Wisconsin Tax Bulletin

October 2026 Number 235



Celebrating 50 Years of the *Wisconsin Tax Bulletin*

In October 2026, Wisconsin marks an important milestone in the history of state taxation and public administration with the fiftieth anniversary of the *Wisconsin Tax Bulletin*. For five decades, the publication has served as a trusted source of tax information, legal guidance, and policy updates for taxpayers, practitioners, businesses, and government officials throughout the state. What began in October 1976 as a modest informational newsletter has evolved into an indispensable resource that reflects both the changing nature of Wisconsin's tax system and the Wisconsin Department of Revenue's commitment to transparency and taxpayer education.

As the publication enters its next half-century, the challenges facing tax administration continue to evolve. New technologies, emerging business models, and changing economic conditions present fresh questions for policymakers and taxpayers alike. The fundamental need for accurate, reliable, and accessible tax information remains unchanged. The *Wisconsin Tax Bulletin* is well positioned to continue serving the public and supporting the fair and effective operation of Wisconsin's tax system for decades to come.

If you would like to receive notification when a new *Wisconsin Tax Bulletin* is available, subscribe to the mailing list for sales and use tax or tax professionals.

In This Issue

General Updates and Reminders 2
Fall Tax Update Seminar and Webinars 2
My Tax Account Annual Refresher Webinars 2
General Topical Index Updated Through July 2026 3
My Tax Account: Sending Invitations to Third Parties 3
Income and Franchise Tax Updates and Reminders 3
Prior Year Tax Forms Removed from Website 3
Reminder: Pass-Through Withholding Exemption Requests (Form PW-2) 3
Veterans and Surviving Spouses Property Tax Credit: Recertification for Current Year 4
Mailing Address Change – Estates and Trusts and Closing Certificates 5
Irrevocable Grantor Trust Filing Requirement and Claiming the Farmland Preservation Credit 5
Reminder: Qualified Wisconsin Business Registration for Capital Gain Exclusion and Deferral 6
Withholding Tax Updates and Reminders 7
Withholding Tax Update Available 7
Reminder: File Form WT-7 Only After All Forms WT-6 Are Submitted 8
Sales and Use Tax Updates and Reminders 8
Motor Vehicle Dealers' Measure of Use Tax Increases to $215 8
Reminder: Use Tax Owed on Out-of-State Repair Labor 8
Purchasers are Subject to Use Tax if the Seller Doesn't Charge Sales Tax 10
Are Electric Lift Chairs Taxable? 10
Publication 201, *Wisconsin Sales and Use Tax Information* Has Been Updated 10
Report on Litigation 11
Corporation Franchise and Income Taxes 11
Apportionment Sales – Licensing of Software 11
Manufacturing and Agriculture Credit – Manufacturing Classification 12

General Updates and Reminders

Fall Tax Update Seminar and Webinars

Registration is open for the 2026 Wisconsin Tax Update Seminar and Webinars.

These events are free and include information about the topics below:

- Tax law changes, updates, and reminders
- Tax processing, forms, and e-file updates
- Department initiatives
- My Tax Account updates

The department is holding one in-person seminar and three virtual webinars this year. All presentations are scheduled from 9:00 a.m. to 11:30 a.m. Dates and locations are below.

Date	Location
November 19, 2026	Webinar
November 20, 2026	Wisconsin Department of Revenue – Events Room – 2135 Rimrock Road, Madison (in-person only)
December 15, 2026	Webinar
December 16, 2026	Webinar

Visit the department's Wisconsin Tax Update Seminars and Webinars web page for details and registration.

My Tax Account Annual Refresher Webinars

The department is providing Annual Filer Refresher webinars on January 12, 14, 20, and 21 of 2027 (the same information is provided in each webinar).

To register and find more information as it becomes available, visit the department's Training web page.

The Annual Filer Refresher webinar covers a variety of topics, including:

- Filing and paying sales and use tax (Form ST-12)
- Filing and paying withholding tax and annual reconciliation (Forms WT-6 and WT-7)
- Submitting wage statements and information returns (Forms W-2, 1099-R, 1099-MISC & 1099-NEC)
- Printing seller’s permits and business tax registration certificates
- Updating profile information (bank and contact information)
- Requesting extensions to file

We also offer a My Tax Account webinar for new users the second Tuesday of odd-numbered months. The next new user webinar is scheduled for November 10, 2026, 9:30 a.m. to 10:30 a.m. (CST). Topics covered include My Tax Account’s two-step login process, filing and paying sales & use tax, and filing and paying withholding tax.

General Topical Index Updated Through July 2026

The General Topical Index is a reference tool used to research Wisconsin tax topics. The Index has been updated with references to published guidance through July 31, 2026. The update added hyperlinks to allow quick access to *Wisconsin Tax Bulletins*, Publications, Fact Sheets, and the Withholding Tax Update.

The index is available on the department's Wisconsin Topical and Court Index web page.

My Tax Account: Sending Invitations to Third Parties

My Tax Account (MTA) users with master and administrator level access can now send invitations to a third-party, granting access to their Wisconsin tax account(s) using a link under "Manage Third Party Access." The third party will receive an email asking them to log into MTA and accept the invitation. Upon acceptance, the third party will have immediate access to the granted account(s).

Note: If the invitation is sent to an individual who is not yet registered to use MTA, they must first register and then click on the link in the invitation.

- For business tax accounts, this feature bypasses the need for a third party to have a prior return amount to request access to a client. Since the approved MTA user invites them to access their accounts, no extra verification information is required of the third party.
- For individual income tax accounts, the individual taxpayer must first register an MTA account and hold a master MTA profile. The individual taxpayer may send an invitation to give access to their Power of Attorney (POA), but access will not be given unless the POA is a registered MTA user and a Form A-222, *Power of Attorney*, is submitted to the department.

Income and Franchise Tax Updates and Reminders

Prior Year Tax Forms Removed from Website

Tax forms prior to 2022 are no longer available on our website. If you need an older form, contact our customer service team:

- Email: DORFormsRequests@wisconsin.gov
- Phone: (608) 266-2772, Monday – Friday, 7:45 a.m. – 4:30 p.m.

Reminder: Pass-Through Withholding Exemption Requests (Form PW-2)

A nonresident of Wisconsin who is an owner (partner, member, shareholder, or beneficiary) of a pass-through entity may request an exemption from Wisconsin's pass-through withholding tax by filing Form PW-2, *Wisconsin Nonresident Partner, Member, Shareholder, or Beneficiary Pass-Through Withholding Exemption Affidavit*.

Form PW-2 must be (1) filed electronically through My Tax Account, unless a waiver is approved by the department, and (2) filed by the due date. The due date to file Form PW-2 depends on the type of pass-through entity for which the owner is requesting the exemption.

Type of Pass-Through Entity	Due Date to File Form PW-2
Tax-Option (S) Corporation	Last day of the 1st month following the close of the pass-through entity's taxable year.
Partnership	
Limited Liability Company Treated as a Tax-Option (S) Corporation or Partnership	
Estate	Last day of the 2nd month following the close of the pass-through entity's taxable year.
Trust	

Note: If the due date falls on a weekend or holiday, the due date becomes the business day immediately following the weekend or holiday.

Examples:

- For a 2026 calendar-year tax-option (S) corporation, Form PW-2 is due by February 1, 2027.
- For a partnership with a fiscal year beginning October 1, 2026, and ending September 30, 2027, Form PW-2 is due by November 1, 2027.
- For a 2026 calendar-year trust, Form PW-2 is due by March 1, 2027.
- For an estate with a fiscal year beginning October 1, 2026, and ending September 30, 2027, Form PW-2 is due by November 30, 2027.

Caution: An owner's exemption request must be approved by the department to be valid. After the nonresident owner files Form PW-2 with the department, the department notifies the nonresident owner whether the withholding exemption is approved within approximately 30 days. The department mails the approved withholding exemption letter or the denial letter to the nonresident owner. The department's determination may not be appealed. The nonresident owner is responsible for notifying the pass-through entity when an exemption is approved, and a pass-through entity is required to withhold until it receives the approved Form PW-2 from the owner.

Veterans and Surviving Spouses Property Tax Credit: Recertification for Current Year

The veterans and surviving spouses property tax credit is available to eligible veterans and unremarried surviving spouses and is equal to the amount of property taxes paid during the year on their principal dwelling in Wisconsin. A veteran or unremarried surviving spouse must be certified by the Wisconsin Department of Veterans Affairs (WDVA) to be eligible for the credit. Eligibility end dates are found on the WDVA certificate or can be verified by contacting WDVA at the phone number listed below. The WDVA certificate must be included with the Wisconsin income tax return the first year the credit is claimed.

If the certification for eligibility ended in 2025, the veteran or surviving spouse must request recertification from WDVA using a method listed below or by contacting their County Veterans Service Officer.

Call: (800) 947-8387

Mail: Attn: Veterans Property Tax Credit

Wisconsin Department of Veterans Affairs
2135 Rimrock Road
PO Box 7843
Madison, WI 53707-7843

Note: The Department of Revenue (DOR) may verify your information with WDVA before processing your tax return. It may take several weeks after you receive a new certification or recertification from WDVA for DOR to verify the information and process your tax return.

See the Veterans and Surviving Spouses Property Tax Credit common questions for more information.

Mailing Address Change – Estates and Trusts and Closing Certificates

As of November 30, 2026, the department will no longer use PO Box 8918.

When mailing a Form 2, *Wisconsin Fiduciary Income Tax for Estates and Trusts*, or Schedule CC, *Request for a Closing Certificate for Fiduciaries*, taxpayers must mail their return to:

Wisconsin Department of Revenue
PO Box 8965
Madison WI 53708-8965

Alternatively, you may electronically file these forms:

- Form 2 may be filed using modernized e-file software. See Third-Party Software for Fiduciary, Estate and Trust e-File Returns on the department's website.
- Schedule CC may be filed through My Tax Account by clicking on Request Estate/Trust Closing Certificate under the list of Additional Services.

Irrevocable Grantor Trust Filing Requirement and Claiming the Farmland Preservation Credit

Irrevocable Grantor Trust

When an individual places their farmland in an irrevocable grantor trust, generally the individual (grantor) cannot change or rescind the trust, and the trust becomes the legal owner of the farmland. However, for federal income tax purposes, the individual remains the owner of the farmland and all items of income and deductions are attributable to the individual as if the trust does not exist as a separate entity from the individual (secs. 671-679 of the Internal Revenue Code).

Income Tax Return Filing Requirement

If the entire trust is a grantor trust that is disregarded for federal income tax purposes and not required to file a federal Form 1041, *U.S. Income Tax Return for Estates and Trusts*, the trust is also not required to file a Wisconsin Form 2, *Wisconsin Fiduciary Income Tax for Estates or Trusts.* All items of income and deductions relating to the farmland are reported directly on the grantor's individual income tax return.

Exception: A grantor trust required to file a federal Form 1041 income tax return under a federal employer identification number instead of the grantor's social security number, including qualified subchapter S trusts (QSSTs), must file a Form 2, and include a complete copy of the trust's federal return.

Claiming the Farmland Preservation Credit

For purposes of filing a claim for the farmland preservation credit, the trustee of the irrevocable grantor trust must file Form 2 and meet the necessary requirements to claim the farmland preservation credit provided under subch. IX of ch. 71, Wis. Stats. A Form 2 must be filed by the trustee to claim the credit even if the trust is disregarded and not otherwise required to file Form 2 to report income and deductions.

Reminder: Qualified Wisconsin Business Registration for Capital Gain Exclusion and Deferral

For Wisconsin income tax purposes, an individual may:

- Defer a long-term capital gain if the gain is reinvested in a "qualified Wisconsin business" within 180 days after the sale of the asset that generated the gain.
- Exclude certain long-term capital gains from the sale of an investment in a "qualified Wisconsin business." The exclusion applies if the business was a qualified Wisconsin business for the year of the investment and for at least two of the four subsequent years, the investment was made after December 31, 2010, and the investment was held for at least five uninterrupted years.

Registration Requirements

For investors to be eligible for these tax benefits, the business must register electronically with the department by the close of each calendar year to be considered a "qualified Wisconsin business" for that year. The registration deadline for 2026 is January 4, 2027.

Exception: A business that started operations in Wisconsin in 2026 must complete the 2027 registration application (available after January 4, 2027, and before January 4, 2028) and answer yes to the question "Did the business start operations in Wisconsin last year?"

A business may register as a qualified Wisconsin business if **all** the following apply as of the tax year ending immediately before the date of registration:

- The business has at least two full-time employees.
- The amount of payroll compensation paid by the business in Wisconsin is at least 50 percent of all payroll compensation paid by the business.
- The value of real and tangible personal property owned or rented and used by the business in Wisconsin is at least 50 percent of the value of all real and tangible personal property owned or rented and used by the business.

For more information, see:

- *Registration of Qualified Wisconsin Businesses* common questions
- *Qualified Wisconsin Business Capital Gain Exclusion* common questions
- Fact Sheet 1102-2, *Deferral and Exclusion of Long-Term Capital Gains for Investments in Qualified Wisconsin Businesses* on the department's website.

Withholding Tax Updates and Reminders

Withholding Tax Update Available

The 2026 Withholding Tax Update has been posted to the department's website. Topics covered include:

- W-2 Wage Reporting Differences for 2026
- Withholding Tax Rates
- Withholding and Filing Requirements of Payments for Agricultural Labor (e.g., H-2A Workers)
- Retirement and Pension Payments Exempt from Income Tax Withholding
- Filing Requirements of Form 1099-R with Wisconsin Withholding
- Withholding and Filing Requirements of Third-Party Sick Pay
- Notice to Employers Using a Payroll Service Provider
- The Combined Federal/State Filing Program Is Not an Approved Filing Option for Information Returns with Wisconsin Withholding
- Truncated Taxpayer Identification Numbers on Forms W-2 and 1099
- Withholding Deposit Reports (Form WT-6) and Annual Reconciliation (Form WT-7)
- Electronic Filing Mandate – Forms WT-6 and WT-7
- Form WT-7 – Filing an Amended Annual Reconciliation
- Form WT-7 – Reporting by Financial Institutions and Insurance Agencies
- Filing Wage Statements and Information Returns
- Filing Extensions – Form WT-7, Wage Statements, and Information Returns
- Transportation Fringe Benefits for 2026 and 2027
- Worker Classification (Employee vs. Contractor)
- Single-Member LLCs – Are You Registered Correctly?
- Employees Claiming More than 10 Exemptions or Complete Exemption from Withholding (Form WT-4)
- Withholding Lock-In Letters
- Reporting Nonresident Entertainer Withholding on Income/Franchise Tax Returns
- My Tax Account New User Webinars
- My Tax Account Annual Refresher Webinars
- Withholding Tax Webinars for Employers
- Withholding Tax Electronic Mailing List
- Employer's Responsibility for Unclaimed Property
- Questions or Comments
- Quick Links

Reminder: File Form WT-7 Only After All Forms WT-6 Are Submitted

To avoid delays in processing, submit your Form WT-7, *Employers' Annual Reconciliation of Wisconsin Income Tax Withheld,* at least one day after all Withholding Tax Deposit Reports (Form WT-6) have been electronically filed. The Form WT-6 may be filed with a future payment date.

Example 1: An employer files withholding deposits monthly. Both Form WT-6 and Form WT-7 are due February 1, 2027., File the WT-6 deposit for December on January 29, 2027, and file the WT-7 on February 1, 2027.

Example 2: An employer filed all monthly Forms WT-6. However, when entering information for Form WT-7 and Forms W-2, the employer finds the Form WT-6 filed for June was understated by $100. Before filing Form WT-7, an additional Form WT-6 should be filed for the June period to report the additional $100.

Note: Quarterly, monthly, and semi-monthly filers must file an electronic Form WT-6 for each required reporting period even if no tax is withheld for the period.

All Forms W-2 and 1099 with Wisconsin withholding must be filed to reconcile the Form WT-7. Incomplete, incorrect, late, or missing information returns will incur penalties. File and pay on time to avoid late fees and help Wisconsin prevent fraud.

Sales and Use Tax Updates and Reminders

Motor Vehicle Dealers' Measure of Use Tax Increases to $215

Wisconsin licensed motor vehicle dealers are permitted to report use tax on a fixed dollar amount per plate per month for the use of motor vehicles assigned to certain employees and dealership owners.

Effective January 1, 2027, the amount subject to use tax increases from $208 to $215 per plate per month. To calculate use tax, $215 is multiplied by the appropriate use tax rate (5%, 5.5%, 5.9%, 7%, 7.5%, or 7.9%) to arrive at the use tax due per plate per month.

Why is the rate increasing?

Wisconsin law, sec. 77.53(1m), Wis. Stats., requires the department to annually adjust the amount subject to use tax to reflect the annual percentage change in the U.S. Consumer Price Index for All Urban Consumers, U.S. City Average, as determined by the U.S. Department of Labor for the 12-month period ending June 30. Since the index for the period of July 2025 through June 2026 increased 3.5%, the amount subject to use tax on dealer motor vehicle license plates increases $7 per plate per month starting January 1, 2027.

- Publication 202, *Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs*
- *Use Tax on Motor Vehicle Dealer Plates* common questions

Reminder: Use Tax Owed on Out-of-State Repair Labor

Persons located in Wisconsin, including individuals, corporations, partnerships, and limited liability companies, may purchase and take possession of products or services outside of Wisconsin and then store, use, or consume the products or services in Wisconsin. These persons may be required to pay the sales or use tax of another state and/or local unit of government when taking possession of the products or making first use of the services in the other state.

Wisconsin allows a credit for sales or use taxes that are properly due and paid to another state and/or local unit of government on products or services purchased **outside** Wisconsin and subsequently stored, used, or consumed in Wisconsin. The credit is allowed against (but not more than) the total of Wisconsin state, county, and city use taxes imposed on the same products or services purchased in the other state (sec. 77.53(16), Wis. Stats.).

The examples below illustrate how the credit for taxes paid to another state applies in situations where the other state does not impose its sales tax on repair labor but does impose tax on the repair parts.

Facts 1:

- Customer, located in the city and county of Milwaukee, Wisconsin, needs their computer repaired.
- Customer takes their computer to Company, located outside Wisconsin.
- Company charges Customer $100 for the repair parts and $75 for labor to fix the computer.
- Company also charges its state's 4% sales tax on the repair parts ($100 X 4% = $4 sales tax), but no tax is charged on the $75 repair labor charge since repair labor is not taxable in Company's state.
- Customer takes possession of their repaired computer outside Wisconsin and then brings it back to Milwaukee, Wisconsin for use.

Question 1:

Does Customer owe any Wisconsin use tax related to their purchase of the repair services from Company when they bring the computer back into Wisconsin?

Answer 1:

Yes. Customer owes $13.83 ($175 x 7.9% = $13.83) in Wisconsin use tax on the $175 charge to repair the computer. However, since Customer already paid $4 in sales tax in a state outside Wisconsin, and assuming that tax was legally due and owing in that state, Customer may use the $4 in sales tax paid to that state to reduce the Wisconsin use tax ($13.83) that is due. Customer is required to remit the $9.83 difference to Wisconsin ($13.83 Wisconsin use tax due minus the $4 in sales tax paid to the non-Wisconsin state).

Facts 2:

- Customer, located in the city and county of La Crosse, Wisconsin, needs their computer repaired.
- Customer takes their computer to Company, located outside Wisconsin.
- Company charges Customer $100 for the repair parts and $75 for labor to fix the computer.
- Company also charges its state's 6% sales tax on the repair parts ($100 x 6% = $6 sales tax), but no tax is charged on the $75 repair labor charge since labor is not taxable in Company's state.
- Customer takes possession of their repaired computer outside Wisconsin and then brings it back to La Crosse, Wisconsin for use.

Question 2:

Does Customer owe any Wisconsin use tax when they bring the computer back into Wisconsin and use it in Wisconsin?

Answer 2:

Yes. Customer owes $9.63 ($175 x 5.5% = $9.63) in Wisconsin use tax on the $175 charge to repair the computer. However, since Customer already paid $6 in sales tax in a state outside Wisconsin, and assuming that tax was legally due and owing in that state, Customer may use the $6 in sales tax paid to that state to reduce the Wisconsin use tax ($9.63) that is due. Customer is required to remit the $3.63 difference to Wisconsin ($9.63 Wisconsin use tax due minus the $6 in sales tax paid to the non-Wisconsin state). (**Note:** In this example, even though the non-Wisconsin state imposed its 6% sales tax on the $100 charge for the parts, all the tax imposed on those parts ($6) may be used to offset the Wisconsin use tax that is due on the entire charge including parts and labor.)

See the *Use Tax* common questions for additional information, including how to pay use tax.

Purchasers are Subject to Use Tax if the Seller Doesn't Charge Sales Tax

Sales tax or use tax is required to be paid on taxable products, goods, and services stored, used, or consumed in Wisconsin. If a seller has not collected sales tax and regardless of whether the seller is registered to collect Wisconsin sales tax, the purchaser is liable for use tax and that liability is not extinguished until the tax has been paid to Wisconsin.

Are Electric Lift Chairs Taxable?

Electric lift chairs can make getting in and out of a seated position easier for individuals with limited mobility. In Wisconsin, electric lift chairs may be exempt from sales and use tax as mobility-enhancing equipment.

When Is an Electric Lift Chair Exempt?

An electric lift chair is exempt if it is primarily and customarily used to provide or increase the ability of a person to move from one place to another and is generally not used by a person who has normal mobility. An electric chair that raises a person to a standing position and lowers the person from a standing position to a sitting position is primarily and customarily used when an individual's natural ability to raise or lower themselves is totally or partially impaired. An electric lift chair, as described, is mobility-enhancing equipment and is exempt from Wisconsin sales and use tax.

The chair's lifting function, rather than the purchaser's medical condition, qualifies the chair for the exemption. Therefore, a doctor's note or prescription is not required. A standard electric chair/recliner that only adjusts the backrest, footrest, or seating position for comfort does not qualify as mobility-enhancing equipment and is taxable unless another exemption applies.

Retailer Records

The retailer of a qualifying electric lift chair is also not required to obtain an exemption certificate from the purchaser. However, the retailer must maintain adequate records identifying how the electric lift chair qualifies as an exempt sale.

Publication 201, *Wisconsin Sales and Use Tax Information* Has Been Updated

Publication 201, *Sales and Use Tax Information* has been updated. Important changes include:

- Marketplace provider information has been added to Part 3.N.
- Remote seller information has been updated to Part 4.A.
- New exemptions have been added to Part 11.

- New county and city taxes have been added to Part 18.
- New premier resort area taxes have been added to Part 20.

Report on Litigation

Summarized below are recent significant Wisconsin Tax Appeals Commission (Commission) and Wisconsin Court decisions.

Corporation Franchise and Income Taxes

Apportionment Sales – Licensing of Software

InterSystems Corporation v. Wisconsin Department of Revenue (Dane County Circuit Court, August 20, 2026)

This is a judicial review of the Wisconsin Tax Appeals Commission's decision dated November 20, 2025. See *Wisconsin Tax Bulletin 232* (January 2026), pages 12-14, for a summary of the Commission's decision.

The dispute regards royalty income paid to InterSystems, a Massachusetts corporation, which is generated as part of Epic Systems Corporation's license of Epic's own software to its end-users. When an end-user purchases a license to use Epic's software, the end-user is required as part of that purchase to acquire the separate right to use InterSystems's Caché software in order for the Epic software to function. The end-user customer does not pay InterSystems, but rather Epic for this right. The parties do not agree on how to characterize the transaction by which the end-user acquires the right to use Caché software. InterSystems position is that Epic's end-users are licensees of InterSystems and sec. 71.25(9)(df), Wis. Stats., should apply, and the situs of income should therefore be the location where Epic's end-user customers use Caché. The department believes that Epic's end-users are sublicensees and thus sec. 71.25(9)(df), Wis. Stats., does not apply, but rather sec. 71.25(9)(dj), Wis. Stats., should apply and the situs of income should be Wisconsin. Both parties agree that *Wisconsin Dep't of Revenue v. Microsoft Corp.* is controlling precedent.

InterSystems argued that sec. 71.25(9)(df), Wis. Stats., applies where use of the software generates income, regardless of whether the software user is a "purchaser or licensee." InterSystems contends "the phrase 'purchaser or licensee' in sec. 71.25(9)(df), Wis. Stats., is descriptive of how software use generates income. It ensures that all the ways someone might 'use' computer software to generate revenue are captured by this subsection." Finally, InterSystems cites to a Legislative Fiscal Bureau Joint Committee Finance Paper which, InterSystems argues, supports the conclusion that the location of the use of computer software dictates the situs of income for tax purposes.

The Circuit Court disagreed with InterSystems's position and determined the Commission correctly concluded that a licensor-licensee relationship between InterSystems and Epic's end-user customer needed to exist for sec. 71.25(9)(df), Wis. Stats., to apply. The Court concluded that InterSystems's argument cannot be reconciled with either the plain text of the statute or the *Microsoft* court's reasoning. InterSystems glosses over the plain language of the statute. For the location of the software to be relevant, the software must be used by a purchaser or licensee as those terms are used in the statute. While "purchaser" and "licensee" are not defined in the statute, they have commonly accepted meanings as found in the dictionary.

InterSystems stated that the Commission erred when finding that Epic's end-user customers were not licensees of InterSystems. InterSystems contends the Commission overread *Microsoft* to require a contract between InterSystems and the end user.

The *Microsoft* court held that if there is no contract between the software company and the end user, then the end user cannot, as a matter of law, be a licensee. The court found that there was no contract between InterSystems and Epic's end users. Under *Microsoft*, Epic's end users therefore cannot be licensees of InterSystems.

The Circuit Court went on to determine that the Commission correctly concluded that even if there was a contract, the contract would only provide a sublicense. The plain language of the agreements between InterSystems and Epic, as well as the addendum provided to the end user, stated that InterSystems grants Epic the right to sublicense its software. InterSystems is not separately and individually granting licenses to Epic's end users, as that term is used in sec. 71.25(9)(df), Wis. Stats. The facts and circumstances of the use of InterSystems's software with Epic's software supports the conclusion that what the end-user customers have is a sublicense.

InterSystems also asserted that the Commission erred in sourcing the income from Epic under sec. 71.25(9)(dj)1., Wis. Stats., governing royalties, based on the location of Epic under sec. 71.25(9)(dj)1.b., Wis. Stats., rather than the location of the end users under sec. 71.25(9)(dj)1.a., Wis. Stats. The court held that the Commission correctly concluded that the intangible right for which InterSystems received income from Epic was the right to grant sublicenses, not the right to use the Caché software. This right has no discernable location, so sec. 71.25(9)(dj)1.a., Wis. Stats., does not apply. Therefore, pursuant to sec. 71.25(9)(dj)1.b., Wis. Stats., the royalty income is sourced to the location where Epic is billed for the intangible property, which is Wisconsin. Thus, Wisconsin is the situs of the income generated by the sale of the right to sublicense Caché, and the income InterSystems receives from Epic for that right is properly sourced to Wisconsin for apportionment purposes.

InterSystems also challenged the constitutionality of sec. 71.25(9)(dj), Wis. Stats. The Circuit Court found that InterSystems's facial challenge was underdeveloped and failed to meet its heavy burden to establish Wisconsin's tax law violates the Commerce Clause as applied in this case.

InterSystems has appealed this decision.

Manufacturing and Agriculture Credit – Manufacturing Classification

LFTD Partners Inc. vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, August 21, 2026)

The issue before the Commission was whether LFTD Partners Inc's (LFTD) property could be retroactively classified as manufacturing for the 2021, 2022, and 2023 assessment years so it could claim the Manufacturing income/franchise tax credit for those years and obtain a refund even though it did not submit a request for manufacturing classification (Form PA-780) until 2025.

The Manufacturing credit is a valuable tax credit that allows manufacturers to reduce their income or franchise tax on qualified manufacturing income. The credit is only available to taxpayers that generate revenue from property assessed or classified as manufacturing under sec. 70.995, Wis. Stat. That is, without property classified as manufacturing, no credit is available.

LFTD is the publicly traded holding corporation of wholly-owned subsidiary Lifted Liquids, Inc. Lifted Liquids Inc. operates in Wisconsin and has manufacturing, warehouse, and office space in Kenosha, Wisconsin. LFTD is a manufacturer and distributor of primarily intoxicating hemp-derived products.

The Manufacturing & Utility Bureau handles the manufacturing classification process for the department. To have property classified as manufacturing, by March 1 of the assessment year, either the department must classify the property as manufacturing or a taxpayer must contact its local Manufacturing & Utility Bureau District Office and submit Form PA-780 requesting that the property be classified as manufacturing.

LFTD did not submit Form PA-780 during 2021, 2022, or 2023 so its property was not classified as manufacturing for any of those assessment years. Nor did it claim the Manufacturing credit for any of those tax years.

LFTD finally submitted Form PA-780 on April 25, 2025. It then filed amended 2021, 2022, and 2023 Wisconsin income/franchise tax returns claiming the Manufacturing credit and making a claim for refund of $175,284, $320,342, and $101,746 respectively.

The department denied LFTD's claim for refund because LFTD had no property assessed or classified as manufacturing during the years at issue, and so LFTD was not eligible for the Manufacturing credit.

In its briefing, LFTD argued two main points:

- Timely submission of a Form PA-780 and placement on the manufacturing tax roll (for manufacturing assessment) are not required by the statute, and the only relevant question is whether the subject property qualified as manufacturing under sec. 70.995, Wis. Stats.
- The department's knowledge of LFTD's manufacturing operations for excise tax purposes and the county's knowledge of LFTD's manufacturing operations should be imputed to the department for manufacturing property classification purposes.

The Commission rejected LFTD's arguments. It concluded that there are only two ways for property to be classified as manufacturing property under sec. 70.995, Wis. Stats.: 1) the department has classified the property as manufacturing property, or 2) the owner requests such a classification from the department, in writing, by March 1 of the assessment year.

Further, the Commission found that the exclusive way for an owner to make such a classification request is via Form PA-780, that LFTD failed to timely submit Form PA-780, and that no statute requires the department to review information submitted in the excise-tax permitting process to determine whether it needs to assess property as manufacturing property.

The Commission entered summary judgment in favor of the department concluding that LFTD failed to meet its burden of proof with clear and satisfactory evidence overcoming the department's presumption of correctness as to its denial of LFTD's claim for the Manufacturing credit under sec. 71.28(5n), Wis. Stats.

LFTD did not appeal this decision.

For more detailed information see LFTD Partners Inc. v. Wisconsin Department of Revenue, 2026 WI TAC.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations enacted as of October 30, 2026: chs. 71 and 77, Wis. Stats., and chs. Tax 1, 2, 3, and 11, Wis. Adm. Code. Laws enacted and in effect after this date, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to this date that is contrary to the information in this document is superseded by this document, according to sec. 73.16(2)(a), Wis. Stats.

Public Comments

The public may submit comments on guidance documents at any time.