



Tax Releases

“Tax Releases” are designed to provide answers to the specific tax questions covered, based on the facts indicated. In situations where the facts vary from those given herein, the answers may not apply. Unless otherwise indicated, tax releases apply for all periods open to adjustment. All references to section numbers are to the Wisconsin Statutes unless otherwise noted.

The following tax release is included:

Sales and Use Taxes –

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SALES AND USE TAXES

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

1 Motor Vehicle Attachments

Statutes: Sections 77.51(9)(a), 77.54(3)(a), (5)(a), and (7)(a) and (b), and 77.61(1)(c), Wis. Stats. (1999-00)

Administrative Code: Section Tax 11.83(1)(b) and (4)(a), (August 1999 Register), Wis. Adm. Code

Background: Section 77.54(7)(a), Wis. Stats. (1999-00), provides a sales and use tax exemption for the occasional sale of tangible personal property. Section 77.54(7)(b), Wis. Stats. (1999-00), provides that the occasional sale exemption does not apply to the transfer of a motor vehicle, with certain exceptions.

Section 77.51(9)(a), Wis. Stats. (1999-00), states that “occasional sales” include:

“Isolated and sporadic sales of tangible personal property or taxable services where the infrequency, in relation to the other circumstances, ... support the

inference that the seller is not pursuing a vocation, occupation or business or a partial vocation or occupation or part-time business as a vendor of personal property or taxable services. No sale of any tangible personal property or taxable service may be deemed an occasional sale if at the time of such sale the seller holds or is required to hold a seller’s permit...”

Section Tax 11.83(1)(b), Wis. Adm. Code (August 1999 Register), defines “motor vehicle” to mean:

“...a self-propelled vehicle, such as an automobile, truck, truck-tractor or motorcycle, designed for and capable of transporting persons or property on a highway. In this section, ‘motor vehicle’ does not include a self-propelled vehicle which is not designed or used primarily for transportation of persons or property, and is only incidentally operated on a public highway, such as a farm tractor, snowmobile, fork lift truck or road machinery as defined in s. 340.01(52), Stats. ‘Motor vehicle’ does not include a vehicle which is not self-propelled, such as a trailer or semitrailer.”

Section 77.61(1)(c), Wis. Stats. (1999-00), provides that the purchaser of a motor vehicle registered or titled in Wisconsin, or required to be registered or titled in Wisconsin, that is purchased from a person who is not a Wisconsin motor vehicle dealer, shall file a sales tax return and pay the tax prior to registering or titling the motor vehicle.

Section 77.54(5)(a), Wis. Stats. (1999-00), provides an exemption from Wisconsin sales or use tax for:

“...aircraft, motor vehicles or truck bodies sold to persons who are not residents of this state and who will not use such aircraft, motor vehicles or trucks for which the truck bodies were made in this state otherwise than in the removal of such aircraft, motor vehicles or trucks from this state.”

Section Tax 11.83(4)(a), Wis. Adm. Code (August 1999 Register), further provides that truck bodies include semitrailers. However, the separate sale of a “slide-in” camper to a nonresident is taxable if delivery is in Wisconsin.

Section 77.54(3)(a), Wis. Stats. (1999-00), provides an exemption from Wisconsin sales or use tax for:

“...tractors and machines, including accessories, attachments and parts therefor, used exclusively and directly in the business of farming, including dairy farming, agriculture, horticulture, floriculture and custom farming services, but excluding automobiles, trucks, and other motor vehicles for highway use...”

Question: Does “motor vehicle,” as the term is used in Chapter 77 of the Wisconsin Statutes, include attachments mounted on a motor vehicle?

Answer: Attachments to motor vehicles, such as snowplow blades, cranes, truck toppers (with the exception of a truck topper for a specific make or model of a truck that is unlikely to be used on any other truck), and specialized trailer hitches (e.g., fifth-wheel hitches) are not within the definition of “motor vehicle.” Sales of such attachments are sales separate from the sale of the motor vehicle.

Example 1:

- Individual A, a Wisconsin resident, purchases a used truck, Truck B, from a private party (Individual C) for \$12,000.
- Individual C does not hold and is not required to hold a Wisconsin seller’s permit.
- A snowplow blade is attached to Truck B; however, the snowplow blade can be removed by Individual A (e.g., Individual A may choose to remove the snowplow blade during the summer months).
- The value of Truck B is \$10,000.
- The value of the snowplow blade is \$2,000.

Individual A is subject to Wisconsin use tax on \$10,000 (the purchase price of the truck only) when he registers Truck B with the Wisconsin Department of Transportation (“DOT”).

The snowplow blade is an attachment to the motor vehicle (i.e., Truck B) separate from the motor vehicle. The sale of the snowplow blade by Individual C to Individual A qualifies as an exempt occasional sale. Therefore, no sales or use tax is due on the \$2,000 portion of the \$12,000 selling price.

Example 2:

- Individual D, a Wisconsin resident, purchases a used truck, Truck E, from a private party (Individual F) for \$10,000.
- Individual F does not hold and is not required to hold a Wisconsin seller’s permit.
- Truck E has a custom topper that was installed on the truck by the manufacturer. The topper is made of fiberglass and is color-coordinated to exactly match the color of paint on Truck E. The custom topper is attached to Truck E with clips. It is unlikely that the topper will ever be used on any truck other than Truck E.
- The value of Truck E, excluding the topper, is \$9,000.
- The value of the topper is \$1,000.

Individual D is subject to Wisconsin use tax on the \$10,000 (the purchase price of the truck and topper) when she registers Truck E with DOT.

The custom truck topper is considered a part of the motor vehicle (i.e., Truck E). The occasional sale exemption does not apply.

Example 3:

- Individual G, a Wisconsin resident, purchases a used truck, Truck H, from a private party (Individual I) for \$10,000.
- Individual I does not hold and is not required to hold a Wisconsin seller’s permit.
- Truck H has a standard topper. The topper can be used on any truck that is similar in size to Truck H. The topper is attached to Truck H with clips.
- The value of Truck H, excluding the topper, is \$9,000.
- The value of the topper is \$1,000.

Individual G is subject to Wisconsin use tax on \$9,000 (the purchase price of the truck only) when he registers Truck H with DOT.

The standard truck topper is an attachment to the motor vehicle (i.e., Truck H) separate from the motor vehicle. The sale of the topper by Individual I to Individual G qualifies as an exempt occasional sale. Therefore, no sales or use tax is due on the \$1,000 portion of the \$10,000 selling price.

Example 4:

Individual J, a resident of Illinois, purchases a used truck, Truck K, from a Wisconsin motor vehicle dealer (Dealer L) for \$10,000.

- Individual J takes possession of Truck K in Wisconsin.
- Individual J will not use Truck K in Wisconsin other than in its removal from Wisconsin.
- Truck K has a standard topper. The topper can be used on any truck that is similar in size to Truck K. The topper is attached to Truck K with clips.
- The value of Truck K, excluding the topper, is \$9,000.
- The value of the topper is \$1,000.

Dealer L's sale of Truck K to Individual J (\$9,000) is an exempt sale under sec. 77.54(5)(a), Wis. Stats. (1999-00). Dealer L's sale of the topper (\$1,000) is taxable. The standard truck topper is an attachment to the motor vehicle (i.e., Truck K). Since the exemption for motor vehicles sold to nonresidents under sec. 77.54(5)(a), Wis. Stats. (1999-00), does not include attachments, Dealer L's sale of the topper is taxable.

Example 5:

- Individual M, a Wisconsin resident, purchases a used truck, Truck N, from Business O for \$10,000.
- Business O holds a Wisconsin seller's permit but is not a licensed motor vehicle dealer.
- Truck N has a standard topper. The topper can be used on any truck that is similar in size to Truck N. The topper is attached to Truck N with clips.
- The value of Truck N, excluding the topper, is \$9,000.

- The value of the topper is \$1,000.

Business O's sale of the truck to Individual M (\$9,000) is not subject to Wisconsin sales tax, because Business O is not a licensed dealer of motor vehicles as provided in sec. 77.61(1)(c), Wis. Stats. (1999-00). However, Individual M is subject to Wisconsin use tax on her purchase price of the truck when she registers Truck N with DOT.

Business O's sale of the topper to Individual M (\$1,000) is subject to Wisconsin sales tax.

Example 6:

- Farmer P, a Wisconsin resident who operates a farm in Wisconsin, purchases Truck Q from a Wisconsin motor vehicle dealer (Dealer R) for \$15,000.
- Truck Q is for highway use.
- Truck Q has an attached hydraulic conveyor. The attached hydraulic conveyor is a machine that will be used exclusively in Farmer P's farming business operations to harvest cob corn.
- The value of Truck Q, excluding the hydraulic conveyor, is \$11,000.
- The value of the conveyor is \$4,000.

Dealer R's sale of the hydraulic conveyor to Farmer P (\$4,000) is exempt from Wisconsin sales tax as a farm machine under sec. 77.54(3)(a), Wis. Stats. (1999-00), providing Farmer P gives Dealer R a properly completed exemption certificate claiming the farm machinery exemption. Dealer R's sale of the truck only (\$11,000) is subject to Wisconsin sales tax. The exemption under sec. 77.54(3)(a), Wis. Stats. (1999-00), does not apply to motor vehicles for highway use. [☞](#)