

when and where possession is transferred by the seller . . . to the purchaser . . .” The Circuit Court determined that sec. 77.51(14r), Wis. Stats., refers to when and where physical possession is transferred by the seller.

The taxpayer has not appealed this decision. □

Officer liability. *Joseph A. Balestri-eri vs. Wisconsin Department of Revenue* (Circuit Court for Dane County, December 3, 1998). This is a judicial review of a Wisconsin Tax Appeals Commission decision dated June 2, 1998. See *Wisconsin Tax Bulletin* 111 (October 1998), page 19, for a summary of the Commission’s decision. The issue in this case is whether the Commission correctly held that the taxpayer is a responsible person under sec. 77.60(9), Wis. Stats., and thus liable for the unpaid sales taxes of Riverside Theatre (“the corporation”).

The Circuit Court affirmed the Commission’s decision and concluded that the taxpayer had the **authority** to pay the sales taxes, he had the **duty** to pay the sales taxes, and he **intentionally breached his duty** in his failure to pay these taxes.

The taxpayer was president of the corporation with signature **authority** on its three checking accounts. He signed checks for the corporation and entered into an agreement with the department acknowledging the sales tax delinquency and agreeing to pay it; therefore, the taxpayer had the **authority** to pay the taxes. As the president, director, and operational manager of the corporation, the taxpayer had a **duty** to pay the sales tax. The taxpayer **intentionally breached that duty** by making the decision to use corporate funds to pay other creditors with the knowledge of sales tax being due.

The taxpayer has not appealed this decision. □

Services subject to the tax – producing, fabricating, and processing. *Hammersley Stone Company, Inc. vs. Wisconsin Department of Revenue* (Circuit Court for Dane County, December 21, 1998). The Wisconsin Tax Appeals Commission issued a decision on August 17, 1998, which was appealed to the Circuit Court. See *Wisconsin Tax Bulletin* 112 (January 1999), page 27, for a summary of the Commission’s decision.

The department filed a motion to dismiss the petition for judicial review, on the grounds that service was not properly made.

The Circuit Court granted the department’s motion to dismiss.

The taxpayer has not appealed this decision. □



Tax Releases

“Tax releases” are designed to provide answers to the specific tax questions covered, based on the facts indicated. In situations where the facts vary from those given herein, the answers may not apply. Unless otherwise indicated, tax releases

apply for all periods open to adjustment. All references to section numbers are to the Wisconsin Statutes unless otherwise noted.

The following tax releases are included:

SALES AND USE TAXES

Note: The following tax releases interpret the Wisconsin sales and use tax law as it applies to the 5% state sales and use tax. The 0.5% county and 0.1% stadium sales and use taxes may also apply. For information on sales or purchases that are subject to the county or stadium sales and use tax, refer to Wisconsin Publication 201, *Wisconsin Sales and Use Tax Information*.

Sales and Use Taxes

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1 Admissions to Amusement, Athletic, Entertainment, or Recreational Events or Places

Introduction: This tax release explains who is responsible for remitting Wisconsin tax on sales of admissions to amusement, athletic, entertainment, or recreational events and places, and when and where the sales of admissions take place.

Statutes: Sections 77.51(13), (13g), and (14)(intro.), 77.52(2)(a)2, and 77.53(3), Wis. Stats. (1997-98)

Wis. Adm. Code: Sections Tax 11.65, Wis. Adm. Code (June 1991 Register) and Tax 11.97, Wis. Adm. Code (October 1997 Register)

Background: Section 77.51(13g), Wis. Stats. (1997-98), provides in part that a “retailer engaged in business in this state” includes any retailer owning any real property in this state, renting out any tangible personal property located in this state, maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business in this state. It also includes any retailer who has any representative, agent, salesperson, canvasser, or solicitor operating in Wisconsin under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or taking orders for tangible personal property or taxable services.

Section 77.51(14)(intro.), Wis. Stats. (1997-98), provides that the definition of “sale,” “retail sale” and “sale at retail” includes the transfer of the ownership of, title to, possession of, or enjoyment of tangible personal property or services for use or consumption, but not for resale.

Section 77.52(2)(a)2, Wis. Stats. (1997-98), imposes Wisconsin sales tax on the “...sale of admissions to amusement, athletic, entertainment or recreational events or places...”

Section 77.53(3), Wis. Stats. (1997-98), imposes Wisconsin use tax on every retailer engaged in business in Wisconsin who makes sales of tangible personal property or taxable services with knowledge, directly or indirectly, that the property or service is intended for storage, use, or other consumption in Wisconsin.

“Event” and “place” as used in this tax release mean an amusement, athletic, entertainment, or recreational event or place.

Who is the Retailer?

Generally, the retailer responsible for remitting Wisconsin sales tax on sales of admissions is the person engaged in the business of selling admissions to the “consumer.” A “consumer” is a person who purchases an admission from a retailer. A “consumer” will generally use that admission to obtain admittance to the event. A “consumer” does not include a person who purchases an admission and then resells the admission in the regular course of the person’s business. Therefore, a retailer of admissions may include not only the person who sponsors the event, but also ticket brokers, travel agents, and other persons engaged in the business of selling admissions to consumers.

Example: Football Team A is scheduled to play a football game in Madison, Wisconsin at XYZ Stadium. Football Team A sells admissions to the game for \$25 at its ticket window outside XYZ Stadium. The admissions are sold to individuals, ticket brokers, and travel agents and are paid for at the

ticket window. The individuals who purchase the admissions from Football Team A do not resell the admissions, but use them to enter the game. Football Team A receives the proceeds from the sales of the admissions to such persons and controls the admittance of persons to the game.

The ticket brokers and travel agents are engaged in the business of selling admissions to consumers and provide Football Team A with exemption certificates claiming the resale exemption for the admissions they purchase. The ticket brokers and travel agents then resell the admissions to consumers.

Sales by Football Team A: Football Team A is the retailer responsible for remitting Wisconsin sales tax on its sales of admissions to individuals (i.e., consumers). Football Team A is not responsible for remitting Wisconsin sales tax on its sales of admissions to ticket brokers and travel agents engaged in the business of selling admissions, because Football Team A received properly completed exemption certificates from the ticket brokers and travel agents.

Sales by Ticket Brokers and Travel Agents: The ticket brokers and travel agents are the retailers responsible for remitting sales tax on their sales of admissions to consumers.

When and Where Do Sales of Admissions Take Place?

When does the sale take place?

The sale of an admission takes place at the time the retailer agrees to sell the admission to the consumer. Examples 1 to 15 illustrate when the retailer agrees to sell the admission to the consumer.

Where does the sale take place?

The location of the sale of an admission is the location of the retailer at the time the retailer agrees to sell the admission to the consumer. (**Note:** Admissions to events or places located outside of Wisconsin are not subject to Wisconsin sales tax.)

Example: Football Team A is scheduled to play a football game in Madison, Wisconsin at XYZ Stadium. Football Team A sells admissions to the game for \$25 at its ticket window outside XYZ Stadium. The admissions are sold to individuals, ticket brokers, and travel agents and are paid for at the ticket window. The individuals do not resell the admissions purchased from Football Team A, but use them to enter the game. Football Team A receives the proceeds from the sales of these admissions and controls the admittance of persons to the game.

The ticket brokers and travel agents are engaged in the business of selling admissions to consumers and provide Football Team A with ex-

emption certificates claiming the resale exemption for the admissions they purchase. The ticket brokers and travel agents resell the admissions they purchased from Football Team A. The admissions are sold to various individuals (i.e., consumers) from the ticket brokers' and travel agents' locations in Milwaukee, Wisconsin.

Sales by Football Team A: Football Team A is the retailer responsible for remitting sales tax on its sales of admissions to individuals (i.e., consumers). These sales take place at the ticket window outside XYZ Stadium at the time Football Team A agrees to sell the admissions to the individuals.

Sales by Ticket Brokers and Travel Agents: The ticket brokers and travel agents are the retailers responsible for remitting the Wisconsin sales tax on their sales of admissions to consumers. These sales take place in Milwaukee at each ticket broker's or travel agent's location at the time the ticket broker or travel agent agrees to sell the admission.

What Amount is Taxable?

Tax is owed on the "retailer's" selling price of the admission to the consumer.

Example: Football Team A sells an admission for \$25 to Ticket Broker B. Ticket Broker B gives Football Team A an exemption certificate claiming the resale exemption on its purchase of the admission. Ticket Broker B resells the admission for \$40 to Individual C.

Football Team A is not responsible for remitting Wisconsin sales tax on its sale of the admission to Ticket Broker B for \$25, since Ticket Broker B provided Football Team A with an exemption certificate. Ticket Broker B is the retailer and is responsible for remitting sales tax to the Department of Revenue on the \$40 sale of the admission to Individual C.

Examples of Sales of Admissions.

The following examples illustrate (1) who is the retailer responsible for remitting the Wisconsin sales and use tax on sales of admissions; (2) when the sale takes place; (3) where the sale takes place; and (4) the amount subject to Wisconsin sales or use tax. (**Note:** In each of the following examples, if the retailer does not charge the proper Wisconsin sales tax to the purchaser, the purchaser is liable for remitting the applicable Wisconsin use tax to the Department of Revenue.)

"Ticket," as used throughout the following examples, means the piece of paper which is generally given to a person by the retailer of the admission as evidence that the person has purchased an admission (e.g., right to enter), for the event.

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Example 1 – Sale of Ticket by Event Provider at Ticket Window

- Individual A wants to attend a baseball game in Milwaukee, Wisconsin.
- Individual A goes to the ticket window in Milwaukee.
- At the ticket window, Baseball Team B accepts the \$20 payment from Individual A and hands Individual A a ticket to the game.
- On the day of the game, Individual A gives the ticket to Baseball Team B in Milwaukee to obtain admittance to the game.

Who is the retailer?	Baseball Team B
When does sale take place?	At the time Baseball Team B accepts \$20 payment from Individual A
Where does sale take place?	Ticket window in Milwaukee
What amount is taxable?	\$20

Note: In the above example, the answers would still be the same if the ticket is mailed to Individual A or Individual A obtains the ticket at a later date.

Example 2 – Telephone Call to Event Provider to Order Ticket

- Individual A wants to attend a rock concert in Madison, Wisconsin.
- Individual A calls Concert Provider B in Milwaukee and orders a ticket to the concert for \$20.
- In Milwaukee, Concert Provider B charges the ticket to Individual A's credit card account and tells Individual A to go to the "Will Call" window in Madison to pick up the ticket.
- On the day of the concert, Individual A picks up the ticket at the "Will Call" window and gives the ticket to Concert Provider B in Madison to obtain admittance to the concert.

Who is the retailer?	Concert Provider B
When does sales take place?	At the time Concert Provider B charges the \$20 to Individual A's credit card account
Where does sale take place?	Concert Provider B's location in Milwaukee
What amount is taxable?	\$20

Note: In the above example, the answers would still be the same if the ticket is mailed to Individual A.

Example 3 – Order Blank for Tickets Sent to Event Provider

- Individual A wants to attend a football game in Madison, Wisconsin.
- Individual A, who lives in Madison, fills out an order blank to purchase a \$20 ticket to the game and mails the order blank to Football Team B in Waukesha.
- The order blank includes Individual A's credit card account number and signature authorizing the ticket to be billed to his credit card account.
- In Waukesha, Football Team B reviews the order blank, charges the \$20 ticket to Individual A's credit card account, and mails the ticket to Individual A in Madison.
- On the day of the game, Individual A gives the ticket to Football Team B in Madison to obtain admittance to the game.

Who is the retailer?	Football Team B
When does sale take place?	At the time Football Team B charges the \$20 to Individual A's credit card account
Where does sale take place?	Football Team B's location in Waukesha
What amount is taxable?	\$20

Note: In the above example, the answers would still be the same if Individual A obtains the ticket at a later date, such as at the "Will Call" window on the day of the game.

Example 4 – Person Purchases Ticket to Game, But Does Not Attend Game (No-shows)

- Individual A wants to attend a football game in Madison, Wisconsin.
- Individual A, who lives in Madison, fills out an order blank to purchase a \$20 ticket to the game and mails the order blank to Football Team B in Waukesha.
- The order blank includes Individual A's credit card account number and signature authorizing the ticket to be billed to his credit card account.
- In Waukesha, Football Team B reviews the order blank, charges the \$20 ticket to Individual A's credit card account, and mails the ticket to Individual A in Madison.
- Individual A is sick and cannot attend the game.

Who is the retailer?	Football Team B
When does sale take place?	At the time Football Team B charges the \$20 to Individual A's credit card account
Where does sale take place?	Football Team B's location in Waukesha
What amount is taxable?	\$20

Note: Even though Individual A did not attend the game, the sale of the admission is still subject to Wisconsin sales tax.

Example 5 – Sale by Person Who is Not Event Provider

- Individual A wants to attend a soccer game in Milwaukee, Wisconsin.
- Ticket Broker B in Janesville, Wisconsin is engaged in the business of buying and selling tickets.
- Ticket Broker B goes to Soccer Team C in Milwaukee, pays \$25 to Soccer Team C, provides Soccer Team C with a properly completed exemption certificate claiming the resale exemption, and is handed a ticket to the game.
- Individual A goes to Ticket Broker B in Janesville, pays \$50 to Ticket Broker B, and is handed a ticket to the game.
- On the day of the game, Individual A gives the ticket to Soccer Team C in Milwaukee to obtain admittance to the game.

In this example, there are 2 separate transactions to consider: (1) the sale from Soccer Team C to Ticket Broker B and (2) the sale from Ticket Broker B to Individual A.

Transaction 1 – Sale from Soccer Team C to Ticket Broker B

Who is the retailer?	This sale is not a retail sale subject to tax. It is a sale for resale.
When does sale take place?	
Where does sale take place?	
What amount is taxable?	

Transaction 2 – Sale from Ticket Broker B to Individual A

Who is the retailer?	Ticket Broker B
When does sale take place?	At the time Ticket Broker B accepts the \$50 payment from Individual A
Where does sale take place?	Ticket Broker B's location in Janesville
What amount is taxable?	\$50

Note: In the above example, the answers would still be the same if the ticket is mailed to Individual A, or Individual A obtains the ticket at a later date.

Example 6 – Sale by Person Not Engaged in Business in Wisconsin

- Individual A wants to attend a baseball game in Milwaukee, Wisconsin.
- Ticket Broker B in Chicago, Illinois is engaged in the business of buying and selling tickets, but **is not** engaged in business in Wisconsin (i.e., does not have nexus in Wisconsin for sales and use taxes).
- Ticket Broker B goes to Baseball Team C in Milwaukee, pays \$25 to Baseball Team C, provides Baseball Team C with a properly completed exemption certificate claiming the resale exemption, and is handed a ticket to the game.
- At Ticket Broker B's location in Chicago, Individual A pays \$50 to Ticket Broker B and is handed a ticket to the game.
- On the day of the game, Individual A gives the ticket to Baseball Team C in Milwaukee to obtain admittance to the game.

In this example, there are 2 separate transactions to consider: (1) the sale from Baseball Team C to Ticket Broker B and (2) the sale from Ticket Broker B to Individual A.

Transaction 1 – Sale from Baseball Team C to Ticket Broker B

Who is the retailer?	This sale is not a retail sale subject to tax. It is a sale for resale.
When does sale take place?	
Where does sale take place?	
What amount is taxable?	

Transaction 2 – Sale from Ticket Broker B to Individual A

Who is the retailer?	Ticket Broker B *
When does sale take place?	At the time Ticket Broker B accepts the \$50 payment from Individual A.
Where does sale take place?	Ticket Broker B's location in Chicago, Illinois
What amount is taxable?	\$50 *

- * Since Ticket Broker B is not engaged in business in Wisconsin, Ticket Broker B would not be required to remit Wisconsin sales or use tax on the sale to Individual A. Individual A owes Wisconsin use tax on the \$50 because Individual A used the ticket in Wisconsin to obtain admittance to the game. Credit would be allowed for Illinois tax properly paid on the sale from Ticket Broker B to Individual A.

Note: In the above example, the answers would still be the same if the ticket is mailed to Individual A, or Individual A obtains the ticket at a later date.

Example 7 – Sale by Person Engaged in Business in Wisconsin, But at Out-of-State Location

- Individual A wants to attend a soccer game in Milwaukee, Wisconsin.
- Ticket Broker B in Chicago, Illinois is engaged in the business of buying and selling tickets.
- Ticket Broker B is engaged in business in Wisconsin (i.e., has nexus in Wisconsin for sales and use taxes).
- At Soccer Team C's location in Milwaukee, Ticket Broker B pays \$25 to Soccer Team C, provides Soccer Team C with a properly completed exemption certificate, claiming the resale exemption, and is handed a ticket to the game.
- At Ticket Broker B's location in Chicago, Individual A pays \$50 to Ticket Broker B and is handed the ticket.
- On the day of the game, Individual A gives the ticket to Soccer Team C in Milwaukee to obtain admittance to the game.

In this example, there are 2 separate transactions to consider: (1) the sale from Soccer Team C to Ticket Broker B and (2) the sale from Ticket Broker B to Individual A.

Transaction 1 – Sale from Soccer Team C to Ticket Broker B

Who is the retailer?	This sale is not a retail sale subject to tax. It is a sale for resale.
When does sale take place?	
Where does sale take place?	
What amount is taxable?	

Transaction 2 – Sale from Ticket Broker B to Individual A

Who is the retailer?	Ticket Broker B *
When does sale take place?	At the time Ticket Broker B accepts the \$50 payment from Individual A.
Where does sale take place?	Ticket Broker B's location in Chicago, Illinois
What amount is taxable?	\$50 *

- * Since Ticket Broker B is engaged in business in Wisconsin and the game takes place in Wisconsin, Ticket Broker B would be required to remit **Wisconsin** tax on the sale to Individual A.

Note: In the above example, the answers would still be the same if the ticket is mailed to Individual A or Individual A obtains the ticket at a later date.

Example 8 - Event Provider Sells Ticket to Individual Who is Not Engaged in a Business Requiring the Holding of a Seller's Permit, Who Sells Ticket to Ticket Broker, Who Sells Ticket to Different Individual

- Individual A wants to attend a football game which will be played in Green Bay, Wisconsin.
- Individual A goes to Football Team B's ticket window in Green Bay and pays \$25 for the ticket.
- Football Team B accepts the \$25 payment and mails the ticket to Individual A in Waukesha, Wisconsin.
- Individual A later determines she cannot attend the game.
- Individual A, who is not engaged in any trade or business requiring the holding of a seller's permit, sells her ticket to Ticket Broker C for \$40 at Ticket Broker C's headquarters in Milwaukee.
- Ticket Broker C is engaged in the business of buying and selling tickets.
- Ticket Broker C receives a telephone call in Milwaukee from Individual D requesting a ticket to the game and agrees to sell the ticket to Individual D for \$75.
- In Milwaukee, Ticket Broker C charges the \$75 ticket to Individual D's credit card account and mails the ticket to Individual D in Milwaukee.

In this example, there are 3 separate transactions to consider: (1) the sale from Football Team B to Individual A for \$25; (2) the sale from Individual A to Ticket Broker C for \$40; and (3) the sale from Ticket Broker C to Individual D for \$75.

Transaction 1 - Sale from Football Team B to Individual A

Who is the retailer?	Football Team B*
When does sale take place?	At the time Football Team B accepts the \$25 payment from Individual A
Where does sale take place?	Football Team B's ticket window in Green Bay
What amount is taxable?	\$25

- * Football Team B is required to impose sales tax on the sale of the ticket to Individual A because there is no exemption which Individual A could claim on Individual A's purchase of the admission from Football Team B.

Transaction 2 - Sale from Individual A to Ticket Broker C

This sale is exempt from Wisconsin sales and use tax because Individual A is not engaged in a trade or business requiring the holding of a seller's permit. The sale qualifies as an exempt occasional sale.

Transaction 3 - Sale from Ticket Broker C to Individual D

Who is the retailer?	Ticket Broker C
When does sale take place?	At the time Ticket Broker C charges the \$75 to Individual D's credit card account
Where does sale take place?	Ticket Broker C's location in Milwaukee
What amount is taxable?	\$75

Example 9 - Event Provider Sells Ticket to Company Engaged in a Business Requiring the Holding of a Seller's Permit, Who Sells Ticket to Ticket Broker, Who Sells Ticket to Individual

- A football game will be played in Green Bay, Wisconsin.
- Company A goes to Football Team B's ticket window in Green Bay, pays \$25 for the ticket, and provides Football Team B with a properly completed exemption certificate claiming the resale exemption.
- Football Team B accepts the \$25 payment and mails the ticket to Company A in Waukesha, Wisconsin.
- Company A, who is engaged in a trade or business requiring the holding of a seller's permit, sells its ticket to Ticket Broker C for \$40 at Ticket Broker C's headquarters in Milwaukee.
- Ticket Broker C is engaged in the business of buying and selling tickets and provides Company A with a properly completed exemption certificate claiming the resale exemption.
- Ticket Broker C receives a telephone call in Milwaukee from Individual D requesting a ticket to the game and agrees to sell the ticket to Individual D for \$75.
- In Milwaukee, Ticket Broker C charges the \$75 ticket to Individual D's credit card account and mails the ticket to Individual D in Milwaukee.

In this example, there are 3 separate transactions to consider: (1) the sale from Football Team B to Company A for \$25; (2) the sale from Company A to Ticket Broker C for \$40; and (3) the sale from Ticket Broker C to Individual D for \$75.

Transaction 1 - Sale from Football Team B to Company A

Who is the retailer?	This sale is not a retail sale subject to tax. It is a sale for resale.
When does sale take place?	
Where does sale take place?	
What amount is taxable?	

Transaction 2 - Sale from Company A to Ticket Broker C

Who is the retailer?	This sale is not a retail sale subject to tax. It is a sale for resale.
When does sale take place?	
Where does sale take place?	
What amount is taxable?	

Transaction 3 - Sale from Ticket Broker C to Individual D

Who is the retailer?	Ticket Broker C
When does sale take place?	At the time Ticket Broker C charges the \$75 to Individual D's credit card account
Where does sale take place?	Ticket Broker C's location in Milwaukee
What amount is taxable?	\$75

Example 10 - Event Provider Sells Ticket to Company Engaged in a Business Requiring the Holding of a Seller's Permit, Who Sells Ticket to Individual

- A football game will be played in Green Bay, Wisconsin.
- Company A goes to Football Team B's ticket window in Green Bay, pays \$25 for the ticket, and provides Football Team B with a properly completed exemption certificate claiming the resale exemption.
- Football Team B accepts the \$25 payment and mails the ticket to Company A in Waukesha, Wisconsin.
- Company A, who is engaged in a trade or business requiring the holding of a seller's permit, sells its ticket to Individual C for \$40 at Company A's headquarters in Waukesha.

In this example, there are 2 separate transactions to consider: (1) the sale from Football Team B to Company A for \$25 and (2) the sale from Company A to Individual C for \$40.

Transaction 1 - Sale from Football Team B to Company A

Who is the retailer?	This sale is not a retail sale subject to tax. It is a sale for resale.
When does sale take place?	
Where does sale take place?	
What amount is taxable?	

Transaction 2 - Sale from Company A to Individual C

Who is the retailer?	Company A *
When does sale take place?	At the time Company A accepts the \$40 payment from Individual C.
Where does sale take place?	Company A's location in Waukesha
What amount is taxable?	\$40 *

- * Since Company A is engaged in a trade or business requiring the holding of a seller's permit at the time Company A sells the ticket to Individual C, Company A is required to remit Wisconsin sales tax on the \$40 sale of the ticket.

Example 11 - Event Provider Sells Ticket to Ticket Broker, Who Sells Ticket to Different Ticket Broker, Who Sells to Individual

- Concert Provider B is selling tickets for a concert which will be held in La Crosse, Wisconsin.
- Ticket Broker A is in the business of buying and selling tickets.
- At Concert Provider B's location in La Crosse, Ticket Broker A pays \$30 to Concert Provider B, provides Concert Provider B with a properly completed exemption certificate claiming the resale exemption, and is handed a ticket for the concert.
- In Madison, Wisconsin, Ticket Broker C pays \$50 to Ticket Broker A, provides Ticket Broker A with a properly completed exemption certificate claiming the resale exemption, and is handed the ticket for the concert.
- Ticket Broker C is also engaged in the business of buying and selling tickets.
- In Milwaukee, Individual D pays \$150 to Ticket Broker C. Ticket Broker C accepts the \$150 payment and mails the ticket to Individual D in Madison.
- On the day of the game, Individual D gives the ticket to Concert Provider B in La Crosse to obtain admittance to the concert.

In this example, there are 3 separate transactions to consider: (1) the sale from Concert Provider B to Ticket Broker A for \$30; (2) the sale from Ticket Broker A to Ticket Broker C for \$50; and (3) the sale from Ticket Broker C to Individual D for \$150.

Transaction 1 - Sale from Concert Provider B to Ticket Broker A

Who is the retailer?	This sale is not a retail sale subject to tax. It is a sale for resale.
When does sale take place?	
Where does sale take place?	
What amount is taxable?	

Transaction 2 - Sale from Ticket Broker A to Ticket Broker C

Who is the retailer?	This sale is not a retail sale subject to tax. It is a sale for resale.
When does sale take place?	
Where does sale take place?	
What amount is taxable?	

Transaction 3 - Sale from Ticket Broker C to Individual D

Who is the retailer?	Ticket Broker C
When does sale take place?	At the time Ticket Broker C accepts the \$150 payment from Individual D
Where does sale take place?	Ticket Broker C's location in Milwaukee
What amount is taxable?	\$150

Example 12 - Individual Calls Event Provider's Toll-Free Number and Places Order With Operator (Who May or May Not be in Wisconsin) for the Ticket

- Individual A wants to attend a concert in Madison, Wisconsin.
- Individual A calls a toll-free number of Concert Provider B, which is received by an employee of Concert Provider B, to purchase a ticket to the concert in Madison.
- The operator who receives the telephone call may be located anywhere in the United States.
- Concert Provider B is engaged in business in Wisconsin.
- The operator has authority to accept the order and bind Concert Provider B to selling the \$50 ticket to the concert to Individual A.
- The operator charges the \$50 ticket to Individual A's credit card account and mails the ticket to Individual A in Madison.
- On the day of the concert, Individual A gives the ticket to Concert Provider B in Madison to obtain admittance to the concert.

Who is the retailer?	Concert Provider B *
When does sale take place?	At the time Concert Provider B charges \$50 to Individual A's credit card account
Where does sale take place?	Location of operator at time operator agrees to sell ticket to Individual A
What amount is taxable?	\$50

- * Since Concert Provider B is engaged in business in Wisconsin and the concert takes place in Wisconsin, Concert Provider B would be required to remit **Wisconsin** tax on the sale to Individual A, regardless of the location of the operator.

Example 13 - Individual Logs Onto Event Provider's Website and Provides Credit Card Number Via the Internet

- Individual A wants to attend a baseball game in Milwaukee, Wisconsin.
- Individual A logs onto the Internet homepage of Baseball Team B, orders a \$20 ticket to the game via the Internet, and provides his credit card account number.
- Individual A is notified via e-mail from Baseball Team B located in Milwaukee that his order has been received, the \$20 has been charged to his credit card account, and the ticket is to be picked up at the "Will Call" window in Milwaukee on the day of the game.
- On the day of the game, Individual A picks up the ticket at the "Will Call" window and uses the ticket to obtain admittance to the game in Milwaukee.

Who is the retailer?	Baseball Team B
When does sale take place?	At the time Baseball Team B charges \$20 to Individual A's credit card account
Where does sale take place?	Location of Baseball Team B in Milwaukee
What amount is taxable?	\$20

Example 14 – Event Takes Place Outside of Wisconsin

- Individual A wants to attend a football game in San Diego, California.
- Individual A contacts Ticket Broker B in Milwaukee, Wisconsin, to obtain a ticket to the game.
- Ticket Broker B is engaged in the business of buying and selling tickets.
- Ticket Broker B calls Football Team C in California, who agrees to sell the ticket to the game to Ticket Broker B for \$50.
- Ticket Broker B provides Football Team C in California with its credit card account number, and Football Team C charges the \$50 ticket to the account and mails the ticket to Ticket Broker B in Milwaukee.
- Individual A goes to Ticket Broker B's location in Milwaukee, gives Ticket Broker B \$100, and Ticket Broker B hands Individual A a ticket to the game.

Since the game takes place outside of Wisconsin, neither of the sales of the ticket to the game is subject to Wisconsin sales or use tax.

Example 15 – Sale of a "Package Deal" Which Includes Lodging, Meals, Ticket to Event, and Transportation

- Individual A wants to attend a football game in Green Bay, Wisconsin.
- Individual A contacts Travel Agent B, located in Wisconsin, who is offering a "game day package" for \$400.
- The "game day package" includes one ticket to the game, meals at a restaurant, one night of lodging at a hotel, and transportation from the hotel to the game.
- Travel Agent B purchases the ticket to the game from Football Team C for \$75, the meals from Restaurant E for \$50, the lodging from Hotel D for \$50, and the transportation to the game from Transporter F for \$25.

- Travel Agent B provides Football Team C, Restaurant E, and Hotel D with a properly completed exemption certificate claiming the resale exemption.

Allocation of Selling Price Among Items Included in Package

The \$400 selling price of the complete package should be allocated among the four items being sold as part of the package (i.e., the ticket to the game, lodging, meals, and transportation to the game).

One method of allocating the \$400 selling price is to determine the percentage cost of each of the components offered in the package to the total cost of all the components offered in the package and multiply that percentage times the \$400 package selling price.

Based on the facts in the above example, the percentage cost of each of the components in the package and the amount allocated to the selling price of the package would be as follows:

Item in Package	Cost of Item (A)	Total Cost of All Items in Package (B)	Percentage of Total Cost (A)/(B)	Amount of Selling Price of Package (\$400) Allocated to This Item
Ticket	\$75	\$200	37.5%	\$150
Meals	\$50	\$200	25%	\$100
Lodging	\$50	\$200	25%	\$100
Transportation	\$25	\$200	12.5%	\$50

That portion of the \$400 selling price of the package to Individual A which is allocated to the meals (\$100), lodging (\$100), and ticket (\$150) is subject to Wisconsin sales tax by Ticket Broker A. That portion of the \$400 selling price which is allocated to transportation to the game (\$50) is not subject to Wisconsin sales tax.

In the above example, Travel Agent B would be required to charge Wisconsin sales or use tax on \$350 of the \$400 selling price of the game day package (i.e., \$100 lodging + \$150 ticket + \$100 meals). Travel Agent B may purchase the admission, meals, and lodging for resale and therefore is not required to pay the sales tax to the suppliers of these items. No sales or use tax would be due on the purchase or sale of the transportation service.

Note: If you have any questions about (1) who is the retailer; (2) when a sale takes place; (3) where a sale takes place; or (4) what amount is subject to tax with respect to a specific transaction, send a letter which includes the facts relating to the transaction and your question to:

Attn: Administration Technical Services
Wisconsin Department of Revenue
P.O. Box 8933
Madison, WI 53708-8933

□

2 Fuel and Electricity Consumed in Industrial Waste Treatment Facilities

Statutes: Section 77.54(26), Wis. Stats. (1997-98)

Wis. Adm. Code: Section Tax 11.11(2)(b), Wis. Adm. Code (June 1991 Register)

This tax release supersedes the tax release published in *Wisconsin Tax Bulletin 65* (January 1990) titled “Electricity Used in Industrial Waste Treatment Facility” and applies to all periods open under the statute of limitations.

Background: Section 77.54(26), Wis. Stats. (1997-98), provides that when an industrial waste treatment facility qualifies for the property tax exemption under sec. 70.11(21)(a), Wis. Stats. (1997-98), the gross receipts from the sales of and the storage, use, or other consumption of tangible personal property which become a component part of the waste treatment facility are exempt from Wisconsin sales and use tax. In addition, the exemption also includes chemicals and supplies used or consumed in operating the waste treatment facility.

Question: Are natural gas and electricity exempt from Wisconsin sales and use tax under sec. 77.54(26), Wis. Stats. (1997-98), if they are consumed in operating an industrial waste treatment facility which is exempt from property tax under sec. 70.11(21)(a), Wis. Stats. (1997-98)?

Answer: Yes. The natural gas and electricity are exempt from Wisconsin sales and use tax under sec. 77.54(26), Wis. Stats. (1997-98), because they are “supplies” used or consumed in operating the waste treatment facility. □