

SALES AND USE TAX REPORT

2-95

June 1995

I. TREMPEALEAU COUNTY ADOPTS COUNTY TAX

Trempealeau County has adopted the county tax effective October 1, 1995.

The following lists the 48 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	Oconto (42)	7/1/94
Burnett (07)	4/1/89	Oneida (43)	4/1/87
Chippewa (09)	4/1/91	Ozaukee (45)	4/1/91
Columbia (11)	4/1/89	Pepin (46)	4/1/91
Crawford (12)	4/1/91	Pierce (47)	4/1/88
Dane (13)	4/1/91	Polk (48)	4/1/88
Dodge (14)	4/1/94	Portage (49)	4/1/89
Door (15)	4/1/88	Price (50)	1/1/93
Douglas (16)	4/1/91	Richland (52)	4/1/89
Dunn (17)	4/1/86	Rusk (54)	4/1/87
Forest (21)	4/1/95	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	Trempealeau (61)	10/1/95
Juneau (29)	4/1/92	Vilas (63)	4/1/88
Kenosha (30)	4/1/91	Walworth (64)	4/1/87
La Crosse (32)	4/1/90	Washburn (65)	4/1/91
Langlade (34)	4/1/88	Waupaca (68)	4/1/89
Lincoln (35)	4/1/87	Waushara (69)	4/1/90

IMPORTANT: Retailers who are not located in any of the 48 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 48 counties.

A. TRANSITIONAL PROVISIONS

CAUTION: These transitional provisions apply only to Trempealeau County.

Services: Those services subject to the 5% state sales tax are not subject to the Trempealeau county tax if the services are billed to the customer and paid for before October 1, 1995, regardless of whether the service is furnished to the customer before or after October 1, 1995. Services furnished before October 1, 1995 are not subject to Trempealeau county tax even though the services are billed or the customer pays on or after October 1, 1995.

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 October 1, 1995, are not subject to the Trempealeau county sales tax until the contract is terminated, extended, renewed, or modified. However, the lessee is subject to the Trempealeau county use tax on these lease or rental receipts beginning on or after October 1, 1995, 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 Trempealeau 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 October 1, 1995, or that resulted from the acceptance of a formal written bid accompanied by a bond or other performance guaranty that was irrevocably submitted before October 1, 1995.

B. SEASONAL SELLERS

If you make sales of tangible personal property or taxable services in Trempealeau County which are subject to the county tax and you are a seasonal filer (a person doing business for only a portion of the year), the sales and use tax returns previously sent to you may need to be replaced effective for reporting periods beginning on or after October 1, 1995.

Review Schedule CT on the back of the sales and use tax returns previously sent to you for periods beginning on or after October 1, 1995. If Trempealeau County is not listed on Schedule CT, you should contact the department for new returns which include Trempealeau County. You may write or call the Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708-8902 (telephone (608) 266-2776).

C. ADDITIONAL INFORMATION

Additional information about the county tax can be found in the January 1995 *Sales and Use Tax Report (1-95)* or Wisconsin Publication 201, which is available from any Department of Revenue office.

D. 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. MEALS, FOOD, AND BEVERAGES GIVEN AWAY BY MOTELS, HOTELS, ETC.

What is the Wisconsin sales and use tax treatment of free meals, food, and beverages, and disposable eating utensils, napkins, etc., for consumption of those items?

As illustrated in the following examples, when hotels, motels, etc., provide free meals, food, beverages, and disposable eating utensils, napkins, etc., to customers or employees, its purchase of those items is subject to Wisconsin sales or use tax, unless an exemption applies.

Example 1: Motel A provides a free breakfast with the purchase of lodging. Motel A purchases fruit, milk, cereal, bakery goods (rolls, bagels, muffins, bread), ground coffee beans, frozen juice, napkins, plastic utensils, and paper plates from a vendor. Motel A prepares the coffee and juice. The food and beverages are placed on a table in the lobby. Motel A's customers may take as much or as little as they want of the food and beverage items.

Food Items

Motel A's purchases of the following food, food products, and beverages are **not** subject to Wisconsin sales or use tax because they are exempt food items.

- Fruit
- Milk
- Cereal
- Bakery goods
- Cans of ground coffee beans
- Frozen juice

Utensils, Napkins, and Plates

Motel A's purchases of the following non-food items are subject to sales or use tax because no exemption applies.

- Napkins
- Plastic utensils
- Paper plates and cups

Motel A is selling lodging, which is a taxable service. The transfer of food, beverages, napkins, plastic utensils, and paper plates is incidental to the lodging because a person's primary objective when purchasing lodging services is to have a place to stay, rather than to purchase food or beverages. Since Motel A is not selling the food, beverages, napkins, plastic utensils, and paper plates, Motel A is the consumer of the food and beverages and is subject to Wisconsin sales or use tax on the purchase of the items, unless an exemption applies.

Example 2: Motel B provides a free breakfast with the purchase of a night's lodging. Motel B provides the "guest" with a coupon good for a free breakfast at the restaurant located in Motel B. The restaurant is a separate legal entity from Motel B. The restaurant charges Motel B for the breakfast coupons redeemed by Motel B's guests.

The restaurant's sales of the breakfasts to Motel B are taxable because they are sales for direct consumption on the premises of the restaurant (i.e., the retailer of the breakfasts).

Motel B is a retailer of lodging, and the breakfasts transferred to customers are incidental to the lodging provided by Motel B. Motel B is considered the consumer of the breakfasts purchased from the restaurant and provided to the guests without charge.

Important: If you did not report the tax correctly on your sales and use tax return, you should file an amended return or claim for refund, as appropriate. Information regarding filing amended returns and claims for refund is found in the amended return instructions and Wisconsin Publication 216, *Filing Claims for Refund of Sales or Use Tax*. Both are available from any Department of Revenue office.

III. TAX AUDITORS DISCOVER OVER \$25 MILLION IN UNPAID USE TAX

As part of its efforts to obtain compliance with Wisconsin use tax laws, Department of Revenue auditors assessed over \$25 million of use tax, penalties, and interest in the fiscal year ending June 30, 1994.

Auditors found that many businesses, while properly accounting for tax on sales, fail to have a system to keep track of purchases subject to use tax. Following are examples of purchases made without sales or use tax being paid ... until the businesses were audited:

1. Purchases from unregistered out-of-state sellers.
2. Purchases for which exemption certificates were issued to the seller but the item purchased was ultimately used in a taxable manner.

Purchasers should carefully review their accounting methods to ensure that use tax is properly reported.