

SALES AND USE TAX REPORT

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I. DEPARTMENT TO CONTACT PERSONS NOT CURRENTLY FILING ELECTRONICALLY

Last year, the department contacted many sales and use tax registrants requiring them to file their sales and use tax returns electronically using the department's Sales Tax Internet Process (SIP). Some of the registrants contacted were granted waivers from electronic filing because it created a hardship for them (e.g., no access to a personal computer or additional workload to enter data into SIP that was already in their sales tax software). In order to eliminate those hardships, the department has developed alternative methods to file electronically.

Beginning in April, the department will be contacting sales and use tax registrants who do not currently file their sales and use tax returns electronically. The letter will advise registrants of their requirement to file electronically using one of the following three electronic filing options.

- **Sales Internet Process (SIP)**

SIP is a free, Internet-based electronic filing application for sales and use tax. It performs calculations, provides a history of all your electronically filed returns, issues a receipt, and allows tax payment by Electronic Fund Transfer (EFT), if you are registered to do so. Checks or money orders may also be used to make payments. To use SIP, you need a logon identification (ID) and password.

More information about SIP, including how to apply for a logon ID, is available online at <http://www.dor.state.wi.us/eserv/sip.html> or by calling (608) 261-6261.

- **File Transmission**

This electronic filing application is intended for use by taxpayers who either use sales and use tax software or who have the technical expertise to create a file in XML format. You can extract sales and use tax data and send it via a secure transmission to the department for processing, rather than manually entering the sales and use tax data into SIP. Electronic Funds Transfer (EFT) payments can be submitted within the same file or can be initiated as a separate transaction. The department will send an e-mail acknowledgement to confirm receipt of a successful file transmission.

For more information on File Transmission, including a list of authorized software vendors, go to <http://www.dor.state.wi.us/eserv/file/index.html>.

- **Sales TeleFile**

Beginning February 16, 2004, Wisconsin sales and use tax registrants can conveniently file their sales and use tax returns by using a touch-tone telephone and the Department of Revenue's new TeleFile Sales and Use Tax System.

TeleFile instructions, worksheets, and payment vouchers will be mailed with letters requiring sales and use tax registrants to file electronically. You can also download the TeleFile instructions, worksheets, and payment vouchers from the department's web site at www.dor.state.wi.us/eserv/e-sales.html.

To use TeleFile, first fill in the Wisconsin TeleFile worksheet. Next, call the TeleFile system and enter your 15-digit tax account number and the information from the worksheet as prompted by the system. At the end of the call, confirm that you wish to file using TeleFile. The TeleFile worksheet you completed and the confirmation number provided by the TeleFile system should be kept as your record that your sales and use tax return was filed.

Sales and use tax due may be paid using Electronic Fund Transfer (EFT) or paper check or money order. You must include a TeleFile Payment Voucher with a paper check or money order.

More information about TeleFile is available online at www.dor.state.wi.us/eserv/e-sales.html.

The department realizes that electronic filing may not be possible for everyone. The department will waive the requirement to file electronically if it causes an *undue hardship*. After receiving a request to file electronically, you may request a waiver by writing to Secretary of Revenue, Wisconsin Department of Revenue, Mail Stop 5-77, PO Box 8946, Madison, WI 53708-8946. The waiver request must clearly state why the electronic filing requirement causes you an undue hardship.

Electronic filing reduces processing problems for both you and the department. It also enables the department to operate more efficiently with fewer resources. Thank you for your cooperation and future participation.

II. USE OF ELECTRONIC FUNDS TRANSFER (EFT) EXPANDED

The Department of Revenue is now able to accept Electronic Funds Transfer (EFT) payments for sales and use tax Notices of Amount Due and Business Tax Registration (BTR) fees. Previously, the department was only able to accept EFT payments for tax due on Wisconsin sales and use tax returns.

In order to pay by EFT, you need to be registered to use the Department of Revenue's EFT system. To begin the EFT registration process, send your name, address, and federal employer identification number or social security number to EFT Unit, Wisconsin Department of Revenue, P.O. Box 8912, Madison, WI 53708-8912 or call (608) 264-9918.

If you are already registered for EFT, you may immediately begin paying sales or use tax Notices of Amount Due or BTR fees using EFT as a payment method. Note that entries for the "Tax Type Code" and the "Last day of the Tax Period this payment covers" are different than the entries you make when paying tax due on your sales and use tax return.

If you are paying a Notice of Amount Due by EFT, use the tax type code 04140 (Sales-Computer Bill). When asked to enter the "Last day the Tax Period this payment covers," enter the "Tax Period End Date" printed on the Notice of Amount Due, not the due date of the bill.

For example, if you are paying a Notice of Amount Due because your January 2004 sales and use tax return was adjusted, you would enter 01/31/04 as the "Last day of the Tax Period this payment covers," even if the Notice of Amount Due has a due date of March 20, 2004.

If you receive a bill for a BTR fee or a Business Tax Registration Renewal Fee Notice and you wish to pay by EFT, use the tax type code 10300 (Business Tax

Registration). When asked to enter the "Last day of the Tax Period this payment covers," enter the expiration date of your Business Tax Registration Certificate, not the due date of the notice.

If you have any questions about these new EFT offerings, please contact the department at (608) 266-2776.

Note: Sometime later this year, the department will begin accepting credit card payments for tax due on sales and use tax returns, Notices of Amount Due, and BTR fees. Please look for more information on credit card payments in a future *Sales and Use Tax Report*.

III. NEW TAX LAWS

A. Provide Exemption for Fuel and Electricity Consumed in Manufacturing (effective January 1, 2006)

Beginning January 1, 2006, a sales and use tax exemption is available for fuel and electricity consumed in manufacturing tangible personal property in Wisconsin.

Prior to January 1, 2006, sales of fuel and electricity consumed, destroyed, or losing its identity in the manufacture of tangible personal property are not exempt from sales or use tax, except for:

- Fuel or electricity consumed, destroyed, or losing its identity in manufacturing shopper's guides, newspapers, or periodicals.
- Fuel converted to electric energy, gas, or steam by utilities and that portion of the amount of fuel converted to steam for purposes of resale by persons other than utilities.
- Any residue that is used as a fuel in a business activity and that results from the harvesting of timber or the production of wood products, including slash, sawdust shavings, edgings, slabs, leaves, wood chips, bark, and wood pellets manufactured primarily from wood or primarily from wood residue.

B. Exempt Clay Pigeons and Live Game Birds Sold to Hunting Preserves (effective for sales made on or after January 1, 2003)

The sale of, and the storage, use, or other consumption of, clay pigeons and live game birds sold to bird hunting preserves that are licensed under sec. 169.19, Wis. Stats., are exempt from Wisconsin sales or use tax.

Prior to January 1, 2003, the department had administratively provided that sales of game birds to

shooting preserves were not taxable if the shooting preserves:

- provided the birds to their customers as part of access to a recreational facility, and
- had seller's permits for the collection and reporting of sales tax on their receipts from charges made for access to a recreational facility for hunting.

IV. SALES AND INSTALLATIONS OF COMPACT SATELLITE DISH SYSTEMS

Note: The following information applies to the compact satellite dish systems described below. The tax treatment of satellite dish systems, which consist of a satellite dish that is permanently affixed to a substantial concrete foundation and can be eight to ten feet in diameter, may be different.

Facts and Question 1: Company A sells and installs satellite dish systems that are used by customers to receive satellite television services from Company B. The satellite dish system consists of a satellite dish (18-20 inch diameter), wiring, one or more receivers, and one or more remote controls. The satellite dish is affixed to a roof, wall, or railing of a building with a simple mounting bracket and screws. A wire is connected to the dish and routed into the building where it connects to a receiver that is located on a shelf or cabinet near a television set. It is likely that if a customer were to move, the satellite dish would be uninstalled and taken by the customer to a new location.

Is the sale and installation of the satellite dish system subject to Wisconsin sales or use tax?

Answer 1: Yes. The satellite dish system is tangible personal property when installed. The sale of tangible personal property is subject to Wisconsin sales tax under sec. 77.52(1), Wis. Stats. (2001-02), unless an exemption applies (e.g., sale to a Wisconsin governmental unit). The gross receipts from the installation of the satellite dish system are subject to Wisconsin sales tax under sec. 77.51(4)(c)4 and 77.52(2)(a)10, Wis. Stats., unless an exemption applies.

Note: Although sec. Tax 11.68(7)(a)2, Wis. Adm. Code (June 1999 Register), provides, in part, that satellite dishes installed in apartment buildings, convalescent homes, or other residential buildings are real property when installed, the rule was referring to satellite dishes that were eight to ten feet in diameter and installed by permanently affixing the dish to a substantial concrete foundation. Section Tax 11.68(7)(a), Wis. Adm. Code, is currently in the process of being amended to reflect the different character of current satellite dish systems.

Facts and Question 2: Assume the same facts as in Facts and Question 1. Additional facts are as follows:

- Company A enters into an agreement with Company B, a satellite television service provider, to act as a sales agent for Company B.
- If Company A signs up a customer for satellite television service with Company B, Company B will pay Company A a \$300 commission.
- In order to attract customers for Company B's service and receive the \$300 commissions, Company A offers a satellite dish system and installation for a price of \$99.
- Company B does not set the price at which Company A must sell the satellite dish system and installation.
- The \$300 commission is not dependent on Company A's sale of the satellite dish system or installation.
- Company A purchases the satellite dish system from Company C for \$149.

What is the sales and use tax treatment of these transactions?

Answer 2: Company A's sale of the satellite dish system and installation to the customer is subject to Wisconsin sales tax. Company A's gross receipts subject to sales tax are \$99. Company A's gross receipts subject to sales tax from the sale of the satellite dish system and installation do not include the \$300 commission paid by Company B to Company A. Company A may purchase the satellite dish system from Company C without tax because it is for resale. Company A should provide Company C with a properly completed exemption certificate claiming resale.

Facts and Question 3: Assume the same facts as Facts and Question 2, except that Company A provides the satellite dish system to the customer for free and charges \$49 for installation because the customer chooses not to self-install the dish system.

What is the sales and use tax treatment of these transactions?

Answer 3: Company A's sale to the customer of the satellite dish system installation is subject to Wisconsin sales tax. Company A's gross receipts subject to sales tax are \$49. Company A's gross receipts subject to sales tax from the installation of the satellite dish system do not include the \$300 commission paid by Company B to Company A. Company A is subject to Wisconsin sales or use tax on its \$149 purchase of the satellite dish system it provided to the customer without charge (i.e., did not resell).

Facts and Question 4: Assume the same facts as Facts and Question 1. Additional facts are as follows:

- Company A enters into an agreement with Company B, a satellite television service provider, to act as a sales agent for Company B.
- If Company A signs up a customer for satellite television service with Company B, Company B will pay Company A a \$100 commission. The \$100 commission is not dependent on Company A's sale of the satellite dish system or installation.
- In order to attract customers, Company B offers a promotion that requires Company A to sell a satellite dish system and installation at a price of \$99, which is well below what Company A would charge for the system and installation without the promotion.
- Because of the reduced promotion price Company A must charge its customer, Company B pays Company A \$150.
- Company A purchased the satellite dish system from Company C for \$149.

What is the sales and use tax treatment of these transactions?

Answer 4: Company A's sale of the satellite dish system and installation to the customer is subject to Wisconsin sales tax. Company A's gross receipts subject to sales tax are \$249. Company A's gross receipts subject to sales tax from the sale and installation of the satellite dish system and installation include the amount paid by the customer (\$99) plus the \$150 payment by Company B to Company A for reimbursement of the discounted price Company B required Company A give to its customer. Company A's gross receipts subject to sales tax from the sale and installation of satellite dish system and installation do not include the \$100 commission paid by Company B to Company A. Company A may purchase the satellite dish system from Company C without tax because it is for resale. Company A should provide Company C with a properly completed exemption certificate claiming resale.

Facts and Question 5: Assume the same satellite dish system as described in Facts and Question 1. Additional facts are as follows:

- Company A enters into an agreement with Company B, a satellite television service provider, to act as a sales agent for Company B.
- If Company A signs up a customer for satellite television service with Company B, Company B will pay Company A a \$100 commission. The \$100 commission is not dependent on Company A's sale of the satellite dish system or installation.
- In order to attract customers, Company B offers a promotion that requires Company A to provide a satellite dish system without charge to the customer. Under that same promotion, Company A must furnish

installation at a price of \$49, which is collected from the customer.

- Company B pays Company A (1) \$200 for the satellite dish system it required Company A to furnish to the customer at no charge, and (2) \$50 for the reduced installation price Company B required Company A to charge the customer.
- Company A purchased the satellite dish system from Company C for \$149.

What is the sales and use tax treatment of these transactions?

Answer 5: Company A's sale of the satellite dish system and installation to the customer is subject to Wisconsin sales tax. Company A's gross receipts subject to sales tax are \$299. Company A's gross receipts subject to sales tax from the sale and installation of the satellite dish system include the amount paid by the customer (\$49) plus the \$250 payment by Company B to Company A for the satellite dish system and reimbursement of the installation discount that Company B required Company A to give its customer. Gross receipts subject to sales tax from the sale and installation of the satellite dish system do not include the \$100 commission paid by Company B to Company A. Company A may purchase the satellite dish system from Company C without tax because it is for resale. Company A should provide Company C with a properly completed exemption certificate claiming resale.

Facts and Question 6: Assume the same facts as Facts and Question 5. The customer discontinues service with Company B during the first year of the service contract. As a result of discontinuing service, the agreements between the parties require that:

- Company A return to Company B \$150 of the \$250 satellite dish system and installation reimbursement made by Company B and the \$100 commission.
- The customer pay Company A \$100, in addition to the original \$49 the customer paid when it purchased the equipment and installation, in order to retain the satellite dish system.

What is the sales and use tax treatment of these transactions?

Answer 6: For the period in which the money is returned to Company B, Company A may claim a deduction on line 4 of its sales and use tax return (Form ST-12) for \$150 of the \$250 reimbursement it previously reported tax on when selling the satellite dish system and installation, provided the tax on that amount is returned to the customer. Also, the additional \$100 payment by the customer to Company A for the satellite dish system is subject to Wisconsin sales tax.