

TAX REPORT

3-91

Sales/Use Tax

DECEMBER 1991

I. FORTY-TWO COUNTIES WILL HAVE COUNTY SALES TAX BEGINNING APRIL 1, 1992

A. HOW DOES THE COUNTY TAX AFFECT YOU?

As of April 1, 1992, there will be a 1/2% county sales and use tax in forty-two counties. Juneau and Sauk are the new counties which have adopted the tax effective April 1, 1992. Listed below are the forty-two counties and the effective date for each county's tax.

County	Effective Date	County	Effective Date
Ashland	4/1/88	Marathon	4/1/87
Barron	4/1/86	Marquette	4/1/89
Bayfield	4/1/91	Milwaukee	4/1/91
Buffalo	4/1/87	Monroe	4/1/90
Burnett	4/1/89	Oneida	4/1/87
Chippewa	4/1/91	Ozaukee	4/1/91
Columbia	4/1/89	Pepin	4/1/91
Crawford	4/1/91	Pierce	4/1/88
Dane	4/1/91	Polk	4/1/88
Door	4/1/88	Portage	4/1/89
Douglas	4/1/91	Richland	4/1/89
Dunn	4/1/86	Rusk	4/1/87
Iowa	4/1/87	St. Croix	4/1/87
Iron	4/1/91	Sauk	4/1/92
Jackson	4/1/87	Sawyer	4/1/87
Jefferson	4/1/91	Shawano	4/1/90
Juneau	4/1/92	Vilas	4/1/88
Kenosha	4/1/91	Walworth	4/1/87
La Crosse	4/1/90	Washburn	4/1/91
Langlade	4/1/88	Waupaca	4/1/89
Lincoln	4/1/87	Waushara	4/1/90

The Wisconsin Department of Revenue administers the county tax. Retailers who make sales subject to the county tax will collect 5 1/2% sales tax on such retail sales—5% state sales tax and 1/2% county sales tax. Both the state tax and county tax are reported by retailers on their Sales and Use Tax Returns filed with the Department of Revenue.

How does the county sales and use tax apply to retailers and other persons? Read Parts B to J of this report which describe the types of property and services that are subject to county taxes, which retailers are liable for county taxes, and other important information about county taxes. (Note: Keep this report as part of your records as a reference guide for county taxes.)

IMPORTANT: Retailers who are not located in any of the forty-two counties that have adopted the county tax may still be

subject to the county tax if they deliver property into, or perform taxable services in, any of these counties or are in some other way engaged in business in any of the forty-two counties, as described in Part C.2.

B. WHAT TYPES OF TANGIBLE PERSONAL PROPERTY AND SERVICES ARE TAXABLE?

The types of tangible personal property and services that are subject to the 5% state sales and use tax are also subject to the 1/2% county sales and use tax.

The county tax may not be imposed on any types of property or services that are not subject to the 5% state tax. If property or services are exempt from the 5% state tax, they are also exempt from the 1/2% county tax.

C. WHAT SALES ARE SUBJECT TO THE COUNTY SALES TAX?

1. The 1/2% county sales tax is imposed on the taxable gross receipts from retail sales or rentals of tangible personal property or taxable services in a "taxable county," with the following exception. Sales of motor vehicles, boats, snowmobiles, mobile homes 45 feet or less in length, trailers, semi-trailers, all-terrain vehicles, and aircraft are subject to the county use tax (rather than county sales tax) as described in Part D. (Note: Sales of new mobile homes more than 45 feet in length are subject to the county sales tax.)

"Taxable county" in this Tax Report means a county which has adopted the county tax. Marathon County is used in each of the examples as the "taxable county."

For a retail sale or rental to be subject to the county sales tax, the following two conditions must exist: (1) the retailer who makes the retail sale or rental must be "engaged in business" in a taxable county, and (2) the sale or rental must have a "situs" in a taxable county.

2. When is a retailer "engaged in business" in a taxable county?

A retailer is "engaged in business" in a taxable county, for purposes of the county sales and use tax law, if one or more of the following conditions exist in the taxable county:

- The retailer has a store in the county.
- The retailer owns any business real property in the county.
- The retailer leases or rents out any tangible personal property located in the county.
- The retailer maintains, occupies, or uses, permanently or temporarily, directly or indirectly, or through a subsidiary, agent, or other person, an office, place of distribution, sales

or sample room or place, warehouse or storage place, or other place of business in the county.

- The retailer has any representative, agent, salesperson, canvasser, or solicitor operating in the county under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or taking orders for any tangible personal property or taxable services.
- The retailer services, repairs, or installs products in the county.
- The retailer delivers goods into the county in company operated vehicles.
- The retailer performs construction activities in the county.

Retailers who are not "engaged in business" in a taxable county, but who desire to collect county use tax for the convenience of their customers, may collect county use tax from their customers and pay the county tax in the same manner as other retailers engaged in business in these counties.

3. Where is the "situs" of a sale or rental?

Situs of Sales of Property

All retail sales of tangible personal property are completed at the time when, and the place ("situs") where, the seller or the seller's agent transfers possession to the buyer or the buyer's agent. A common carrier or the U.S. postal service is the agent of the seller, regardless of any f.o.b. point and regardless of the method by which freight or postage is paid.

Example: A person buys a radio for \$200 from a seller in Marathon County. The buyer takes possession of the radio at the seller's business location in Marathon County and then travels in his car to his home in Eau Claire County (which has no county tax). Since the sale had a "situs" in Marathon County (the place where possession transferred to the buyer), it is subject to the 1/2% Marathon County sales tax of \$1.

Example: A person buys a piano for \$1,500 at a store in Eau Claire County (which has no county tax); however, it is delivered to the buyer in Marathon County by the seller's company operated vehicle. The seller is "engaged in business" in Marathon County when delivering the piano into Marathon County. The sale of the piano is subject to the Marathon County sales tax of \$7.50.

Situs of Rentals of Property

Rentals of Property Other Than Moving Property: The "situs" of the rental is at the location of the property.

Rentals of Moving Property Used On Highways: Rented motor vehicles and other equipment used principally on the highway at normal highway speeds have a "situs" in the county in which they are customarily kept, with one exception. Drive-it-yourself motor vehicles and equipment used principally on the highway at normal highway speeds and used for one-way trips or leased for less than one month, have a "situs" in the county in which they come into the lessee's possession.

Rentals of Other Moving Property: Except for moving property used on highways as described above, rentals of property that characteristically is moving property, including aircraft and boats, have a "situs" in a county if the rental property is used primarily in that county or is usually kept in that county when it is not used.

Situs of Services

Services have a "situs" at the location where they are furnished to the customer, with the following exceptions:

- Communication services have a "situs" where the customer is billed for the service if the customer calls collect or pays by credit card. The situs of mobile communication service involving more than one county is the county in which the call originates, provided it is not a collect or credit card call.
- Towing services have a "situs" at the location to which the vehicle is delivered.
- Services performed on tangible personal property have a "situs" at the location where the property is delivered to the buyer.

Example: An electrician repairs wiring on taxable equipment located in Marathon County which has a county tax. This repair service was furnished in Marathon County and is, therefore, subject to the 1/2% Marathon County sales tax, regardless of the electrician's business location.

Example: A TV repairman picks up the TV of a customer at her home in Eau Claire County (which has no county tax), brings it to his shop in Marathon County to repair the TV, and then delivers the TV back to the customer's home in Eau Claire County. This repair service has a "situs" in Eau Claire County (which has no county tax) because the TV was delivered to the buyer in Eau Claire County. No county tax would be imposed. However, if the customer picks up the repaired TV at the repair shop, the tax would be imposed since delivery took place in Marathon County.

D. WHEN DOES COUNTY USE TAX APPLY?

1. A county use tax of 1/2% of the sales price is imposed upon every person storing, using, or consuming tangible personal property or services in a taxable county (if the property or services are subject to the 5% state use tax) with the following three exceptions:

- No county use tax will be imposed if (a) a receipt indicates a county sales tax has been paid, or (b) a county use tax has been paid as described in the "Contractors" and "Motor Vehicles, Boats, etc." Parts 2 and 3 below.
- No county use tax will be imposed if the buyer purchased property in a sale consummated in a Wisconsin county that does not have a county tax and the property is later brought by the buyer into a taxable county (see exception in Parts 2 and 3).
- If the buyer has paid a similar local tax in another state on the purchase of the same property or services, that tax may be credited against the county use tax.

Example: A company located in Marathon County purchases an office machine for \$10,000 from an Ohio seller who has not charged the 5% Wisconsin or 1/2% Marathon County sales or use tax on the transaction. The machine is used in Marathon County. The buyer is liable for 5% Wisconsin use tax of \$500 and 1/2% Marathon County use tax of \$50. Any Ohio sales tax paid by the buyer to the seller may be credited against the \$500 Wisconsin use tax. If a county sales tax of an Ohio county was also paid by the buyer, that tax may be credited against the \$50 Marathon County use tax.

2. **Contractors:** A county use tax is imposed upon a contractor engaged in construction activities in a taxable county, on the sales price of tangible personal property that is used in constructing, altering, repairing, or improving real property and at becomes a component part of real property in a taxable county. However, there will be no county use tax if the contractor has paid a Wisconsin county sales tax on the purchase of the tangible personal property or similar local sales tax of 1/2% in another state.

3. **Motor Vehicles, Boats, etc.:** A county use tax is imposed upon every motor vehicle, boat, snowmobile, mobile home 45 feet or less in length, trailer, semi-trailer, all-terrain vehicle, or aircraft if (a) that property must be registered or titled with the State of Wisconsin, and (b) if that property is to be customarily kept in a taxable county.

Purchases of motor vehicles, etc., from non-dealers: The buyer of the motor vehicle, boat, etc., that is taxable must remit both the 5% state use tax and 1/2% county use tax to the state agency at the time of registering or titling it with the state agency.

Example: "A" buys a car for \$5,000 from "B," who is not a motor vehicle dealer. "A" is a Marathon County resident and will keep the car at his residence. "A" must file an Application for Title/Registration (Form MV-1) with the Department of Transportation and include with this form both the 5% state use tax of \$250 and the 1/2% Marathon County use tax of \$25.

Purchases from dealers: The dealer (seller) of motor vehicles, boats, etc., must collect the state sales tax and the county use tax from the buyer. Both the state sales tax and the county use tax are included with the dealer's Sales and Use Tax Return (Form ST-12) which the dealer files with the Department of Revenue.

Example: "A" (the Marathon County resident in the prior example) buys a car for \$5,000 from "C," who is a motor vehicle dealer in Eau Claire County, which does not have the county tax. "C" must remit the 5% state sales tax of \$250 and the 1/2% Marathon County use tax of \$25 to the Department of Revenue with its Sales and Use Tax Return (Form ST-12).

Rentals of motor vehicles, etc.: Retailers, regardless of whether or not they are dealers of motor vehicles, boats, etc., must report the county sales and use tax from the rentals of such property on their Sales and Use Tax Return (Form ST-12) and remit the 5% state tax and 1/2% county tax to the Department of Revenue on such rentals.

E. APRIL 1, 1992 TRANSITIONAL PROVISIONS

CAUTION: These April 1, 1992, transitional provisions apply only to the counties which first adopted the county tax beginning April 1, 1992. Information regarding transitional provisions for the other 40 counties which adopted the tax in 1986, 1987, 1988, 1989, 1990, or 1991 is found in the December 1985, December 1986, December 1987, December 1988, December 1989, and December 1990 Tax Reports.

Services: Those services subject to the 5% state sales tax are not subject to the county tax if the services are billed to the customer and paid for before April 1, 1992, regardless of whether the service is furnished to the customer before or after April 1, 1992. Services furnished before April 1, 1992 are not

subject to county tax even though the services are billed or the customer pays on or after April 1, 1992.

Rentals: The lessor's rental receipts from tangible personal property that the lessor is obligated to furnish at a fixed price under a contract entered into before April 1, 1992, are not subject to the county sales tax until the contract is terminated, extended, renewed, or modified. However, the lessee is subject to the county use tax on these lease or rental receipts beginning April 1, 1992, except when the lessor voluntarily reports the tax on such receipts for the convenience of the customer or when the lessor collects the tax because the contract is modified.

Contractors: Sales of building materials to contractors engaged in the business of constructing, altering, repairing, or improving real estate for others are not subject to the county taxes if (a) the materials are affixed and made a structural part of real estate, and (b) the amount payable to the contractor is fixed without regard to the costs incurred in performing a written contract that was irrevocably entered into prior to April 1, 1992, or that resulted from the acceptance of a formal written bid accompanied by a bond or other performance guaranty that was irrevocably submitted before April 1, 1992.

F. SELLER'S PERMITS

No additional seller's permit is required by a retailer for the county tax.

G. COLLECTING COUNTY TAX FROM CUSTOMERS - THE BRACKET SYSTEM

To separately state the 5% state tax and 1/2% county tax and pass these taxes on to customers, retailers must use the "bracket system." The bracket system is a method of collecting taxes designed so that the total amount of state and county taxes collected from customers equals approximately 5 1/2% of taxable gross receipts, if the retailer's sales fall equally throughout all the brackets. However, the gross state and county sales tax payable by a retailer to the Department of Revenue is 5 1/2% of the taxable gross receipts, regardless of the amount of taxes collected from customers.

The bracket system used in computing the tax which may be collected from customers is as follows:

5% State Tax	
(To be used when there is no county tax)	
Amount of Taxable Sale	State Tax Collectible
\$.01 to \$.09	0¢
.10 to .29	1¢
.30 to .49	2¢
.50 to .69	3¢
.70 to .89	4¢
.90 to 1.09	5¢

On sales in excess of \$1, the tax equals 5% of each full dollar of the sales price plus the tax shown above for the applicable fractional part of a dollar.

5½% State & County Tax
(To be used when the sale is subject
to the 5% state tax and ½% county tax.)

Amount of Taxable Sale	State and County Tax Collectible
\$.01 - \$.09	0¢
.10 - .27	1¢
.28 - .45	2¢
.46 - .63	3¢
.64 - .81	4¢
.82 - .99	5¢
1.00 - 1.18	6¢
1.19 - 1.36	7¢
1.37 - 1.54	8¢
1.55 - 1.72	9¢
1.73 - 1.90	10¢
1.91 - 2.09	11¢

The state and county tax equals 11¢ for each \$2 of sales, plus the tax shown above for the fractional part of \$2. Example: For a sale of \$11.50, the 5½% tax is 63¢ (55¢ for \$10 sale plus 8¢ for \$1.50 sale).

H. RETAILER'S DISCOUNT FOR COUNTY TAXES

The discount allowed to retailers on their retail sales is 2% of the first \$10,000 of "sales and use tax payable," 1% of the second \$10,000 of tax payable and ½% of such tax exceeding \$20,000 each year. "Sales and use tax payable" includes the following two amounts:

1. Amount of the 5% state (Wisconsin) sales and use tax payable on retail sales.
2. Amount of the ½% county sales and use tax payable on retail sales.

The state and county sales and use tax payable will not qualify for the discount if the payment of such taxes is not made on or before the due date of the return.

I. RETURN WILL REQUIRE COUNTY TAX DATA

Retailers engaged in business in a taxable county will have to keep records showing the amount of their taxable receipts subject to sales tax and purchases subject to use tax for each of the taxable counties.

On the Sales and Use Tax Return (Form ST-12), retailers are required to enter their taxable receipts subject to sales tax and purchases subject to use tax separately for each taxable county.

J. ANY QUESTIONS?

If you have questions about county sales and use taxes, call or visit any Wisconsin Department of Revenue office or write to: Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708-8902.

II. DON'T FORGET TO REPORT STATE USE TAX

Failure to report use tax is the most common error on sales and use tax returns. Make sure use tax is correctly reported on lines 21 through 23 of your sales and use tax return.

The 5% use tax is imposed on the purchase price of tangible personal property or taxable services that are to be used, stored, or consumed within Wisconsin, upon which a sales tax is not imposed or paid. Common examples include:

- Property used in Wisconsin is purchased outside Wisconsin without tax.

Example: A Wisconsin company purchases an office machine from an Illinois seller without tax. The machine is used in Wisconsin. The Wisconsin company owes Wisconsin use tax on the purchase price of this machine.

- Building materials are purchased by a nonresident contractor from a seller located in another state and the seller either does not charge sales tax, or charges a tax at a rate less than 5%. The nonresident contractor uses the materials on a job in Wisconsin.

Example: A contractor located in Illinois purchases building materials in another state and pays that state's 3% sales tax on the materials. The contractor uses the materials in constructing a building in Wisconsin. The contractor owes the 5% Wisconsin use tax on the purchase price of the materials used in Wisconsin. The contractor is allowed a credit for the sales tax paid to the other state on the return filed with Wisconsin.

- Property is purchased without tax for resale or for a nontaxable use and then is used by the purchaser in a taxable manner.

Example: A furniture store buys desks to resell to customer without tax by giving the seller a "resale certificate." A desk is then taken from the furniture store's inventory and used by the store bookkeeper. The store owes use tax on the desk.

- Property is purchased outside Wisconsin without tax and is then brought into Wisconsin and given away free.

Failure to report use tax may result in penalties being assessed in addition to interest. Penalties may be as much as 50% of the use tax not reported.

INDEX TO WISCONSIN TAX INFORMATION AVAILABLE

The Wisconsin Department of Revenue publishes an index to help you find information pertaining to Wisconsin tax questions. The *Topical and Court Case Index* is a two-part index. The first part (a *Topical Index*) will help you find the particular Wisconsin Statute, administrative rule, Wisconsin Tax Bulletin tax release and private letter ruling, or Attorney General opinion that deals with your question. The second part of the index (a *Court Case Index*) will help you find Wisconsin court decisions relating to your questions.

The *Topical and Court Case Index*, which is published annually in December, sells for \$14 (plus sales tax) per copy. That price includes an addendum of updated information, which will be provided the following May. Copies can be purchased from: Wisconsin Department of Administration, Document Sales, P.O. Box 7840, Madison, WI 53707-7840 (telephone 608-266-3358).