



Wisconsin TAX BULLETIN

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New Tax Laws Summarized

Since the last issue of the *Wisconsin Tax Bulletin*, a number of Wisconsin tax law changes have been enacted. See page 3 for details. [🔗](#)

Sales and Use Tax Report Available

The latest issue of the [Sales and Use Tax Report](#) was posted on the Department of Revenue's web site in March. The *Sales and Use Tax Report* provides information concerning recent sales and use tax law changes and other pertinent sales and use tax information. Listed below are the articles in the March 2012 *Sales and Use Tax Report* (Issue 1-12). Links provided are to articles in [News for Tax Professionals](#) concerning the same subject matter.

- Tax Seminars
- Articles Posted to the Department's Web Site
 - [Sales to Native American Tribal Members](#)
 - [Home Beer Brewing Ingredients, Equipment, and Supplies](#)
 - [Walk-In Bathtubs May Be Exempt](#)
 - [Fuel Charges Related to Rental Cars](#)
 - [How to Collect Sales or Use Tax on Advertising and Promotional Direct Mail](#)
 - [Remote Deposit Capture Services \(RDACS\)](#)
 - [How to Determine Which County and Stadium Taxes Apply to Sales of Boats and Trailers](#)
 - [Exemption for Certain Vegetable Oil and Animal Fat Converted to Motor Vehicle Fuel](#)
 - [Parking Charges for Common and Contract Carriers](#) [🔗](#)

Reader Survey Available

The Department of Revenue (DOR) recently launched a survey concerning the resources available on its web site. Although targeted to readers of the *Wisconsin Tax Bulletin* and *Sales and Use Tax Report*, anyone who uses DOR's web site to get Wisconsin tax information is encouraged to participate. Responses will be accepted through the end of May.

If you haven't already done so, please take a few minutes to complete the survey. The feedback you provide is an important part of DOR's ongoing efforts to meet your needs through its web resources. Just click the link above to get started. [🔗](#)

New Fact Sheets Available

The department has a number of [fact sheets](#) available on its web site. The following topics were recently added:

- [Super research and development credit](#)
- [Pass-through withholding and composite returns](#)
- [Postsecondary education credit](#)
- [Wisconsin veteran employment credit](#) [🔗](#)

Update: Mutual Commitment Date Process

The department began using the Mutual Commitment Date Process with field audits that started on or after July 1, 2009. This new process was designed to achieve the following objectives:

1. Provide a consistent approach to the audit planning process.
2. Promote better communication between the department and the taxpayer during the audit process.
3. Establish accountability for the auditor and the taxpayer during the audit process.

(continued on page 2)

In This Issue**Articles –****New Tax Laws**..... 1**Sales and Use Tax Report
Available**..... 1**Survey Available**..... 1**New Fact Sheets** 1**Mutual Commitment Date
Process**..... 1**Tax Rate for New Fuel** 2**New Tax Law Summaries**..... 3**Updated Publications** 11**Report on Litigation**..... 12**Tax Releases**..... 14**Mutual Commitment Date Process***(continued from page 1)*

The cornerstone of the Mutual Commitment Date Process is the mutual agreement between taxpayer and auditor to establish three time periods relating to the conduct of the field audit. These time periods are as follows:

1. The number of days a taxpayer has to respond to written information requests.
2. The deadline for the taxpayer to submit a claim for refund applying to the audit period.
3. The deadline for the auditor to provide a Notice of Proposed Audit Report to the taxpayer based on the taxpayer and auditor jointly working together on the audit.

The department's goal for the Mutual Commitment Date Process is a more efficient and timely completion of the audit. However, only about half of the taxpayers audited have participated in the Mutual Commitment Date Process during their audits.

A field audit can consume a great deal of time and resources, so reducing the amount of time and resources expended on an audit is a benefit that could be realized by both the department and the taxpayer. The Mutual Commitment Date Process holds both the taxpayer and the auditor accountable since they are required to work together to meet the Mutual Commitment Date. Please give serious consideration to using the Mutual Commitment Date Process during field audits. [✎](#)

Tax Rate Determined for New Alternate Fuel

The department has determined a tax rate for a new type of alternate motor vehicle fuel, liquefied natural gas (LNG), which will soon be sold at retail fuel stations in Wisconsin. The tax rate for LNG is 19.7¢ per gallon.

Like other alternate fuels, the tax is imposed when the fuel is placed into the supply tanks of licensed motor vehicles, snowmobiles, recreational motorboats, or all-terrain vehicles in Wisconsin, with certain exceptions. The tax is paid by:

- Fuel "users" who make bulk purchases of alternate fuel that they place into supply tanks of their own licensed motor vehicles, snowmobiles, recreational motorboats, or all-terrain vehicles.
- Fuel "dealers" who place alternate fuel into the supply tanks of licensed motor vehicles, snowmobiles, recreational motorboats, or all-terrain vehicles owned by others.

Fuel tax forms and instructions (Forms MF-001 and MF-007) are being revised for reporting LNG sales and claiming refunds of tax paid in error. New versions will be available on the department's web site by May 1, 2012. Publication [MF-106](#), *Alternate Fuel Tax Information*, has also been revised and is available on the department's web site. [✎](#)

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New Tax Laws

The Wisconsin Legislature has enacted a number of changes to the Wisconsin tax laws. Following is an index and brief descriptions of the major individual income tax, individual and fiduciary income tax, corporation franchise and income tax, withholding tax, excise tax, and other provisions. These provisions are contained in 2011 Acts 129, 131, 142, 175, 179, 191, 200, 212, 213, 222, 232, 237, and 249.

The description for each provision indicates the sections of the statutes affected and the effective date of the new provision.

	Effective Date	Page
A. Individual Income Taxes (also see Part B)		
Donation Provisions Revised	Taxable years beginning on or after January 1, 2012	4
B. Individual and Fiduciary Income Taxes and Corporation Franchise and Income Taxes		
1. Veteran Employment Credit Created	Taxable years beginning on or after January 1, 2012	5
2. Angel Investment Credit and Early Stage Seed Investment Credit Revised	April 20, 2012	6
3. Manufacturing and Agriculture Credit (formerly qualified production activities credit)	Taxable years beginning on or after January 1, 2013	6
4. Dairy Cooperatives Credit Change	April 20, 2012	8
C. Withholding Taxes		
Exemption for County Fair Associations Increased	January 1, 2012	8
D. Excise Taxes		
1. Wine Sales and Samples on Fairgrounds	July 1, 2012	8
2. Requirements of Small Winery Cooperative Wholesalers	April 17, 2012	8
3. Wine and Fermented Malt Beverages Made at Supply Stores and for Educational Purposes	May 16, 2012	8
4. License and Permit Exceptions for Homemade Wine and Fermented Malt Beverages	July 1, 2012	9
5. Restrictions on Tobacco and Nicotine Products	April 20, 2012	10
E. Other		
1. Definition of "Municipality" Revised	April 5, 2012	10
2. Refunds of Ambulatory Surgical Center Assessment	April 17, 2012	10

A. Individual Income Taxes

Donation Provisions Revised ([2011 Act 222](#), amend secs. 20.250(2)(g), 71.10(5)(b)1. and (g), (5e)(b)1. and (g), (5f)(title), (a)1., (b)1., 2., and 3., (c) to (f), (h)2., (i), and (j), (5g)(b)1., (5h)(b)1., (5i)(b)1., (5j)(b)1., (5k)(b)1., (5km)(b)1., and (5m)(b)1., 71.30(10)(g) and (11)(g), and 255.055(1) and (2) and create 71.10(5h)(k) and (5s), effective for taxable years beginning on or after January 1, 2012.)

Cancer Research Programs

The separate designations for donations for breast cancer research and prostate cancer research programs are combined into one designation for cancer research programs. The donations (less administrative costs) are to be divided equally between the University of Wisconsin Carbone Cancer Center and the Medical College of Wisconsin, Inc., for cancer research projects.

Symbol Requirements

The requirement that the department highlight designations on the tax forms with a symbol that relates to the designation is repealed.

Limitations

For taxable years beginning on or after January 1, 2012, individuals may not have the option of making a designation to more than 10 individual income check-offs and the department may not place more than 10 check-offs on the income tax form. If a check-off is created for taxable years beginning after December 31, 2011, and before January 1, 2015, the department may not place it on the form, and no designations may be made to the check-off for a taxable year that begins before January 1, 2015. This limitation does not apply to a check-off created in a bill that was introduced in both houses of the legislature before June 1, 2011. It also does not apply to the designation for the firefighters memorial.

For taxable years beginning on or after January 1, 2012, there may be no individual income tax check-offs of a temporary nature other than the check-off for the firefighters memorial.

Beginning in September 2014, based on the amounts certified by the Secretary of Revenue in August or September 2013 and 2014, and for every 2-year period thereafter, the Secretary shall rank the check-offs based on the total amount of designations received for each check-off for each 2-year period. For each 2-year period, every check-off under sec. 71.10, Wis. Stats., shall be ranked.

If more than 11 check-offs exist after August 14, 2014, and every 2 years thereafter, not including the check-off for the firefighters memorial, only the 8 highest ranking check-offs for which designations were made in the previous 2-year period may appear on the income tax form for the next 2 taxable years.

The remaining 2 check-offs for which designations may be made and which shall be placed on the income tax form for the next 2 taxable years, in place of the 2 lowest ranking check-offs, shall be check-offs that have not received any designations during the previous 2-year period. The 2 remaining check-offs shall be the 2 oldest check-offs, based on the date each check-off was placed on a list of check-offs, maintained by the department, that are eligible to be placed on the form. If 2 or more check-offs have been placed on the list at the same time, the oldest check-off shall be calculated according to their effective dates.

If 10 check-offs exist after August 14, 2014, those 10 check-offs may appear on the income tax form for the next 2 taxable years.

If 11 check-offs exist after August 14, 2014, only the 9 highest ranking check-offs for which designations were made in the previous 2-year period may appear on the income tax form for the next 2 years. The remaining check-off for which designations may be made and which shall be placed on the income tax form for the next 2 taxable years, in place of the lowest ranking check-off, shall be a check-off that has not received any designations during the previous 2-year period. The last check-off shall be selected using the method described above. [§](#)

B. Individual and Fiduciary Income Taxes and Corporation Franchise and Income Taxes

- 1. Veteran Employment Credit Created** ([2011 Act 212](#), amend secs. 71.05(6)(a)15., 71.21(4), 71.26(2)(a)4., 71.34(1k)(g), 71.45(2)(a)10., and 77.92(4) and create secs. 71.07(6n), 71.10(4)(cq), 71.28(6n), 71.30(3)(dp), 71.47(6n), and 71.49(1)(dp) and nonstatutory provision, effective for taxable years beginning on or after January 1, 2012.)

The credit is equal to any of the following:

- For each disabled veteran the claimant hires in the taxable year to work a full-time job at the claimant's business in Wisconsin, \$4,000 in the taxable year in which the disabled veteran is hired and \$2,000 in each of the following three taxable years.
- For each disabled veteran the claimant hires in the taxable year to work a part-time job at the claimant's business in Wisconsin, \$2,000 in the taxable year in which the disabled veteran is hired and \$1,000 in each of the following three taxable years. The \$2,000 and \$1,000 amounts must be multiplied by the number determined by dividing the number of hours that the disabled veteran worked for the claimant during the taxable year by 2080.

"Claimant" means a person who files a claim for the veteran employment credit.

"Disabled veteran" means a veteran who is verified by the Department of Veterans Affairs to have a service-connected disability rating of at least 50 percent under 38 USC 1114 or 1134.

"Full-time job" means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays.

"Part-time job" means a regular, nonseasonal part-time position in which an individual, as a condition of employment, is required to work fewer than 2,080 hours per year, including paid leave and holidays.

"Veteran" means a person who is verified by the Department of Veterans Affairs to have served on active duty under honorable conditions in the U.S. armed forces, in forces incorporated as part of the U.S. armed forces, in the National Guard, or in a reserve component of the U.S. armed forces.

The credit may be claimed only for hiring a disabled veteran who has received unemployment compensation benefits for at least one week prior to being hired by the claimant, who was receiving such benefits at the time that he or she was hired, and who was eligible to receive such benefits at the time the benefits were paid.

No credit may be claimed in any taxable year in which the disabled veteran voluntarily or involuntarily leaves his or her employment with the claimant.

Partnerships, limited liability companies (LLCs), and tax-option corporations may not claim the credit, but the eligibility for, and the amount of, the credit are based on their hiring of disabled veterans. A partnership, LLC, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to them. Partners, members of LLCs, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

The amount of the computed credit must be included in the claimant's income except that credits computed by a partnership, LLC, or tax-option corporation and passed through to partners, members, or shareholders shall be added to the partnership's, LLC's, or tax-option corporation's income.

If a computed credit is not entirely offset against Wisconsin income or franchise taxes, the unused balance may be carried forward and credited against Wisconsin income or franchise taxes due for the following 15 years to the extent not offset by taxes due in all intervening years between the year in which the expense was incurred and the year in which the carryforward is claimed.

In the case of a change in ownership or business of a corporation, sec. 383 of the Internal Revenue Code applies to the carryover of unused credits.

For purposes of the economic development surcharge, the definition of "net business income," with respect to a partnership, is expanded to include the veteran employment credit.

The credit must be claimed within four years of the unextended due date of the return.

The Department of Revenue has full power to administer the credit and may take any action, conduct any proceeding, and proceed as it is authorized in respect to income and franchise taxes. The income and franchise tax provisions relating to assessments, refunds, appeals, collection, interest, and penalties apply to the credit.

No later than June 30, 2013, the Department of Workforce Development, in conjunction with the Department of Revenue, shall submit to the legislature's Joint Committee on Finance a report describing the impact of the tax credits on unemployed veterans in Wisconsin and shall make a recommendation as to whether the credits should continue. [§](#)

2. **Angel Investment Credit and Early Stage Seed Investment Credit Revised** ([2011 Act 213](#), amend secs. 71.07(5b)(d)3. and (5d)(d)1., 71.28(5b)(d)3., 71.47(5b)(d)3., and 238.15(1)(intro.), (h), (j), and (km) and (3)(d)(intro.) and create sec. 238.15(1)(m), effective April 20, 2012.)

Prior law provides that if an investment for which the angel investment credit or early stage seed investment credit was claimed is held for less than 3 years, the claimant shall pay to the department the amount of the credit that the claimant received related to the investment.

Act 213 provides an exception to the repayment. The Wisconsin Economic Development Corporation (WEDC), in consultation with the Department of Revenue, shall adopt rules to provide that a person who receives a credit must keep the investment in a certified business, or with a certified fund manager, for no less than 3 years, unless the person's investment becomes worthless, as determined by the WEDC, during the 3-year period or the person has kept the investment for no less than 12 months and a bona fide liquidity event, as determined by the WEDC, occurs during the 3-year period. [§](#)

3. **Manufacturing and Agriculture Credit** (formerly qualified production activities credit) ([2011 Act 232](#), repeal secs. 71.47(5n) and 71.49(1)(dn), renumber secs. 71.07(5n)(d) and 71.28(5n)(d), renumber and amend sec. 71.21(4), amend secs. 71.05(6)(a)15., 71.07(5n)(title), 71.10(4)(cr), 71.26(2)(a)4., 71.28(5n)(title), 71.30(3)(dn), 71.34(1k)(g), and 71.45(2)(a)10., repeal and recreate secs. 71.07(5n)(a) and 71.28(5n)(a), and create secs. 71.05(6)(a)25., 71.07(5n)(d)2., 71.21(4)(b), 71.26(2)(a)11., 71.28(5n)(d)2. and 3., and 71.34(1k)(m), effective for taxable years beginning on or after January 1, 2013.)

Act 232 made technical changes to the qualified production activities credit created by 2011 Act 32 (see *Wisconsin Tax Bulletin* 172 (July 2011), page 19). The technical changes are described below.

Qualified Production Activities Income Under prior law, "qualified production activities income" meant qualified production activities income as defined under the Internal Revenue Code [26 USC 199(c)].

Under this Act, "qualified production activities income" means the amount of the claimant's production gross receipts for the taxable year that exceeds the sum of the cost of goods sold allocable to such receipts, the direct costs allocable to such receipts, and the indirect costs multiplied by the production gross receipts factor. "Qualified production activities income" does not include income from film production; producing, transmitting, or distributing electricity, natural gas, or portable water; constructing real property, engineering or architectural services performed with respect to constructing real property; the sale of food and beverages prepared by the claimant at a retail establishment; and income from the lease, rental, license, sale, exchange, or other disposition of land.

"Direct costs" includes all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in the trade or business that are deductible under section 162 of the Internal Revenue Code and that are identified as direct costs in the managerial or cost accounting records.

"Indirect costs" includes all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in the trade or business that are deductible under section 162 of the Internal Revenue Code, other than cost of goods sold and direct costs, and identified as indirect costs in the managerial or cost accounting records.

"Production gross receipts" means gross receipts from the lease, rental, license, sale, exchange, or other disposition of qualified production property.

"Production gross receipts factor" means a fraction with the numerator consisting of the production gross receipts and the denominator consisting of all gross income, which includes gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital and business assets, gross income from pass-through entities, and all other gross receipts that are included in Wisconsin income before apportionment. Gross income does not include items excluded under the Internal Revenue Code adopted by Wisconsin and items excluded under Wisconsin law.

"Qualified production property" means tangible personal property manufactured in whole or in part by the claimant on property that is assessed as manufacturing property under sec. 70.995, Wis. Stats., or tangible personal property that is produced, grown, or extracted in whole or in part by the claimant on or from property assessed as agricultural property under sec. 70.32(2)(a)4., Wis. Stats.

Eligible Qualified Production Activities Income Under prior law, "eligible qualified production activities income" meant qualified production activities income that derived from property located in Wisconsin that was assessed as manufacturing property under sec. 70.995, Wis. Stats., or as agricultural property under sec. 70.32(2)(a)4., Wis. Stats.

Under this Act, eligible qualified production activities income is determined by multiplying the claimant's qualified production activities income from property manufactured by the claimant by the manufacturing property factor and qualified production activities income from property produced, grown, or extracted by the claimant by the agriculture property factor.

"Agriculture property factor" means a fraction with the numerator consisting of the average value of the claimant's real property and improvements assessed under sec. 70.32(2)(a)4., Wis. Stats., that is owned or rented in Wisconsin by the claimant to produce, grow, or extract qualified production property, and the denominator consisting of the average of all the claimant's real property and improvements owned or rented during the taxable year and used by the claimant to produce, grow, or extract qualified production property.

"Manufacturing property factor" means a fraction with the numerator consisting of the average value of the claimant's real and personal property assessed under sec. 70.995, Wis. Stats., that is owned or rented by the claimant in Wisconsin during the taxable year to manufacture qualified production property, and the denominator consisting of the average value of all the real and personal property owned or rented during the taxable year and used to manufacture qualified production property.

Manufacturing property that is owned by the claimant is valued at the original cost and property rented by the claimant is valued at an amount equal to the annual rent paid less any annual rental received by the claimant from sub-rentals, multiplied by eight.

The average value of manufacturing property is determined by averaging the values at the beginning and end of the taxable year; however, the secretary of revenue may require the averaging of monthly values if required to properly reflect the average value of the claimant's property.

Credit as Income Under prior law, the amount of the credit was required to be added to income in the taxable year computed.

Under this Act, the amount of the credit is required to be added to income in the taxable year following the taxable year in which it is computed.

Insurance Companies Under prior law, insurance companies were eligible to claim the credit. This Act eliminates that eligibility. [✎](#)

4. **Dairy Cooperatives Credit Change** ([2011 Act 237](#), amend secs. 71.05(6)(a)15., 71.07(3p)(c)5., 71.28(3p)(c)5., and 71.47(3p)(c)5., effective April 20, 2012.)

Members of a dairy cooperative claim the amount of dairy manufacturing investment credit passed through to them from the dairy cooperative in the year after the year in which the dairy manufacturing modernization or expansion occurs. The amount of the credit is added to the member's income in the year in which the cooperative member is allowed to claim the credit.

Under prior law, members of a dairy cooperative claimed the amount of dairy manufacturing investment credit passed through to them from the dairy cooperative for the year in which the dairy manufacturing modernization or expansion occurred. The amount of the credit was added to the member's income for that same year. [✎](#)

C. Withholding Taxes

Exemption for County Fair Associations Increased ([2011 Act 131](#), amend sec. 71.64(8)(b), effective January 1, 2012.)

A county fair association is not required to withhold from an employee who receives less than \$500 annually in wages or salary from the association. Under prior law, the exemption amount was \$100. [✎](#)

D. Excise Taxes

1. **Wine Sales and Samples on Fairgrounds** ([2011 Act 129](#), amend secs. 125.51(10), 125.53(1), and 125.69(1)(b)1. and create sec. 125.69(1)(b)5., effective July 1, 2012.)

A winery permit authorizes a winery to, under a temporary "Class B" license issued to a county or local fair association, make retail sales of wine from a stand leased at a county or district fair and provide taste samples anywhere on the fairgrounds of wine manufactured by the winery. The wine sold at retail or provided as taste samples must be purchased from a wholesaler holding a wholesaler's permit under sec. 125.54, Wis. Stats. [✎](#)

2. **Requirements of Small Winery Cooperative Wholesalers** ([2011 Act 175](#), repeal sec. 125.545(5)(a), renumber sec. 125.545(5)(b), and amend sec. 125.545(5)(title), effective April 17, 2012.)

The requirement for semiannual meetings between the board of directors of a small winery cooperative wholesaler and an employee of the department and the associated reporting requirements are eliminated. [✎](#)

3. **Wine and Fermented Malt Beverages Made at Supply Stores and for Educational Purposes** ([2011 Act 179](#), amend secs. 125.17(1) and 139.04(1) and create sec. 125.06(3g) and (3r), effective May 16, 2012.)

An alcohol beverage license or permit is not required for the following:

- The manufacture of wine or fermented malt beverages by any person at a business primarily engaged in selling supplies and equipment for use by homebrewers or home winemakers and the tasting at the business of wine or fermented malt beverages so manufactured, if the wine or fermented malt beverages are not sold or offered for sale. The wine or fermented malt beverages provided at the business for tasting may only be provided by a person who holds an operator's license.

- The manufacture of wine or fermented malt beverages for educational purposes and the tasting of the wine or fermented malt beverages at the place of manufacture, if the wine or fermented malt beverages are not sold or offered for sale.

No beverage tax is levied on manufacturing wine or fermented malt beverages in compliance with the above limitations. [✎](#)

4. **License and Permit Exceptions for Homemade Wine and Fermented Malt Beverages** ([2011 Act 200](#), renumber and amend sec. 125.06(3), repeal and recreate sec. 139.04(1), and create secs. 125.02(6m) and 125.06(3)(a)2. and 3., (b), and (c) and (3m), effective July 1, 2012.)

Under current law, an alcohol beverage license or permit is not required for the manufacture of wine or fermented malt beverages of any alcoholic content by any person at his or her home, farm, or place of residence for consumption by that person or his or her family and guests, if the person manufacturing the wine or fermented malt beverages receives no compensation.

Under this Act, an alcohol beverage license or permit is not required for the following:

1. The making, possession, transportation, or storage of homemade wine or fermented malt beverages by any person if all of the following apply:
 - The person who makes the wine or fermented malt beverages receives no compensation. Any prize awarded at a contest or competition or as a result of an exhibition, demonstration, judging, tasting, or sampling is not considered compensation.
 - The wine or fermented malt beverages are not sold or offered for sale. Homemade wine or fermented malt beverages used for purposes described in 2., including the submission or consumption of such wine or fermented malt beverages, are not considered sold or offered for sale.
 - The total quantity of wine or fermented malt beverages made in a calendar year by the person and any other person living in the same household does not exceed 100 gallons if the household has only one person of legal drinking age or 200 gallons if the household has two or more persons of legal drinking age.

"Homemade" means made by a person's own efforts and not for a commercial purpose, but does not require that the wine or fermented malt beverages be made in the person's home.

A person who makes, possesses, transports, or stores homemade wine or fermented malt beverages in compliance with the above limitations is not a brewer or manufacturer of wine for purposes of ch. 125, Wis. Stats.

Homemade wine or fermented malt beverages made in compliance with the above limitations may be consumed by the person who made it and his or her family, neighbors, and friends at any private residence or, except for a licensed premises, other private location where the possession and consumption of alcohol is permissible under applicable law.

2. The use of homemade wine or fermented malt beverages made in compliance with the limitations described in 1. for purposes of exhibition, demonstration, judging, tasting, or sampling or as part of a contest or competition, if the exhibition, demonstration, judging, tasting, sampling, contest, or competition is held at a private residence or on a licensed premises. No fee may be charged for consumption of the homemade wine or fermented malt beverages at the exhibition, demonstration, judging, tasting, sampling, contest, or competition.

A person who is not a licensee under ch. 125, Wis. Stats., may at a private residence, and a person who is a licensee under ch. 125, Wis. Stats., may on the licensed premises, conduct, sponsor, or host a contest, competition, or other event for the exhibition, demonstration, judging, tasting, or sampling of homemade wine or fermented malt beverages made in compliance with the limitations specified in 1. if the person does not sell the wine or fermented malt beverages and, unless the person is the maker of the wine or fermented malt beverages,

does not acquire any ownership interest in the wine or fermented malt beverages. No fee may be charged for consumption of homemade wine or fermented malt beverages at the contest, competition, or other event. If the contest, competition, or other event is held on licensed premises, the licensee may allow the homemade wine or fermented malt beverages to be stored on the premises if the homemade wine or fermented malt beverages are clearly identified and kept separate from any alcohol beverages owned by the licensee. If the contest, competition, or other event is held on licensed premises, the labeling and sealing provisions of secs. 125.32(7) and 125.68(9)(e), Wis. Stats., do not apply with respect to the homemade wine or fermented malt beverages. If the contest, competition, or other event is held on licensed premises, the licensee shall comply with all provisions of ch. 125, Wis. Stats., and local ordinances that would apply if the fermented malt beverages or wine were not homemade, except as otherwise specifically provided in this paragraph.

Any municipality may, by ordinance, regulate contests, competitions, or other events for the exhibition, demonstration, judging, tasting, or sampling of homemade wine or fermented malt beverages. [☞](#)

5. **Restrictions on Tobacco and Nicotine Products** ([2011 Act 249](#), amend secs. 134.66(title) and (2)(am), 254.911(5), 254.916(2)(intro), and 254.92(2), (2m)(intro.), and (3) and create secs. 134.66(1)(f) and 254.911(3m), effective April 20, 2012.)

The current restrictions and associated penalties prohibiting the retail sale or gift of cigarettes or tobacco products to any person less than 18 years of age; the purchase, attempted purchase, or possession of cigarettes or tobacco products by any person less than 18 years of age; and the false representation of age for the purpose of receiving cigarettes or tobacco products are expanded to include nicotine products.

The current restrictions and associated penalties prohibiting the purchase of cigarettes on behalf of, or to provide to, any person who is less than 18 years of age are expanded to include tobacco and nicotine products.

"Nicotine product" means any product that contains nicotine and is not a cigarette, a tobacco product, or a product approved by the U.S. Food and Drug Administration for sale as a smoking cessation product or for another medical purpose and is being marketed and sold solely for such an approved purpose. [☞](#)

E. Other

1. **Definition of "Municipality" Revised** ([2011 Act 142](#), amend sec. 71.935(1)(cr), effective April 5, 2012.)

For purposes of setoffs for debts to municipalities and counties, "municipality" means any city, village, or town, and includes any entity formed pursuant to an intergovernmental cooperation contract or agreement under sec. 66.0301, Wis. Stats., to provide consolidated services directly to cities, villages, and towns. [☞](#)

2. **Refunds of Ambulatory Surgical Center Assessment** ([2011 Act 191](#), create sec. 146.98(6), effective April 17, 2012.)

If the federal government does not provide federal financial participation under the federal Medicaid program for ambulatory surgical center assessment amounts collected and transferred by the Department of Revenue and used to make payments from the Medical Assistance trust fund, the Department of Health Services shall, from the fund from which the payment or expenditure was made, refund ambulatory surgical centers the amount for which the federal government does not provide federal financial participation. If a refund is made as a result of failure to obtain federal financial participation under the federal Medicaid program for a payment from the Medical Assistance trust fund, the Department of Health Services shall recoup the part of the payment for which the federal government does not provide federal financial participation. Moneys recouped for payments made from the Medical Assistance trust fund shall be deposited in the Medical Assistance trust fund. [☞](#)

New and Updated Publications

The following publications of the Income, Sales, and Excise Tax (IS&E) Division of the Department of Revenue have recently been revised:

- [MF-106](#) Alternate Fuel Tax Information (3/12)
- [W-166](#) Wisconsin Withholding Tax Guide (1/12)
- [102](#) Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders (2/12)
- [123](#) Business Tax Incentives for 2011 (3/12)
- [200](#) Electrical Contractors: How Do Wisconsin Sales and Use Taxes Affect Your Business? (2/12)
- [201](#) Wisconsin Sales and Use Tax Information (4/12)
- [207](#) Wisconsin Sales and Use Tax Information for Contractors (3/12)
- [210](#) Sales and Use Tax Treatment of Landscaping Services (3/12)
- [223](#) Bakeries – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (3/12)
- [224](#) Veterinarians: How Do Wisconsin Sales and Use Taxes Affect Your Business? (4/12)
- [302](#) Wisconsin Alcohol Beverage and Tobacco Laws for Retailers (1/12)
- [400](#) Wisconsin's Economic Development Surcharge (2/12)
- [403](#) Premier Resort Area Tax (3/12)
- [511](#) Office Audit of Wisconsin Income Tax Returns (4/12)

In addition, a new sales and use tax publication was introduced earlier this month. Publication [235](#), *Advertising Companies - How Do Wisconsin Sales and Use Taxes Affect Your Operations?*, provides information regarding Wisconsin sales and use taxes as they relate to sales, specific products and their exemptions, purchases, direct mail, as well as other topics.

All of the IS&E Division's [publications](#) may be downloaded or ordered online. There are over 70 publications available, covering a wide range of topics. [☞](#)



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 decisions are included:

Sales and Use Tax

Successor liability

Villager Food Mart/Beer & Liquor vs. Wisconsin Department of Revenue. 12

Sales and Use Tax and Withholding Tax

Officer liability

Susan W. Jones vs. Wisconsin Department of Revenue. 13

SALES AND USE TAX

Successor liability. [*Villager Food Mart/Beer & Liquor vs. Wisconsin Department of Revenue*](#) (Wisconsin Tax Appeals Commission, April 4, 2012).

The issue in this case is whether the taxpayer, as purchaser of K&D Villager, is liable for K&D Villager's unpaid sales tax as a successor business.

In July 2008, the taxpayer acquired K&D Villager, by purchasing the lease, personal property, assets, goods, and inventory. The taxpayer renamed the business Villager Food Mart/Beer & Liquor. The business remained at the original location and carried on essentially the same type of convenience store business.

Before the purchase price was fully paid, the purchaser learned that delinquent sales and use taxes were due. The purchaser requested a clearance certificate from the State of Wisconsin. The purchaser then held back the remaining unpaid balance of the purchase price from the seller, pending the issuance of a clearance certificate.

A clearance certificate was never issued. Instead, the Department of Revenue sent the purchaser a notice of amount due for unpaid sales tax incurred by the prior owner. The amount held back by the purchaser was less than the amount of tax due. Although the department had made numerous attempts to collect from the prior owner, K&D Villager, the collection attempts were unsuccessful.

The taxpayer argued that he did not purchase the business but simply its assets. However, the Commission concluded that as a purchaser of the stock of goods sold by the preceding owner of the business, which is now operated in a substantially similar manner under a similar name, the taxpayer becomes the successor. It was also noted the purchaser's partial compliance, withholding an insufficient amount, does not exonerate the purchaser.

The Commission agreed with the taxpayer's assertion that the department had an obligation to collect from the predecessor. However, the department documented numerous efforts to collect these taxes from K&D Villager. While the purchaser also questioned the amounts due, no documentation was produced to support calculations other than those assessed.

The Commission concluded the taxpayer was responsible for the unpaid sales tax incurred by its predecessor. The taxpayer was a successor and did not withhold an amount sufficient to cover the unpaid taxes. Attempts were made by the department to collect these taxes from the prior owner and no information was provided to show the assessment to be incorrect.

At the time of publication it is not known whether the taxpayer will appeal this decision.

SALES AND USE TAX AND WITHHOLDING TAX

 **Officer liability.** [*Susan W. Jones vs. Wisconsin Department of Revenue*](#) (Wisconsin Tax Appeals Commission, March 16, 2012).

The issue in this case is whether the taxpayer is a responsible person who is personally liable for unpaid sales and withholding taxes for American Auto Beauty Carstar, Inc., for sales tax period March 1, 2006 through July 31, 2007, and withholding period August 1, 2007 through August 31, 2007.

The taxpayer, Susan W. Jones, was an owner and officer of American Auto Beauty Carstar, Inc. The taxpayer was one of four individuals authorized to sign checks. Each check had to be signed by two authorized individuals. The taxpayer voluntarily signed checks with one of the three authorized individuals at all times during the period under review on a regular basis.

The taxpayer was instrumental in determining rent was paid for the business premises and initiated loans to herself and another employee. The taxpayer knew sales tax was due and not being paid.

The taxpayer denied she was liable for the unpaid taxes, because her family limited her control and participation in company affairs.

For a person to be personally liable, it must be established the person had the **authority** to pay the company's taxes, the **duty** to pay, and **willfully breached that duty**.

The Commission found that the taxpayer was an owner of the business at all times. The taxpayer paid the bills, knew the sales and withholding bills were unpaid, and paid other vendors and accounts ahead of the sales and withholding liabilities. Therefore, the Commission ruled the taxpayer is personally liable for the unpaid sales and withholding taxes.

At the time of publication it is not known whether the taxpayer will appeal 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 in a tax release, the answers may not apply. Unless otherwise indicated, tax releases apply for all periods open to adjustment, and all references to section numbers are to the Wisconsin Statutes. (Caution: Tax releases reflect the position of the Wisconsin Department of Revenue, of laws enacted by the Wisconsin Legislature as of the date published in this Bulletin. Laws enacted after that date, new administrative rules, and court decisions may change the answers in a tax release.)

The following tax releases are included:

Individual Income Tax

1. Computation of Wisconsin Taxable Income from Gambling Winnings 14

Sales and Use Tax

2. Prosthetic Devices – Eyeglasses and Contact Lenses – and their Accessories and Supplies 17

INDIVIDUAL INCOME TAX

1 Computation of Wisconsin Taxable Income from Gambling Winnings

This tax release supersedes the tax release published in *Wisconsin Tax Bulletin* 171 (April 2011), page 11, [Computation of Wisconsin Taxable Income from Gambling Winnings](#).

Background: This tax release explains Wisconsin's income tax treatment of gambling winnings, and demonstrates how a nonprofessional gambler computes his or her taxable gambling winnings for Wisconsin purposes.

A taxpayer is a "professional gambler" if his or her gambling activity is a trade or business for purposes of deducting ordinary and necessary expenses under section 162(a) of the Internal Revenue Code. All other taxpayers with gambling activity are considered nonprofessional gamblers.

If a taxpayer is not a professional gambler, he or she determines the taxable amount for each gambling session. If the taxpayer has a losing session, the net loss from that session is not deductible for Wisconsin income tax purposes.

A “gambling session” is a period of continual play with only a short break in play (for example, a restroom break, beverage break, table/machine change, game change, etc.).

For taxpayers that are Wisconsin residents, gambling income has a situs in Wisconsin regardless of where the gambling activity takes place. For taxpayers that are nonresidents, gambling income has a situs in Wisconsin if the net winnings are derived from any of the following:

- A casino or bingo hall located in Wisconsin and operated by a Native American tribe or band
- Pari-mutuel wagering paid by a Wisconsin racetrack
- The Wisconsin Lottery
- A multijurisdictional lottery if the ticket was purchased from a Wisconsin retailer

The taxpayer must be able to prove the amounts deducted in arriving at the "net winnings" from a gambling session. The proof could be detailed original statements from a casino showing the taxpayer's betting activities, or it could be the taxpayer's own detailed records showing all bets (including the amount bet, amount won, date, location, race, etc.) if the records were prepared at the time the betting took place.

A casino or other payer is required to issue the taxpayer a Form W-2G reporting certain gambling winnings. Even if a W-2G is not issued, all gambling winnings, regardless of amount, must be considered when determining gain or loss from a gambling session.

If a taxpayer has records to substantiate his or her gambling activities, the net winnings could be different than the amount reported on the W-2G that he or she received from the casino. However, if the taxpayer has no records to prove the amount spent on the gambling session, the taxpayer must include the gross winnings (all W-2G amounts plus any winning amounts not reported on a W-2G) in income.

For a professional gambler, the total gross winnings for the year are reported on Schedule C as gross receipts, and the total amount wagered for the year is a Schedule C expense. The amount wagered that is included as an expense cannot be more than the gross winnings.

The following examples illustrate how taxable gambling winnings are computed for federal and Wisconsin purposes for a nonprofessional gambler:

Example 1:

X, a resident of Wisconsin, is a nonprofessional gambler. X plays slot machines at a casino located in Wisconsin on June 1st from 9:00 am to 1:00 pm. During that time, X bet \$1,900 and won \$3,000, which included a \$2,000 jackpot for which X was given a Form W-2G.

If X has records to substantiate the losses during this gambling session, X has net gambling income of \$1,100 (\$3,000 - \$1,900). This amount must be reported as other income on line 21 of federal Form 1040. The amount will then carry over to the Wisconsin Form 1.

If X does not have records to substantiate the losses during this gambling session, X must include the \$3,000 of winnings as other income on line 21 of federal Form 1040. The \$3,000 amount will then carry over to the Wisconsin Form 1.

Example 2:

Assume X from Example 1 returns to the same Wisconsin casino on the evening of June 1st and plays slots from 8:00 p.m. to 11:00 p.m. During that time, X bets \$700 and loses it all.

None of this loss is deductible for Wisconsin purposes and it cannot be used to reduce the winnings from earlier in the day.

Example 3:

Y, a resident of Wisconsin, is a nonprofessional gambler. Y goes to a casino and starts playing on a slot machine. Y bets a total of \$100. Y cashes out of that machine, receives a voucher for \$50 and immediately puts the voucher in a second machine and starts playing. Y cashes out of the second machine, receives a voucher for \$120 and immediately puts the voucher in a third machine and starts playing. Y cashes out of the third machine, receives a voucher for \$80 and immediately puts the voucher in a fourth machine and starts playing. Y cashes out of the fourth machine, receives a voucher for \$130, redeems the voucher for cash and leaves the casino. Y has net gambling income of \$30 from his gambling session. This amount must be included in federal and Wisconsin income.

Example 4:

Z, a resident of Wisconsin, is a nonprofessional gambler. Z goes to a casino and starts playing on a slot machine. Z bets a total of \$100. Z cashes out of that machine, receives a voucher for \$50 and immediately puts the voucher in a second machine and starts playing. Z cashes out of the second machine, receives a voucher for \$120, redeems the voucher for cash

and sits down at a blackjack table. Z exchanges \$100 in cash for \$100 in chips. Z plays for some time, leaves the table, redeems all of his chips for \$150 in cash and leaves the casino. Z has net gambling income of \$70 (\$20 + \$50) from his gambling session. This amount must be included in federal and Wisconsin income.

Example 5:

Assume the same facts as Example 4, except Z redeems all of his chips for \$25 in cash. Z has a net gambling loss of \$55 (\$20 - \$75) from his gambling session. This loss is not deductible for Wisconsin purposes and it cannot be used to reduce the net winnings from any other gambling session.

Example 6:

Assume the same facts as Example 4, except Z plays at three different blackjack tables and takes his chips with him each time. Z leaves the last table, redeems all of his chips for \$150 in cash and leaves the casino. Z has net gambling income of \$70 (\$20 + \$50) from his gambling session. This amount must be included in federal and Wisconsin income.

Example 7:

B, a resident of Wisconsin, is a nonprofessional gambler. B goes to a casino and starts playing on a slot machine. B bets a total of \$100. B cashes out of that machine, receives a voucher for \$50 and immediately puts the voucher in a second machine and starts playing. B cashes out of the second machine, receives a voucher for \$120, and leaves the gaming area for more than a half hour (i.e., eats lunch, goes for a walk, sees a show). B has ended his gambling session and has net gambling income of \$20 for that session. This amount must be included in federal and Wisconsin income.

Example 8:

C, a resident of Wisconsin, is a nonprofessional gambler. C goes to a casino and starts playing on a slot machine. C bets a total of \$100. C cashes out of that machine, receives a voucher for \$50 and immediately puts the voucher in a second machine and starts playing. C cashes out of the second machine, receives a voucher for \$120, redeems the voucher for cash, and sits down at a blackjack table. C exchanges \$100 in cash for \$100 in chips. C plays for some time, leaves the table with \$110 in chips and leaves the gaming area for more than a half hour (i.e., eats lunch, goes for a walk, sees a show). C has ended his gambling session and has net gambling income of \$30 (\$20 + \$10) from that session. This amount must be included in federal and Wisconsin income.

Example 9:

D, a resident of Wisconsin, is a nonprofessional gambler. D goes to a casino and starts playing on a slot machine. D bets a total of \$100. D cashes out of that machine, receives a voucher for \$50, redeems the voucher for cash and sits down at a blackjack table and exchanges \$50 in cash for \$50 in chips. D leaves the blackjack table and redeems all of his chips for \$150 in cash. D goes to a slot machine and bets \$60 losing all of it. D leaves the casino. D has a net gambling loss of \$10 (-\$50 + \$100 - \$60) from his gambling session. None of this loss is deductible for Wisconsin purposes and it cannot be used to reduce the net winnings from any other gambling session.

Example 10:

Assume the same facts as Example 9, except D leaves the gaming area for more than a half hour (i.e., eats lunch, goes for a walk, sees a show) after leaving the blackjack table and before returning to the slot machine. D has two gambling sessions. For the first, D has net gambling income of \$50. This amount must be included in federal and Wisconsin income. For the second session, D has a net gambling loss of \$60. None of this loss is deductible for Wisconsin purposes and it cannot be used to reduce the net winnings from any other gambling session.

SALES AND USE TAX

2 Prosthetic Devices – Eyeglasses and Contact Lenses – and their Accessories and Supplies

Statutes: Sections [77.51\(1f\)\(intro.\) and \(e\)](#), [\(3pj\)](#), and [\(11m\)](#), [77.52\(1\)\(a\)](#), [\(20\)\(a\) and \(b\)](#), and [77.54\(14\)](#), [\(22b\)](#), and [\(52\)](#), Wis. Stats. (2009-10)

Wis. Adm. Code: Section [Tax 11.08\(4\)\(c\)](#), Wis. Adm. Code (November 2010 Register) and sec. [Tax 11.45\(3\)\(b\)](#), Wis. Adm. Code (May 2010 Register)

Question 1:

Do the following items meet the definition of "prosthetic device" and qualify for exemption from Wisconsin sales and use taxes under sec. 77.54(22b), Wis. Stats. (2009-10), if they are used for a human being?

1. Corrective sunglasses
2. Non-corrective sunglasses
3. Corrective contact lenses
4. Non-corrective contact lenses (i.e., contact lenses just worn to change the color of a person's eyes)
5. Corrective reading glasses

Answer 1:

Corrective sunglasses, corrective contact lenses, and corrective reading glasses meet the definition of "prosthetic device" and are exempt from Wisconsin sales and use taxes. **Note:** Corrective reading glasses are a prosthetic device and are exempt even if they are not sold under a prescription.

Non-corrective sunglasses and non-corrective contact lenses do not meet the definition of "prosthetic device" because they are not a replacement, supportive, or corrective device and therefore do not qualify for this exemption.

Analysis 1:

Corrective sunglasses, corrective contact lenses, and corrective reading glasses

Products meeting the definition of "prosthetic device" and which are used for a human being are exempt from Wisconsin sales and use taxes as provided in sec. 77.54(22b), Wis. Stats. (2009-10).

As provided in sec. 77.51(11m), Wis. Stats. (2009-10), "prosthetic device" means "...a device, including the repair parts and replacement parts for the device, that is placed in or worn on the body to artificially replace a missing portion of the body; to prevent or correct a physical deformity or malfunction; or to support a weak or deformed portion of the body."

Section Tax 11.08(4)(c), Wis. Adm. Code (November 2010 Register), and sec. Tax 11.45(3)(b)5., Wis. Adm. Code (May 2010 Register), include eyeglasses and contact lenses among the examples of exempt prosthetic devices.

Therefore, corrective eyeglasses, corrective contact lenses, and corrective reading glasses qualify for this exemption because they correct a physical deformity or malfunction in the eyes.

Non-corrective sunglasses and non-corrective contact lenses

Non-corrective sunglasses and non-corrective contact lenses do not meet the definition of prosthetic device and therefore do not qualify for this exemption. Sales of non-corrective sunglasses and non-corrective contact lenses are subject to Wisconsin sales and use taxes under sec. 77.52(1)(a), Wis. Stats. (2009-10), as sales of tangible personal property.

Question 2:

Do the following items qualify for exemption from Wisconsin sales and use taxes under sec. 77.54(22b), Wis. Stats. (2009-10), as accessories for prosthetic devices (i.e., corrective eyeglasses or corrective contact lenses) if they are used for a human being?

1. Neck Cords
2. Sunglasses designed to be worn over corrective eyeglasses
3. Repair parts and tools specifically for eyeglasses (i.e., nose pads, screws, eyeglass screwdriver, and repair kits)
4. Eyeglass cases
5. Contact lens cases
6. Contact lens solution
7. Eyeglass lens cleaning solution
8. Non-disposable cleaning cloths
9. Disposable cleaning cloths
10. Contact lens travel kits (including solution and contact lens case)

Answer 2:

Neck cords, sunglasses designed to be worn over eyeglasses, repair parts and tools specifically for eyeglasses, cases for corrective eyeglasses, and non-disposable cleaning cloths purchased for corrective eyeglasses are exempt from Wisconsin sales and use taxes as accessories for prosthetic devices. Contact lens cases purchased for corrective contact lenses are also exempt from Wisconsin sales and use taxes as accessories for a prosthetic device.

Contact lens solution, eyeglass lens cleaning solution, and disposable cleaning cloths are taxable because they are supplies and therefore do not qualify for this exemption.

Contact lens travel kits that include contact lens solution and contact lens cases are taxable if the seller's purchase price and sales price of the contact lens solution and other taxable products included in the kit is greater than 50% of the seller's total purchase price or sales price of all the products in the kit. If the seller's combined purchase price or sales price of the contact lens solution and other taxable products included in the contact lens travel kit are no greater than 50% of the seller's total purchase price or sales price of all the products in the kit, the entire sales price of the kit is exempt from Wisconsin sales and use taxes.

Analysis 2:

Neck cords, sunglasses designed to be worn over eyeglasses, repair parts and tools specifically for eyeglasses, cases for corrective eyeglasses, non-disposable cleaning cloths, and contact lens cases

Section 77.54(22b), Wis. Stats. (2009-10), provides, in part, an exemption from Wisconsin sales and use tax for "...prosthetic devices, and accessories for such...devices, if the...devices are used for a human being." Neck cords, sunglasses designed to be worn over eyeglasses, repair parts and tools specifically for eyeglasses, eyeglass cases, contact lens cases, and non-disposable cleaning cloths are accessories and qualify for this exemption if purchased for corrective eyeglasses, corrective sunglasses, corrective reading glasses, or corrective contact lenses.

Note: If neck cords, repair parts and tools, eyeglass cases, and non-disposable cleaning cloths are purchased for non-corrective sunglasses, the exemption in sec. 77.54(22b), Wis. Stats. (2009-10), does not apply. Additionally, contact lens cases purchased for non-corrective contact lenses do not qualify for this exemption. Accessories for non-corrective sunglasses and non-corrective contact lenses do not qualify for exemption because they are not accessories for prosthetic devices.

Contact lens solution, eyeglass lens cleaning solution, and disposable cleaning cloths

Section 77.54(22b), Wis. Stats. (2009-10), provides, in part, an exemption from Wisconsin sales and use tax for prosthetic devices and accessories for such devices, if the devices are used for a human being. Contact lens solutions, eyeglass lens cleaning solutions, and disposable cleaning cloths are supplies, rather than accessories for prosthetic devices, and therefore do not qualify for the exemption.

In addition, although the contact lens solution meets the definition of "drug" as provided in sec. 77.51(3pj), Wis. Stats. (2009-10), it does not qualify for any of the exemptions provided in sec. 77.54(14), Wis. Stats. (2009-10).

Therefore, the contact lens solution, eyeglass lens cleaning solution, and disposable cleaning cloths are subject to Wisconsin sales and use taxes.

Contact lens travel kit

Contact lens travel kits contain both taxable (contact lens solution) and nontaxable (contact lens case, travel case) products that are distinct and identifiable and sold for one non-itemized price. Therefore, the sale of the kit is a bundled transaction as defined in sec. 77.51(1f), Wis. Stats. (2009-10), unless it meets one of the exceptions provided in sec. 77.51(1f)(a) through (e), Wis. Stats. (2009-10).

Sales of contact lens travel kits do not meet the exception provided in sec. 77.51(1f)(a), Wis. Stats. (2009-10), because the price does not vary and is not negotiable based on the items selected by the purchaser.

Sales of the kits do not meet the exceptions provided in sec. 77.51(1f)(b) and (c), Wis. Stats. (2009-10), because there are no services included with the sale of the kit.

Sales of the kits do not meet the exception provided in sec. 77.51(1f)(d), Wis. Stats. (2009-10), because the transaction includes, among other things, drugs or medical supplies.

Section 77.51(1f)(e), Wis. Stats. (2009-10), may apply to the sale of the kits since the kits contain a drug (i.e., the contact lens solution). Therefore, if the seller's purchase price or sales price of the taxable tangible personal property (i.e., the contact lens solution) is no greater than 50% of the seller's total purchase price or sales price of all the products in the transaction (i.e., kit), the transaction is not a bundled transaction and is exempt from Wisconsin sales and use tax as provided in sec. 77.54(52), Wis. Stats. (2009-10).

However, if the seller's purchase price or sales price of the taxable tangible personal property included in the transaction (i.e., the contact lens solution) is greater than 50% of the seller's total purchase price or sales price of all the products in the transaction (i.e., kit), the sale of the kit is a bundled transaction, and the entire selling price of the kit is subject to Wisconsin sales tax as provided in sec. 77.52(20), Wis. Stats. (2009-10).

Note: If the contact lens travel kit is purchased for non-corrective contact lenses, the entire sales price of the kit is taxable. There is no bundled transaction because all the items in the kit are taxable. The contact lens case and travel case would not qualify for exemption under sec. 77.54(22b), Wis. Stats. (2009-10), because although they are accessories, they are not accessories for a prosthetic device.