

SALES AND USE TAX REPORT

2-93

December 1993

I. ADDITIONAL COUNTIES ADOPT COUNTY TAX

Adams County has adopted the tax effective January 1, 1994. Dodge County has adopted the tax effective April 1, 1994. Note the different effective dates for the two counties. Make sure you collect and report the county tax for these counties at the appropriate time.

Listed below are the 45 counties that have adopted the county tax and the effective date for each county's tax. (Note: The county code assigned by the department for each county is in parenthesis following the county name. This code may be helpful for computer programming purposes.)

County	Effective Date	County	Effective Date
Adams (01)	1/1/94	Marathon(37)	4/1/87
Ashland(02)	4/1/88	Marquette(39)	4/1/89
Barron(03)	4/1/86	Milwaukee(40)	4/1/91
Bayfield(04)	4/1/91	Monroe(41)	4/1/90
Buffalo(06)	4/1/87	Oneida(43)	4/1/87
Burnett(07)	4/1/89	Ozaukee(45)	4/1/91
Chippewa(09)	4/1/91	Pepin(46)	4/1/91
Columbia(11)	4/1/89	Pierce(47)	4/1/88
Crawford(12)	4/1/91	Polk(48)	4/1/88
Dane(13)	4/1/91	Portage(49)	4/1/89
Dodge(14)	4/1/94	Price(50)	1/1/93
Door(15)	4/1/88	Richland(52)	4/1/89
Douglas(16)	4/1/91	Rusk(54)	4/1/87
Dunn(17)	4/1/86	St. Croix(55)	4/1/87
Iowa(25)	4/1/87	Sauk(56)	4/1/92
Iron(26)	4/1/91	Sawyer(57)	4/1/87
Jackson(27)	4/1/87	Shawano(58)	4/1/90
Jefferson(28)	4/1/91	Vilas(63)	4/1/88
Juneau(29)	4/1/92	Walworth(64)	4/1/87
Kenosha(30)	4/1/91	Washburn(65)	4/1/91
La Crosse(32)	4/1/90	Waupaca(68)	4/1/89
Langlade(34)	4/1/88	Waushara(69)	4/1/90
Lincoln(35)	4/1/87		

A. HOW DOES THE COUNTY TAX AFFECT YOU?

The Wisconsin Department of Revenue administers the county tax. Retailers who make sales subject to the county tax will collect 5½% sales tax on such retail sales — 5% state sales tax and ½% county sales tax. Both the state tax and the county tax are reported by retailers on their Sales and Use Tax Returns (Form ST-12) filed with the department.

How does the county sales and use tax apply to retailers and other persons? Read Parts B to I 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 45 counties that have adopted the county tax may still be subject to the county tax if they deliver property into any of these counties or are in some other way engaged in business in any of the 45 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 ½% 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 ½% county tax.

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

1. The ½% 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 the 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 *Sales and Use Tax Report* means a county which has adopted the county tax. "Nontaxable county" means a county which has not adopted the county tax.

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 exists in the taxable county:

- The retailer has a store in the county.
- The retailer owns business real property in the county.
- The retailer leases or rents out 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 a representative, agent, sales person, 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.

Note: The above list is not all-inclusive

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 a taxable county. The buyer takes possession of the radio at the seller's business location in the taxable county and travels in his car to his home in a nontaxable county. Since the sale had a "situs" in a taxable county (the place where possession transferred to the buyer), it is subject to the ½% county sales tax of \$1.

Example: A person buys a piano for \$1,500 at a store in a nontaxable county; however, it is delivered to the buyer in a taxable county by the seller's company operated vehicle. The seller is "engaged in business" in the taxable county when delivering the piano into the taxable county. The sale of the piano is subject to the 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. For example, the rental of a computer has a situs at the location where the computer is kept by the lessee.

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 a taxable county. This repair service was furnished in the taxable county and is, therefore, subject to the ½% 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 a nontaxable county, brings it to his shop in a taxable county to repair the TV, and then delivers the TV back to the customer's home in the nontaxable county. The repair service has a "situs" in the nontaxable county because the TV was delivered to the customer in the nontaxable 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 a taxable county.

D. WHEN DOES COUNTY USE TAX APPLY?

1. A county use tax of ½% 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 service is 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 a taxable county purchases an office machine for \$10,000 from an Ohio seller who has not charged the 5% Wisconsin or ½% county tax on the transaction. The machine is used in a taxable county. The buyer is liable for 5% Wisconsin use tax of \$500 and ½% 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 paid by the buyer, that tax may be credited against the \$50 Wisconsin county use tax.

Example: A company located in a taxable county purchases office supplies from a seller in a nontaxable county. The seller delivers the office supplies by common carrier to the taxable county. The seller charges the 5% state sales tax but not the ½% county tax because it is not engaged in business in the taxable county (delivering by common carrier into a county does not by itself mean a seller is engaged in business in the county). The buyer is subject to the ½% county use tax on the sales price of the office supplies.

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 that 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 property or similar local sales tax of ½% 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 the ½% county use tax to the state agency at the time of registering or titling it with the state agency.

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.

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 Form ST-12 and remit

the 5% state tax and ½% county tax to the Department of Revenue on such rentals.

E. TRANSITIONAL PROVISIONS

CAUTION: These transitional provisions apply only to Adams and Dodge counties which adopted the county tax beginning January 1, 1994 and April 1, 1994, respectively. Information regarding transitional provisions for the other 43 counties which adopted the tax in any of the years 1986 through 1993 is found in the December *Sales and Use Tax Report* prior to the year in which the county tax was adopted.

Services: Those services subject to the 5% state sales tax are not subject to the Adams or Dodge county tax if the services are billed to the customer and paid for before the effective date of that county's tax, regardless of whether the service is furnished to the customer before or after the effective date of that county's tax. Services furnished before the effective date of that county's tax are not subject to Adams or Dodge county tax even though the services are billed or the customer pays on or after the effective date of that county's tax.

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 the effective date of the county tax are not subject to the Adams or Dodge county sales tax until the contract is terminated, extended, renewed, or modified. However, the lessee is subject to the Adams or Dodge county use tax on these lease or rental receipts beginning on or after the effective date of that county's tax, 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 Adams or Dodge county tax if (a) the materials are affixed and are 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 the effective date of that county's tax, or that resulted from the acceptance of a formal written bid accompanied by a bond or other performance guaranty that was irrevocably submitted before the effective date of that county's tax.

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 ½% 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 5½% 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

or Revenue is 5½% of the taxable gross receipts, regardless of the amount of taxes collected from customers.

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

5½% State and County Tax	
(To be used when the sale is subject to the 5% state tax and the ½% county tax)	
Amount of Taxable Sale	State and County Tax Collectible
\$.01 to \$.09	0c
.10 to .27	1c
.28 to .45	2c
.46 to .63	3c
.64 to .81	4c
.82 to .99	5c
1.00 to 1.18	6c
1.19 to 1.36	7c
1.37 to 1.54	8c
1.55 to 1.72	9c
1.73 to 1.90	10c
1.91 to 2.09	11c

The state and county tax equals 11c 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 63c (55c for \$10 sale plus 8c for \$1.50 sale).

H. RETURN REQUIRES COUNTY TAX DATA

Retailers engaged in business in a taxable county are required 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 for each of the taxable counties their taxable receipts subject to sales tax and purchases subject to use tax.

I. ANY QUESTIONS?

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

II. INACTIVATION OF CERTAIN SELLER'S PERMIT ACCOUNTS

In November, the department automatically inactivated the accounts of persons holding a seller's permit if the following conditions applied:

1. The account was on an annual filing basis, and
2. Returns filed for the last two years showed no sales or use tax liability.

Letters were mailed to these seller's permit holders notifying them of inactivation of their account. If you received such a letter and feel your account should not have been inactivated, call Keith Brunner at (608) 267-1036 or write to him at

Inquiry and Technical Assistance Unit, Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708-8902.

III. SELLER'S PERMIT AND REGISTRATION CERTIFICATE REDESIGNED

The Wisconsin Seller's Permit (Form S-201) and Use Tax Registration Certificate (Form S-201U) have been redesigned for your convenience.

The lower portion of these redesigned forms is a postcard that may be used to notify the department of name and address changes and changes in ownership. If you have such a change, simply complete the postcard and send it to the department. Use of this postcard will speed up recording account information changes.

In addition to the postcard, seller's permit and use tax registration certificate holders will now receive a personal copy of the permit or certificate in addition to the permit or certificate that must be posted at the place of business. The personal copy of the permit will provide easy access to the permit or certificate number.

In early November, all active use tax registrants were provided with the redesigned certificate. The redesigned seller's permit is now being issued to new accounts and renewals. Within two years, all seller's permits will include the postcard and personal copy since seller's permits are renewable every two years.

IV. 25% PENALTY FOR NOT REPORTING USE TAX

When you purchase taxable property from outside Wisconsin and the seller does not charge Wisconsin sales tax, you are responsible for reporting Wisconsin use tax on your purchase of the property.

If the department finds that you were negligent in not reporting Wisconsin use tax, you may be liable for a penalty of 25% of the use tax determined to be owing.

Report your use tax and avoid the penalty!

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