sale exemption for other sellers is explained in Part II.G.3. of [Publication 228](#).

### *Is the seller's purchase of the trees taxable?*

No, the seller may provide a fully completed *Wisconsin Sales and Use Tax Exemption Certificate* (Form S-211) to the nursery or tree provider claiming resale. However, if the seller makes any use of a tree other than to sell it, the seller owes use tax on its purchase price. For example, rather than selling a tree, the seller takes a tree out of inventory for her own home. The seller owes use tax on her purchase price of the tree that was used, rather than sold. [↗](#)

## VI. FISHING AND HUNTING GUIDE SERVICES

Fishing and hunting guide services are subject to Wisconsin sales tax when the guide provides equipment or access to land or a waterway that the customer would not otherwise have access to. Guide services, by themselves, are not taxable.

The guide must pay tax on his or her purchase of equipment used in providing the guide services. If the guide pays another party for admission to hunting land and the guide's only use of the land is to provide guide services for a fee, the guide may provide the owner of the hunting land with a fully completed exemption certificate (Form S-211) claiming resale. If the guide also uses the land for his or her own hunting, the exemption does not apply.

***Example 1 – Guide Services Only Provided***

Hunting Guide is hired by Customer for \$200 to share his expertise in hunting on public hunting land. Hunting Guide does not provide Customer with any equipment. There is no fee to access the public hunting land. Hunting Guide shows Customer good hunting locations and gives Customer hunting tips.

Hunting Guide's \$200 charge for providing guides services only is not taxable.

***Example 2 – Guide Services - Equipment Provided By Guide, Land Owned by Guide***

Hunting Guide is hired by Customer for \$200 to share his expertise in hunting and allow Customer to hunt on Hunting Guide's land. Hunting Guide provides equipment, and Customer would not otherwise have access to this hunting land.

Hunting Guide's \$200 charge is taxable.

***Example 3 – Guide Services - Equipment Provided By Guide, Guide Purchases Access to Land***

Hunting Guide is hired by Customer for \$200 to share his expertise in hunting and allow Customer to hunt on specific land. Hunting Guide pays land owner \$50 for the right to use the hunting land during this time. Hunting Guide provides equipment, and Customer would not otherwise have access to this hunting land.

Hunting Guide's \$200 charge is taxable. Hunting Guide may purchase access to the land without tax for resale by giving the land owner a fully completed exemption certificate claiming resale.

***Example 4 – Fishing Guide Services – Boat and Equipment Provided By Guide***

Fishing Guide is retained for \$500 to take Customer and his family on Lake Michigan to catch salmon using one of Fishing Guide's boats. Fishing Guide will provide all the bait and tackle that is needed.

Fishing Guide's \$500 charge is taxable.

***Example 5 – Guide Services and Lodging Package***

Hunting Guide offers a package for \$1,000 that includes hunting guide services for four hunters, lodging for four hunters, transportation to and from the lodge to the hunting land, and access to the hunting land for each of the four hunters. The hunters will use their own equipment to hunt.



Hunting Guide's \$1,000 charge is taxable. **Note:** If Hunting Guide purchased lodging services, Hunting Guide may purchase the lodging without tax for resale by giving the lodging provider a fully completed exemption certificate claiming resale. [☞](#)

## VII. DONATED PROPERTY

Property that is purchased without tax for resale and later used in a taxable manner is subject to Wisconsin use tax. The business is the consumer of such property that it uses, rather than sells. The use tax is based on the purchase price of the property.

**Example 1:** Grocery Store purchases floor wax without tax, for resale, that it will hold in inventory for sale. Grocery Store takes a bottle of floor wax out of inventory to wax Grocery Store's floor. Grocery Store is the consumer of the floor wax that it uses in a taxable manner and must pay use tax on its purchase price of the floor wax.

**Exception:** A donor business does not owe use tax if the property is purchased without tax for resale and later donated to a tax exempt organization listed in sec. 77.54(9a), Wis. Stats. If the exempt organization is not a governmental unit, the donor business should obtain the exempt organization's certificate of exempt status number to document this exemption.

**Example 2:** Retailer sells athletic wear. Retailer takes a football jersey out of stock and donates it to Exempt Organization, who will use the jersey as a prize in its raffle. Retailer does not incur a use tax liability, since the jersey is donated to a qualifying tax exempt organization.

This exemption only applies to donations to qualifying organizations (i.e., organizations listed in sec. 77.54(9a), Wis. Stats.). A fundraiser may be held to benefit an individual. Property that is taken out of inventory and donated to a fundraiser for an individual does not qualify for exemption from use tax, since the funds raised benefit an individual and not a qualifying organization. The donor is liable for use tax on its purchase price of taxable products donated in this manner.

**Example 3:** Individual has incurred medical expenses that are not covered by insurance. Individual's friends and neighbors organize a silent auction, with the proceeds being used to defray Individual's medical expenses. Retailer takes a football jersey out of inventory and donates it to the auction. Retailer is the consumer of the jersey that it uses in a taxable manner and must pay use tax on its purchase of the jersey. The exemption for property purchased without tax for resale and donated does not apply, since the property is being donated to a nonqualifying person or organization. [☞](#)

## VIII. QUESTIONS AND ANSWERS

**Q** When a grocery store sells a prepared holiday dinner (e.g., turkey, stuffing, mashed potatoes, gravy, green bean casserole, and rolls), is the grocery store's sale of the holiday dinner taxable?

**A** Yes, the grocery store's sale of a prepared holiday dinner is subject to sales tax. Tax applies to sales of prepared food.

## Q Are annual furnace inspection services subject to sales tax?

**A** Yes, services to furnaces, including inspection services, are subject to tax. The law treats a furnace as tangible personal property for purposes of repair and other services. The repair or other service to tangible personal property is taxable. **Note:** The inspection or cleaning of general ductwork is not taxable, since heating ducts are real property. Services to real property are not taxable.



## IX. CATERERS

### Sales by Caterers

Caterers sell and serve meals and drinks on premises designated by a purchaser. Charges by a caterer to prepare, serve and deliver the following taxable products are subject to Wisconsin sales and use tax:

- Prepared food <sup>1</sup>
- Candy
- Soft drinks
- Dietary supplements
- Alcoholic beverages

Most sales by a caterer are prepared food. A caterer may charge a customer a price per plate, meal, or type of service or a lump sum. The method used to charge the customer does not affect the tax treatment of the caterer's sales.<sup>2</sup>

**Example 1:** Caterer is hired to provide meals and beverages to 250 guests at a wedding dinner for \$18 per plate. The Caterer prepares and serves the meals and beverages to guests on or in plates, bowls or glasses. The entire \$4,500 charge by Caterer is subject to Wisconsin sales tax. The food and beverages are prepared food because plates, bowls, and glasses (i.e., utensils) are provided with the sale of the food and beverages. The charge is taxable regardless of who owns the plates, bowls, and glasses for serving.

**Example 2:** Same as **Example 1**, except meals are provided self-serve, buffet style. The charge by Caterer for preparing food and beverages for 250 guests is \$3,000. The entire \$3,000 charge by Caterer is subject to Wisconsin sales tax. The food and beverages are prepared food since plates, bowls, and glasses necessary to receive the food and beverages are available to the purchaser's guests.

**Example 3:** Caterer is hired to provide lunch to Company employees participating in a golf outing for \$500. Under the agreement between Caterer and Company, Caterer provides each golfer a "to go" box that contains a sandwich, bag of potato chips, cookie, and a napkin. The \$500 charge by Caterer to Company is subject to Wisconsin sales tax. The lunches are prepared food because Caterer physically gives a napkin to the

<sup>1</sup> Information on prepared food is provided in Part II.D. and Appendix I of [Publication 220, Grocers](#), and in Part III.A.3. of [Publication 236, Restaurants and Bars](#).

<sup>2</sup> More information is provided in Part III.C. of [Publication 220, Grocers](#).

purchaser (i.e., Company's employees) with the "to go" box. **Note:** Even if the napkin was not given, the lunches are prepared food since two or more food ingredients are combined and sold by the Caterer as a single item.

**Example 4:** Cake Decorator is hired to prepare, cut, and serve wedding cake for 200 guests for a fee of \$350. The \$350 charge by Cake Decorator is subject to Wisconsin sales tax. The wedding cake is prepared food because plates are provided with the wedding cake. The charge is taxable regardless of who owns the plates for serving.

**Example 5:** Same as **Example 4**, except Cake Decorator prepares and delivers the wedding cake but does not serve it to the purchaser's guests. Cake Decorator charges the purchaser \$200 for the wedding cake and delivery. The purchaser has a separate agreement with the wedding venue to have the venue's employees cut and serve the wedding cake on plates. The \$200 charge by Cake Decorator is not subject to Wisconsin sales tax. The wedding cake is not prepared food since the cake is a bakery item **and** utensils are not provided or made available to the purchaser at the time of sale.

### Purchases by Caterers

*Food and Food Ingredients, Including Beverages* - Purchases of certain food and food ingredients (e.g., potato chips, meats, soup mixes) and beverages (e.g., milk) by a caterer are exempt from tax. The caterer is not required to provide the supplier an exemption certificate when purchasing these items.<sup>3</sup>

*Items For Resale* – Purchases of certain food and food ingredients (e.g., candy, potato salad that is prepared food) and beverages (e.g., soft drinks, beer) that a caterer resells may be purchased without tax. The caterer is required to provide the supplier with a fully completed exemption certificate, claiming resale.<sup>3</sup>

#### *Preparation and Serving Equipment* –

- Purchases of non-disposable items (e.g., silverware, tablecloths, pots) used by a caterer to prepare, transport, and serve meals are subject to Wisconsin sales and use tax.<sup>4</sup>
- Certain packaging and shipping materials used by a caterer to transfer merchandise to its customer are exempt from Wisconsin sales and use tax. In addition, packaging and shipping materials used by a caterer in packing, packaging, or shipping meat or meat products are exempt, regardless of whether these items are used to transfer merchandise to customers. For example, a caterer's purchase of "to go" boxes are exempt, since they are used to transfer merchandise to customers. For additional examples, see Part IV.D. of [Publication 220, Grocers](#).
- Purchases of disposable items (e.g., tablecloths, napkins, straws) by caterers which are provided to customers with the required purchase of taxable products (i.e., alcoholic beverages, prepared food) are not subject to Wisconsin sales or use tax. The caterer is reselling the disposable items, even if the caterer does not separately charge the customer for the disposable items. The caterer is required to provide the supplier with a fully completed exemption certificate, claiming resale.<sup>4</sup> [↗](#)

<sup>3</sup> More information on taxable and exempt food and food ingredients is provided in Part III.A.1. of [Publication 220, Grocers](#).

<sup>4</sup> More information on purchases by caterers is provided in Part III.C.2. of [Publication 220, Grocers](#).

## X. BARTERS

Bartering is the exchange of goods or services. An exchange may involve products, services, real property or intangibles. Barters are sales and sales and use tax may apply to such transactions.

If you barter taxable products or taxable services for a service, real property or intangible, the amount subject to tax (sales price) is measured by the amount of the consideration received, in money or otherwise, for the service, real property or intangible.

If the products or services you barter are not taxable, you should report the sales price from the transaction on line 1 of your sales tax return and then deduct the nontaxable sales price on line 3 of your sales tax return.

If you barter tangible personal property for tangible personal property in the same transaction, your taxable sales price may be reduced for a trade-in.

Example 1 – Tangible personal property traded for other tangible personal property

Example 2 – Tangible personal property bartered for nontaxable service and payment

Example 3 – Tangible personal property bartered for taxable service

Example 4 – Tangible personal property bartered for real property

Example 5 – Taxable service bartered for nontaxable service

Example 6 – Taxable service bartered for real property

Example 7 – Nontaxable service bartered for taxable service and payment

**Example 1 – *Tangible personal property traded for other tangible personal property:*** A bicycle shop sells a bike retailing at \$400 to a cyclist. In the same transaction, the bike shop allows the cyclist to trade-in a bike trailer. The bike shop allows the cyclist a credit of \$150 for the bike trailer. The bicycle shop reports taxable sales of \$250 on its sale tax return.

**Example 2 – *Tangible personal property bartered for nontaxable service and payment:*** An interior designer exchanges \$500 of products (mirrors and artwork) for nontaxable dance lessons with an established price of \$400 and a payment of \$100. The interior designer reports the \$500 sale on its sales tax return. If the dance school holds a seller's permit, it would also report the \$400 sale and then deduct \$400 for its nontaxable sale on its sales tax return.

**Example 3 – *Tangible personal property bartered for taxable services:*** A building material supplier exchanges lumber for taxable landscaping services with an established price of \$750. Both the building material supplier and landscaping company report taxable sales of \$750 on their sales tax return.

**Example 4 – *Tangible personal property bartered for real property:*** A building material supplier provides building materials to an individual in exchange for a one-acre lot and building. The building materials supplier reports the taxable sale of building materials on its sales tax return equal to the value of the lot and building received. The sale of land and house by the individual is a nontaxable sale of real property.

**Example 5 – Taxable service bartered for nontaxable service:** A lodging provider exchanges taxable lodging services for radio advertising with an established price of \$200. Both the lodging provider and advertising company report sales of \$200 on their sales and use tax returns. The advertising company may deduct \$200 for its nontaxable sale of radio advertising on its sales and use tax return.

**Example 6 – Taxable service bartered for real property:** A landscaping company provides taxable landscaping services to a concrete paving company in exchange for the installation of a concrete patio with an established price of \$700. The landscaping company reports taxable sales of \$700 on its sales tax return. If the concrete paving company holds a seller's permit, it would also report the \$700 sale and then deduct \$700 for its nontaxable sale on its sales tax return.

**Example 7 – Nontaxable service bartered for taxable service and payment:** A bookkeeper provides client \$150 of nontaxable bookkeeping services in exchange for \$80 of taxable clothing alteration services and a payment of \$70. The client reports sales of \$80 for clothing alteration services on its sales tax return. If the bookkeeper holds a seller's permit, the bookkeeper would report the \$150 sale and then deduct \$150 for its nontaxable bookkeeping services on its sales tax return.

For more information, see:

- "[Barters and Exchanges](#)," Sales and Use Tax Report (September 2010)
- "[Trade-ins](#)," Wisconsin Tax Bulletin #124 (April 2001) [🔗](#)