

Wisconsin TAX BULLETIN

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Electronic Filing Mandate Letters to Businesses


As part of the Wisconsin Department of Revenue's (DOR's) efforts to become more efficient and increase electronic filing, DOR is notifying businesses of their requirement to electronically file their sales and use tax returns (Forms ST-12) and withholding tax returns (Forms WT-7). The Wisconsin Administrative Code provides that DOR may require any sales and use tax return and any withholding tax return be filed by electronic means. There are provisions to request a waiver if the requirement to electronically file causes an undue hardship. Businesses are also encouraged to pay tax owed by electronic means through direct debit/withdrawal, ACH Credit, or credit card. Businesses have a number of choices to e-file and e-pay (i.e., *My Tax Account*, TeleFile, e-file transmission), all of which may be found on DOR's web site.

In light of the above efforts, DOR will no longer mail Forms ST-12 to sales and use tax filers or Forms WT-7 to withholding tax filers. Form ST-12, Schedule CT, Form WT-7, and their instructions remain available on DOR's web site at:

www.revenue.wi.gov/html/formpub.html. 


Hudson and Janesville Offices to Close

The Department of Revenue will close its Hudson and Janesville branch offices, effective the end of October 2009. Customer services for persons in these locations will be provided from the Eau Claire and Madison district offices.

In addition to contacting the offices listed above, assistance and information are also available on the department's web site, www.revenue.wi.gov. 

Sales Internet Process Discontinued

The Sales Internet Process (SIP) was discontinued in June 2009 and replaced with *My Tax Account*, a new online system for business taxes. A new logon ID is required for *My Tax Account*. Registration instructions and frequently asked questions ([FAQs](#)) are available on the Department of Revenue's (DOR's) web site. Please note that the [TeleFile](#) application and [XML e-file](#) transmission process for filing and paying sales and use tax returns remain available.

My Tax Account allows you to electronically file returns and pay amounts due for sales and use tax, withholding tax, premier resort area tax, local exposition center tax, and state rental vehicle fees. You are also able to view your filing and payment history for these tax types, reprint selected correspondence from DOR, and initiate requests (for example, changing your address or entering into an installment agreement) to DOR. 

Wisconsin to Allow Amnesty for Certain Sellers Registering Under the Streamlined Sales and Use Tax Agreement

Wisconsin is offering a sales tax amnesty program to all businesses that are not currently registered to collect Wisconsin sales tax, if certain eligibility requirements are met. A business interested in participating in this amnesty program must voluntarily register to collect and remit not only Wisconsin sales taxes, but also any sales taxes due on the sales they make in any of the states whose laws have been found to be in compliance with the requirements of the Streamlined Sales and Use Tax Agreement (SSUTA). The Wisconsin amnesty period began July 1, 2009, the date Wisconsin became an associate member of the Streamlined Sales Tax Governing Board (SSTGB), and will end September 30, 2010.

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Amnesty*(continued from page 1)*

If you meet the eligibility requirements and register as described below, you will not be liable for any Wisconsin sales tax on sales you made prior to your registration. (**Note:** The sales tax amnesty program does **not** apply to (1) any Wisconsin taxes that you owe in your capacity as a purchaser (i.e., use tax due on purchases you made) or (2) any Wisconsin sales taxes that you have previously collected from your customers, regardless of whether or not you have remitted those taxes to Wisconsin.)


Eligibility and Participation Requirements

You are eligible for the Wisconsin sales tax amnesty program, unless one or more of the following criteria apply to you:

- You are currently registered to collect Wisconsin sales tax;
- You were registered to collect Wisconsin sales tax at any time during the previous 12 months;
- You have received a notice of the commencement of an audit, unless that audit is fully resolved, including any related administrative or judicial processes (i.e., appeals); or
- You have committed or been involved in a fraudulent act or an intentional misrepresentation of a material fact.

To participate in the Wisconsin sales tax amnesty program, you must:


- Register before October 1, 2010 to collect sales tax for Wisconsin and all of the other SSUTA member states using the Streamlined Sales Tax Central Registration System which is available at <https://www.sstregister.org/sellers/Entry.aspx>; and
- Agree to collect and remit sales tax to Wisconsin and all of the other SSUTA member states (including those states that join the SSUTA after you register) for at least 36 months after the date of registration.

If you have any questions regarding the sales tax amnesty program required under the SSUTA, please visit the SSTGB's web site at www.streamlinedsalestax.org/amnesty.html. If you have questions specific to Wisconsin's sales tax amnesty program, please contact Craig Johnson at (608) 634-6794 or send an e-mail to craig.johnson@revenue.wi.gov. 

Electronic Filing Mandate for Combined Reporting

Administrative rules to be adopted by the Department of Revenue in the near future will require all combined corporation franchise and income tax returns to be filed electronically. There will be provisions to request a waiver if the requirement to e-file causes an undue hardship. Any waiver request will be required to be in writing and explain in detail why the requirement causes an undue hardship.

Any amount owed from a combined return is also encouraged to be paid by electronic means using direct debit/withdrawal, ACH Credit, or credit card. Each of these processes enables you to "warehouse" your payment in advance until the due date.

Additional information concerning filing and paying electronically may be found on the department's web site, www.revenue.wi.gov. Just click on "E-Services." 

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Upcoming Events



Wisconsin/Minnesota Sales Tax Seminars

The Wisconsin and Minnesota Departments of Revenue will again present a series of joint sales and use tax seminars in October. The seminars will include information on similarities and differences in the two states' sales and use tax laws. All of the seminars are for general businesses.

The specific dates, times, and locations of the seminars, as well as registration information, are available on the "Training" page of the Department of Revenue's web site at www.revenue.wi.gov/training/events.html. 



IRS/DOR Workshops in October 2009

The Internal Revenue Service and Wisconsin Department of Revenue will be sponsoring several workshops around the state this fall. The workshops will cover tax law updates, e-filing updates, and other topics of interest to tax practitioners. All tax practitioners are invited to attend. The tentative dates and places for these workshops are:

October 2 – Madison


October 7 – Stevens Point

October 8 – Menasha

October 20 – Metro Milwaukee

October 21 – Madison

October 29 – Eau Claire

There are plans to offer an online session, although details are pending. More information and the registration process will be sent through the department's tax practitioner electronic mailing list. If you are not receiving e-mail communications through this mechanism, please visit www.revenue.wi.gov/html/lists.html and sign up today. 



Administrative Rules in Process

Listed below are administrative rules that are currently in the rule promulgation process. The rules are shown at their stage in the process as of July 15, 2009, and at each step where action occurred during the period from April 1, 2009, through July 15, 2009.

Where applicable, the listing includes rule numbers and names, and whether a rule is amended (A), repealed and recreated (R&R), or a new rule (NR).

Emergency Rules Adopted and in Effect

8.03 Wine collectors – NR

8.05 Small winery cooperative wholesalers – NR

Scope Statement Published

Chapters Tax 1, 2, and 3, relating to modernization of corporation franchise and income tax (published May 31, 2009)

Chapter Tax 11, relating to Wisconsin sales and use tax (published May 15, 2009)

Pending Submission to Legislative Council Rules Clearinghouse

- 1.12 Electronic funds transfer – A
- 2.03 Corporation returns – A
- 2.04 Information returns and wage statements – A
- 2.08 Returns of persons other than corporations – A
- 4.001 Motor vehicle, alternate fuels, and general aviation fuel tax return and refund claim forms – NR
- 7.001 Fermented malt beverage tax return and refund claim forms – NR
- 8.001 Intoxicating liquor report, tax return, and refund claim forms – NR
- 9.001 Cigarette and tobacco products report, tax return, and refund claim forms – NR
- 11.01 Sales and use tax, local exposition tax, and premier resort area tax return forms – A

Sent for Legislative Committee Review

- 8.03 Wine collectors – NR
- 8.05 Small winery cooperative wholesalers – NR

To order up-to-date administrative rules of the Department of Revenue (DOR), you can contact the Document Sales and Distribution Section of the Wisconsin Department of Administration to obtain the Tax section of the Wisconsin Administrative Code. Additional information is available at www.legis.state.wi.us/rsb/codinfo.html.

Information concerning administrative rules of DOR, as well as other state agencies, is also available at <https://apps.dhfs.state.wi.us/admrules/public/Home>. At this web site you can search for rules, view the status of current rulemaking, view documents associated with rulemaking, submit and view comments on rules, and subscribe to receive notification of rulemaking. [↗](#)

Important Change to Private Letter Ruling Publication

Publication 111, *How to Get a Private Letter Ruling From the Wisconsin Department of Revenue*, was recently revised. Among the changes made is an addition to the list of general areas where the department ordinarily will not rule. These are areas in which a ruling will not be issued unless there are unique and compelling reasons that justify its issuance. The list has been expanded to include a request with the same or substantially the same facts and issues as those in a previous ruling. [↗](#)



Updated Publications

Since the last issue of the *Wisconsin Tax Bulletin*, the following publications of the Income, Sales, and Excise Tax (IS&E) Division of the Department of Revenue (DOR) have been revised:

- 111 How to Get a Private Letter Ruling From the Wisconsin Department of Revenue (5/09)
- 121 Reciprocity (5/09)
- 201 Wisconsin Sales and Use Tax Information (5/09)
- 203 Sales and Use Tax Information for Manufacturers (3/09)
- 506 Taxpayers' Appeal Rights of Field Audit Adjustments (6/09)

All of the IS&E Division's publications may be found on DOR's web site at www.revenue.wi.gov/html/taxpubs.html. There are over 70 publications available, covering a wide range of topics. [↗](#)



Enforcement Report

Former Gas Station Operator Charged With Sales Tax Theft

Randall J. MacDonald, the former operator of a New Berlin gas station and convenience store, was charged in April 2009 in Waukesha County Circuit Court with two counts of misdemeanor theft of state sales taxes. The criminal charges were brought by the Waukesha County District Attorney's Office after an investigation by the Fraud Unit of the Wisconsin Department of Revenue.

According to the complaint, MacDonald failed to remit to the state \$15,182.47 in sales taxes he collected from April 2004 through November 2005. MacDonald formerly operated the Brooke Side CITGO, a gas station and convenience store, located at 13996 West National

Avenue in New Berlin. MacDonald admitted operating the business and said he had intended to file the sales tax returns and remit the sales taxes he had collected. He also indicated he had the funds available but kept poor records. MacDonald stated he used the sales tax money to pay business and personal expenses, rather than submitting the money to the state.

If convicted on both counts, MacDonald could face up to 18 months in prison and fines totaling \$20,000. In addition to the criminal penalties, Wisconsin law provides for substantial civil penalties on the civil tax liability. Assessment and collection of the tax, penalties, and interest due follows a conviction for criminal violations.

Arizona Woman Sentenced to Prison for Homestead Credit Fraud Scheme

Susanna Terrell, 39, of El Mirage, Arizona and formerly of Milwaukee, was sentenced in April 2009 in Dane County Circuit Court to serve two and one-half years in prison for bilking the state out of almost \$80,000 in fraudulent homestead credit claims.

According to the criminal complaint filed November 10, 2008, Terrell filed 139 fraudulent state homestead credit claims between 2006 and 2008, using the identities of 92 people without their knowledge, in an attempt to obtain \$133,000 in homestead credit refunds. The homestead credit is a refundable tax credit for Wisconsin renters and property owners. Terrell received a two-year prison sentence for a conviction in Milwaukee County in 2000 for a similar crime.

The complaint further states that Terrell said she started the fraud scheme again in 2006 because she had maxed out several credit cards, had unpaid bills, and gambled up to \$200 a day. Terrell confessed to the scheme in 2008 when agents from Wisconsin executed a search warrant at her home in El Mirage.

According to the complaint, Terrell told the agents she obtained the identifying information of individuals through her employment at ACE Cash Express and Circle K Convenience stores and also from the Maricopa County Arizona web site. She stated she used the Wisconsin Circuit Court System web site to search for eviction cases to find landlord names and addresses to use on the fraudulent homestead credit claims. Shortly after filing the claims, Terrell would file change of address requests with the Post Office in order to have the homestead credit checks forwarded to a mailbox under her control. The complaint alleges Terrell filed 139 fraudulent homestead credit claims using 92 different names and cashed \$79,896 of the \$133,292 she attempted to obtain.

The case was prosecuted by the State Attorney General's Office after a joint investigation by the Wisconsin Department of Revenue's Criminal Investigation Section and the US Postal Inspection Service.

Town of Lafayette Man Charged With Fraud

Note: Information for the following section of this article was obtained from articles published in the Chippewa Herald and Leader-Telegram.

David J. Lambert, 33, of the town of Lafayette was charged in April 2009 in Chippewa County Court with three felony counts of fraudulent writings for allegedly falsifying alcohol license applications with the towns of Lafayette and Birch Creek in January, April, and May of 2008.

Lambert was freed on a \$5,000 signature bond on the conditions that he doesn't sell alcohol without a license and does not operate a business whose primary purpose is the sale of alcohol.

Appleton Man Charged With Tax Fraud

Criminal charges were filed in May 2009 in Milwaukee County Circuit Court against Kenneth C. Kranich, 36, for filing fraudulent Wisconsin income tax returns for the years 2004 through 2007.

According to the complaint, Kranich falsified the returns by underreporting wages that he and his wife earned. Kranich was also charged with theft for falsely overstating the amount of income taxes withheld from his and his wife's wages for 2006 and 2007.

The complaint alleges that for the 2004 year, Kranich completely omitted reporting income of \$29,779 he received from Vitran Express. For 2005, Kranich omitted reporting \$7,626 of his wages and \$3,338 of his wife's wages. For 2006, he omitted reporting \$8,473 of his wages and he falsely overstated the amount of state taxes that were withheld from his and his wife's wages by \$1,797. For 2007, Kranich omitted reporting \$17,313 of his wages as well as \$7,707 of his wife's wages and falsely overstated the amount of state taxes withheld from his and his wife's wages by \$1,311.

In addition to falsely overstating state tax withholding, Kranich also falsely overstated the amount of federal taxes withheld by \$2,152 in 2005, \$2,575 in 2006, and \$4,454 in 2007.

According to the complaint, Kranich admitted to Department of Revenue investigators he was having money problems and falsified the tax returns to get bigger refunds than he was entitled to. Kranich was charged in Milwaukee County because he was living in Milwaukee County at the time he filed the returns.

If convicted on all counts, Kranich could face up to 27½ years in prison, \$50,000 in fines, or both.

Milwaukee Woman Arrested in Tax Fraud Scheme

Shana Marie Cooper, 30, appeared in court in May 2009 facing criminal charges for a scheme in which she and others misappropriated over \$170,000 in state and federal income tax refunds while using the identities of deceased persons.

Criminal charges were filed by the Milwaukee County District Attorney's Office after an investigation by the Fraud Unit of the Wisconsin Department of Revenue.

According to the complaint, Cooper and her co-actors fraudulently obtained tax refunds totaling \$51,408 from the Wisconsin Department of Revenue and \$119,473 from the Internal Revenue Service by filing 66 false income tax returns claiming fictitious wages and withholding taxes from QPS Companies, Inc., Custom

Staff Solutions, Spherion Atlantic Workforce, Crown Staffing Services, Inc., or Popeye's Capitol Corporation. Twenty-two of the returns were filed in 2006 and 44 were filed in 2007.

The complaint further alleges Cooper opened up at least 15 bank accounts through MetaBank where refunds were electronically deposited. Debit cards were used to make cash withdrawals or purchases from stores.

According to the complaint, the identities of 40 different deceased persons were used as part of the scheme, as well as the identities of persons incarcerated in the Wisconsin Prison System.

Cooper, who was arrested on May 17, was previously convicted of a similar scheme in 2003 and now faces up to 40 years in prison and \$75,000 in fines if convicted on all counts. [!\[\]\(faf942dc3e59ce8eb64b4ac481eca7e0_img.jpg\)](#)



Report on Litigation

Summarized below are recent significant Wisconsin Tax Appeals Commission (WTAC) and Wisconsin Court decisions. The last paragraph of each decision indicates whether the case has been appealed to a higher Court.

The following decision is included:

Corporation Franchise and Income Taxes

Gross income – membership pledges
Minocqua Country Club, Inc......7

CORPORATION FRANCHISE AND INCOME TAXES

Gross income – membership pledges.
Minocqua Country Club, Inc. vs. Wisconsin Department of Revenue (Oneida County Circuit Court, April 1, 2009). This is a judicial review of the Wisconsin Tax Appeals Commission decision dated November 7, 2007. See *Wisconsin Tax Bulletin* 155 (January 2008), page 24, for a summary of the Wisconsin Tax Appeals Commission's decision.

Note: The Wisconsin Tax Appeals Commission decision in this case involved both franchise and sales tax. The Circuit Court's review involves only franchise tax, as the taxpayer did not appeal the decision against it on the sales tax issue.

The issue in this case is whether Minocqua Country Club, Inc. (MCC) is liable for Wisconsin franchise tax on the amounts it received from pledges (deposits) its members were required to pay for membership to the club.

The Wisconsin Tax Appeals Commission determined the department correctly assessed franchise tax. In doing so, the Commission looked to the case of *Board of Trade of the City of Chicago v. Comm'r*, 106 T.C. 369 (1994). In this case, the Tax Court analyzed a number of prior cases that concern this issue. The Tax Court identified “three objective factors whose presence tends to support the existence of an investment motive: (1) the fee in question is earmarked for application to a capital acquisition or expenditure; (2) the payors are the equity owners of the corporation and there is an increase in the equity capital of the organization by virtue of the payment; and (3) the members have an opportunity to profit

from their investment in the corporation.” The Commission also looked to the language of the regulations under IRC § 118. The Commission determined the deposits at issue did not qualify as capital contributions and were includable in MCC's gross income for the years at issue.

The Circuit Court reviewed the Commission's decision under the de novo standard, giving no deference to the Commission's decision. In examining the totality of the circumstances surrounding the deposits, the Circuit Court determined that MCC's members did not make the deposits with an investment motive. Therefore, it concluded the Commission's determination was correct and affirmed the Commission's decision.

The taxpayer has not appealed this decision.



Private Letter Rulings

“Private letter rulings” are written statements issued to a taxpayer by the department, that interpret Wisconsin tax laws based on the taxpayer’s specific set of facts. Any taxpayer may rely upon the ruling to the extent the facts are the same as those in the ruling.

The ruling number is interpreted as follows: The “W” is for “Wisconsin”; the first four digits are the year and week the ruling becomes available for publication (80 days after it is issued to the taxpayer); the last three digits are the number in the series of rulings issued that year. The date is the date the ruling was issued.

Certain information that could identify the taxpayer has been deleted. Additional information is available in Wisconsin Publication 111, “How to Get a Private Letter Ruling From the Wisconsin Department of Revenue.”

The following private letter ruling is included:

Sales and Use Taxes

Computer and data processing services
W 0921002 (p. 8)

✱ W 0921002 ✱

March 6, 2009

Type Tax: Sales and Use Taxes

Issue: Computer and data processing services

Statutes: Sections 77.51(4)(a)2. and 77.52(2)(a)10.,
Wis. Stats. (2007-08)

Administrative Code: Section Tax 11.71(2)(c) and (3),
Wis. Adm. Code (April 1993 Register)

This letter responds to your request for a private letter ruling dated September 29, 2008.

Facts, as you provided:

Company A (the taxpayer), commercially domiciled in a state other than Wisconsin, is a logistics solutions provider. The taxpayer provides its customers with web-based inbound/outbound logistical management services. The taxpayer's logistical management services

operate through the Internet on a per-transaction multiple-user basis. The taxpayer's customers are not required to purchase or install on their computer terminals any of the taxpayer's software or to purchase any computer hardware. Furthermore, the taxpayer's software is not installed on any customer computer in order to effectuate the logistical management services transactions. Customers log in to the system to manage their overall transportation function, including obtaining benchmarking and transportation services. The logistical management services system is housed on a server in the taxpayer's state of commercial domicile. The taxpayer merely sells access to its web-based logistical management services system to customers seeking a solution to their logistics management function. Accordingly, the taxpayer operates as an application service provider (ASP), which is a business organization which offers software application capabilities to business users from centralized data centers via wide area networks usually through the Internet.

In addition to web-based logistical management services, the taxpayer also provides other logistics management support services to its customers. These services include implementation services related to its logistical management services and training related to the logistical management services system (each support service is offered on both a remote and an on-site basis). Additionally, customers reimburse the taxpayer for expenses associated with the taxpayer's personnel traveling to customer locations to perform training or implementation services.

The taxpayer provides the following to its customers for a fee:

- **Logistical Management Services** - Logistical management services consist of an Internet-based logistics management system, which provides the daily planning, execution, and settlement functions relevant to the management of customer transportation and delivery operations. Additionally, the logistical management services provide the unique ability for customers to view their complete supply chain and private transportation systems. These logistical management services are only possible through the taxpayer's extensive network of constantly shared and updated information from customers, suppliers, consignees, shippers, carriers,

and other third parties. This functionality generally provides customers with the following: inbound supplier management, appointment scheduling, benchmarking, and network-wide reporting. Customer logistics personnel access this individualized information to review the recommendations provided by the logistical management services.

- **Implementation Services** -The taxpayer consultants provide technical consulting and integration specifications to customers in order for the customer system to interface properly with the taxpayer's logistical management services.
- **Training Services** -The taxpayer's personnel train customer personnel at the customer's location.
- **Expense Reimbursement** - Customer reimbursement of the taxpayer's personnel travel expenses.

Question 1: Are the taxpayer's logistical management services subject to Wisconsin sales and use tax?

Answer 1: No. The sale of logistical management services by the taxpayer is not subject to Wisconsin sales and use tax, regardless of whether the system is housed on a server located in Wisconsin or outside Wisconsin.

Question 2: To the extent Wisconsin deems the taxpayer's logistical management services are subject to sales and use tax, is the location of customer logistic departments an appropriate method of sourcing the sales of logistical management services for Wisconsin sales and use tax purposes?

Answer 2: Not applicable.

Question 3: Are the taxpayer's implementation services subject to Wisconsin sales and use tax?

Answer 3: Providing technical consulting and integration logistics is subject to Wisconsin sales and use tax if provided in connection with the sale, lease, or rental of tangible personal property or the selling, performing, or furnishing of a taxable service. Providing technical consulting and integration logistics is not subject to Wisconsin sales or use tax if not provided in connection with the sale, lease, or rental of tangible personal property or the selling, performing, or furnishing of a taxable service. See "Implementation and Consulting" in *Analysis*, below.

Question 4: Are the taxpayer's training services subject to Wisconsin sales and use tax?

Answer 4: No. See "Training" in *Analysis*, below.

Question 5: Are expense reimbursements customer pays to the taxpayer subject to Wisconsin sales and use tax?

Answer 5: Expense reimbursements are included in the selling price of the product or services sold for purposes of computing Wisconsin sales or use taxes. Therefore, if the property or service sold is subject to Wisconsin sales or use tax, the amount of the expense reimbursement is subject to Wisconsin sales or use tax. If the property or service sold is not subject to Wisconsin sales or use tax, the amount of the expense reimbursement is not subject to Wisconsin sales or use tax. See "Expense Reimbursements" in *Analysis*, below.

Analysis

Section Tax 11.71(3), Wis. Adm. Code (April 1993 Register), provides that time-sharing services, which permit persons at different locations to access the same computer through remote access by telephone lines, microwave or other means, are not subject to sales or use tax when a person or that person's employees, who have access to the equipment:

- Are not located on the premises where the equipment is located, and
- Do not operate the equipment or control its operation.

This same analogy can be applied to the sharing of computer software.

The lease of tangible personal property (e.g., computer hardware, computer software that is not custom computer software*) is subject to Wisconsin sales or use tax, unless an exemption applies. For example, a customer may have control over computer hardware and software it accesses from a remote location, if that person has unlimited access to the server, loads its own software, is responsible for security measures regarding its use of the computer equipment and software, and decides how, when, and where its output will be provided through its own manipulation of the software. In such cases, the seller is leasing tangible personal property to its customer. Based on the fact that you provided that the taxpayer merely sells access to the logistical management services, the taxpayer is not leasing tangible personal property.

*Computer software that is not custom computer software is deemed to be tangible personal property, as provided in sec. 77.51(20), Wis. Stats. (2007-08).

Implementation and Consulting - Consulting services that are not provided in connection with the sale of tangible personal property, such as researching information and answering questions, are not services subject to the tax.

However, consulting services are subject to Wisconsin sales or use tax as part of the gross receipts from the sale of tangible personal property if they are provided in connection with the sale of the tangible personal property. For example, upon the taxpayer's recommendation to its customer, its customer purchases taxable equipment from the taxpayer. The taxpayer charges its customer for the equipment and pre-sale consultation or implementation. The entire charge is subject to Wisconsin sales or use tax. Also, the taxpayer's consulting services are taxable if they consist of repairing, servicing, altering, fitting, cleaning, painting, coating, towing, inspecting, or maintaining tangible personal property (e.g., computer software, except custom computer software) and the tangible personal property being repaired, serviced, etc. is not exempt from Wisconsin sales or use tax. For example, if the taxpayer is hired as a computer consultant to determine the problem with a customer's computer software that is not custom software and to fix the problem with the software, the taxpayer's charge for the consultation for the inspection and repair services is subject to tax under sec. 77.52(2)(a)10., Wis. Stats. (2007-08).

Training - Separate charges for training services are not subject to Wisconsin sales or use tax. Section Tax 11.71(2)(c), Wis. Adm. Code (April 1993 Register), provides that the following receipts are taxable:

"The sale of training materials, such as books and manuals furnished to trainees for a specific charge. However, **training services are not taxable.**" (Emphasis added.)

Expense Reimbursements – Section 77.51(4)(a)2., Wis. Stats. (2007-08), provides that "gross receipts," for Wisconsin sales and use tax purposes, means the total amount of the sale, lease, or rental price without deduction for "[t]he cost of the materials used, labor or service cost, interest paid, losses or any other expense."

Therefore, the taxpayer's charge for expense reimbursements is included in its selling price of tangible personal property or taxable services sold for purposes of computing Wisconsin sales or use tax, regardless of whether the expense reimbursements are separately

stated on the taxpayer's invoice to its customer. If the property or service sold is subject to Wisconsin sales or use tax, the amount of the expense reimbursement is subject to Wisconsin sales or use tax. If the property or service sold is not subject to Wisconsin sales or use tax, the amount of the expense reimbursement is not subject to Wisconsin sales or use tax.