

described in the table below, the department will follow the treatment indicated in Column 2. For sales by contractors to service stations prior to January 1, 1998, where Columns 2 and 3 differ, contractors may follow the tax treatment noted in Column 2 or 3, whichever is to their advantage. The items where Columns 2 and 3 differ are shaded.

“Transitional Provisions,” following the table below, illustrates how contractors may determine the sales and use tax treatment for sales by contractors to service stations prior to January 1, 1998.

For purposes of the table below, TPP and RP have the meaning and tax treatment as follows:

**TPP** means the property remains tangible personal property after installation and for purposes of various services performed on the property thereafter. The contractor's charge to a customer for labor and materials to install or repair or service the property is subject to Wisconsin sales or use tax unless an exemption applies. The contractor may purchase the property without sales or use tax because it is for resale.

**RP** means the property becomes real property when installed and for purposes of various services performed on the property thereafter. The contractor's charge to a customer for labor and materials to install or repair or service the property is not subject to Wisconsin sales or use tax. However, the contractor is subject to Wisconsin sales or use tax on its purchase of the property installed or provided with the service.

Column 1 Property	Column 2 Treatment Effective 1/1/98	Column 3 Treatment Prior to 1/1/98
<b>A. Submersible pump:</b> This pump is underground on top of the tank. The motor is installed in the tank and pushes the gas from the tank to piping that will take the gas to a dispenser.	TPP	TPP
<b>B. Housing for pump:</b> This housing is underground to enclose the pump and sits on the top of the underground tank.	TPP	TPP
<b>C. Piping:</b> This pipe connects the submersible pump to the dispenser and allows gas to flow to the dispenser.	TPP	RP
<b>D. Pump wiring:</b> Wiring brings electricity from the building power source (amp service box) directly to the submersible pump.	RP	RP
<b>E. Vent pipe:</b> Allows gasoline vapors to escape from tank.	TPP	TPP
<b>F. Fill pipe:</b> This pipe is underground and connects with the underground storage tank. This is where the seller of the fuel to the service station dispenses the fuel from its truck to the underground storage tank.	TPP	RP
<b>G. Spill container:</b> The spill container is underground and connects to the fill pipe. It collects fuel that overflows from the fill pipe.	TPP	RP
<b>H. Electronic monitor:</b> This device is underground and is used to determine the fuel remaining in the tank. It also detects leaks in the tank.	TPP	TPP

Column 1 Property	Column 2 Treatment Effective 1/1/98	Column 3 Treatment Prior to 1/1/98
<b>I. Electronic monitor display unit:</b> This unit displays information collected by the electronic monitor and warns of possible problems. It is similar to a computer screen and is mounted to the wall in the service station building.	TPP	TPP
<b>J. Display unit wiring:</b> Wiring that connects the display unit in the building to the electronic monitor in the underground tank.	TPP	TPP
<b>K. Dispenser piping:</b> This piping allows gas from the tank to be delivered to the dispenser. The majority of the piping is underground.	TPP	RP
<b>L. Pump connected to dispenser:</b> In contrast with the submersible pump (Item A), this pump is above ground and is connected to the gasoline dispenser. Rather than pushing the gas out of the underground tank, this pump pulls the gas from the tank.	TPP	TPP
<b>M. Gasoline dispenser:</b> Unit that sits on the island from which the gasoline is dispensed into a motor vehicle.	TPP	TPP
<b>N. Canopy:</b> A shelter structure over gasoline dispensers that consists of support columns and a roof.	RP	RP
<b>O. Island lights:</b> If a service station does not have a canopy which contains lights, lights similar to parking lot lights and street lights are installed on the island or in the general vicinity of the island to illuminate the area.	RP	TPP
<b>P. Canopy lighting:</b> A light fixture is installed in the canopy roof for illumination of the area.	RP	RP
<b>Q. Dispenser wiring:</b> Wiring brings electricity from the building power source (amp service box) directly to the gasoline dispenser.	RP	RP
<b>R. Island light wiring:</b> Wiring brings electricity from the building power source (amp service box) directly to the island lights.	RP	TPP
<b>S. Canopy light wiring:</b> Wiring brings electricity from the building power source (amp service box) directly to the canopy lights.	RP	RP
<b>T. Underground tank:</b> Prefabricated tank located underground used to store gasoline.	RP	RP
<b>U. Tank foundation:</b> Gravel or cement base located underground on which the underground tank is placed.	RP	RP

Column 1 Property	Column 2 Treatment Effective 1/1/98	Column 3 Treatment Prior to 1/1/98
<b>V. Island:</b> The concrete foundation upon which the dispensers and other equipment are placed.	RP	RP
<b>W. Hoist:</b> An encased underground hydraulic cylinder connected to an above ground platform.	TPP, except for foundation	TPP, except for foundation

### Transitional Provisions for Sales by Contractors to Service Stations Prior to January 1, 1998

#### Items A, B, D, E, H, I, J, L, M, N, P, Q, S, T, U, V, and W (No Change)

The treatment as provided in Column 2 should be followed.

#### Items C, F, G, and K (Real Property Changed to Tangible Personal Property)

If you treated Items C, F, G, or K as real property and paid Wisconsin sales or use tax based on your purchase price of the item, rather than the selling price of the materials and labor, you have two options:

1. Do nothing. The department will not adjust your sales and use tax return for these items.
2. File a claim for refund for the sales and use tax you paid on the purchase price of the item and report sales tax on the selling price of the item, unless an exemption applies.

**Note:** See *Wisconsin Tax Bulletin* 91 (April 1995), pages 21 to 26, for a tax release about filing claims for refund and passing on the tax collected from buyers.

If you treated Items C, F, G, or K as tangible personal property and

charged Wisconsin sales or use tax based on the selling price of the items (materials and labor), nothing has to be done. You have treated the items in a manner consistent with the department's treatment effective January 1, 1998.

**Example 1:** In 1997, you are audited by the department for the year 1996. You did not charge sales tax on the \$2,000 sale and installation for Service Station A of piping from a submersible pump to a gasoline dispenser because you thought the installation was real property. You did pay Wisconsin sales tax to your suppliers on your purchases of the piping used in the installation. Although the department's revised treatment effective January 1, 1998, as shown in the preceding table, Column 2 (Item C), is that this is a sale and installation of tangible personal property which is subject to sales tax, unless an exemption applies, the department will not assess you sales tax on the sale and installation nor will the department refund you the amount of Wisconsin sales or use tax you paid on your purchase of the piping.

**Example 2:** In January 1997, you installed for \$1,000 piping from a submersible pump to a gasoline dispenser for a Wisconsin municipal-

ity. You treated the installation as a real property improvement and, therefore, paid Wisconsin use tax to the department on your purchase price of the piping (\$300).

Since the department's treatment effective January 1, 1998, as shown in the preceding table, Column 2 (Item C), is that this is a sale and installation of tangible personal property which is subject to Wisconsin sales tax, unless an exemption applies, you were not required to pay Wisconsin sales or use tax on your purchase of the piping. In addition, because your sale was to a Wisconsin municipality, the \$1,000 sale is exempt from Wisconsin sales and use tax. You may file a claim for refund for the use tax you paid to the department on your purchase of the piping.

**Example 3:** In February 1997, you installed piping from a submersible pump to a gasoline dispenser for a Wisconsin municipality for \$1,000. You treated this sale as a sale and installation of tangible personal property. Since you were installing the piping for a Wisconsin municipality, the \$1,000 sale was exempt from Wisconsin sales or use tax. In addition, you did not pay Wisconsin sales or use tax on your purchase price of the piping (\$300).

Since the department's treatment effective January 1, 1998, as shown in the preceding table, Column 2 (Item C), is that this is a sale and installation of tangible personal property which is subject to Wisconsin sales or use tax, unless an exemption applies, you do not need to do anything. You have treated the installation of the piping in a manner consistent with the department's treatment effective January 1, 1998.

#### **Items O and R (Tangible Personal Property Changed to Real Property)**

If you treated Items O and R as tangible personal property and charged your customers Wisconsin sales or use tax based on your selling price of the items (materials and labor), you have two options:

1. Do nothing. The department will not adjust your sales and use tax liability for these items.
2. File a claim for refund for the amount of tax you charged to your customer, however, you would owe Wisconsin use tax based on your purchase price of these materials.

**Note:** See *Wisconsin Tax Bulletin* 91 (April 1995), pages 21 to 26, for a tax release about filing claims for refund and passing on the tax collected from buyers.

If you treated Items O and R as real property and paid Wisconsin sales or use tax based on your purchase price of the items, you do not need to do anything. You have treated the items in a manner consistent with the department's treatment effective January 1, 1998, as shown in the preceding table, Column 2.

**Example 1:** In March 1997, you installed for \$1,500 island lights for Company A. You charged Service Station A Wisconsin sales or use tax of \$75 on this sale and installation ( $\$1,500 \times 5\% = \$75$ ). You did not pay Wisconsin sales or use tax on your purchase of the lights (\$1,000).

Since the department's treatment effective January 1, 1998, as shown in the preceding table, Column 2 (Item O), is that the island lights are real property and the sale and installation of the lights are not subject to Wisconsin sales or use tax, you may file a claim for refund for the sales tax of \$75 which you charged your customer in error.

However, if you file a claim for refund on your sale and installation of the island lights because the repair is a real property improvement, you would owe Wisconsin use tax of \$50 on your purchase of the lights used in the installation ( $\$1,000 \times 5\% = \$50$ ).

**Example 2:** In December 1996, you repaired for \$200 island lights for Service Station A. You treated the repair as a real property improvement and, therefore, paid Wisconsin sales or use tax based on your purchase price of the materials (\$75) used in the repair of the lights.

Since the department's treatment effective January 1, 1998, as shown in the preceding table, Column 2 (Item O) is that island lights are real property and repairs to them are not subject to Wisconsin sales or use tax, you do not need to do anything. You have treated the item in a manner consistent with the department's treatment effective January 1, 1998.

For sales occurring on or after January 1, 1998, the proper amount of Wisconsin sales and use tax must be determined based on the treatment reflected in the preceding table, Column 2.