



Sales & Income
TAX ADVISORY NETWORK

WI Sales & Use Tax - Campgrounds

Presented by Holly Hoffman, CEO

Sales and Income Tax Advisory Network



Services we offer:

- *Sales and Use Tax Advisory Services*
 - *Audit Defense*
 - *Multi-State Nexus and Taxability Review*
 - *Training*
 - *Webinars*
 - *Seminars*
 - *Custom Training*
- *Advisors Network and Alliance Memberships*
 - *Tax Advisors Support Network*
 - *Association Alliance Membership*
 - *Business Alliance Membership*



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Summary

- 1. Sales and Use Tax*
- 2. Real vs. Personal Property*
- 3. Admissions to Recreational Activities vs. Equipment Rentals*
- 4. Campground Purchases*
- 5. Exemption Certificates*
- 6. Assessing Audit Risk*
- 7. Resources*



1. Sales and Use tax

- *Definition of Sales and Use Tax*
- *Sales Price/Purchase Price*
- *What is Taxable?*
- *When and Where a Sale Occurs*



Sales and Use Tax

Definition of Sales and Use Tax

- *Sales Tax:*

*5% tax imposed on the **sales price** of sales, leases, licenses, and rentals of taxable products in Wisconsin*

- *Use Tax:*

*5% tax imposed on the **purchase price** of sales, leases, licenses, and rentals of taxable products that are stored, used, or consumed in Wisconsin upon which a Wisconsin sales or use tax has not previously been paid*



Sales and Use Tax

- *Sales Price/Purchase Price*

*If an item is subject to tax, certain charges related to that item are also subject to tax (**included**) or are not subject to tax (**excluded**)*

***Included:** seller's costs, fees necessary to complete the sale, delivery charges*

***Excluded:** discounts/coupons not reimbursed by a 3rd party, separately stated financing and interest charges*



Sales and Use Tax

- *What Is Taxable?*
 - *Tangible personal property*
 - *Firewood*
 - *Electricity*
 - *Equipment rentals*
 - *Certain leased tangible personal property affixed to real property*
 - *Certain digital goods*
 - *See Publication 240*
 - *Specified services*
 - *Landscaping*
 - *Admissions to campgrounds*
 - *Lodging services*
 - *Amusement devices*
 - *Parking*
 - *Boat docking*



Sales and Use Tax

- *When a Sale Occurs*
 - *A sale of tangible personal property takes place when possession transfers*
 - *A sale of a service generally takes place when the service occurs or at first use in Wisconsin*
 - *A sale of admission occurs when the retailer agrees to sell the admission to the customer*
- *Sales & Use Tax is reported based on accrual basis*
 - *Tax is remitted in the period that the sale occurs, it does not matter when payment is received*



Sales and Use Tax

- *Tax Rates*
 - *State Tax – 5%*
 - *County Tax – 0.5%*
 - *Baseball Stadium District Tax – 0.1% (ends 3/31/2020)*
 - *Local Food and Beverage Tax – 0.5%*
 - *Premier Resort Area Tax – 0.5% or 1.25%*



Sales and Use Tax

- *Tax Rate Changes*
 - *0.5% county tax adopted in Outagamie County*
 - *January 1, 2020*
 - *0.5% county tax adopted in Menominee County*
 - *April 1, 2020*
 - *0.1% baseball stadium tax ends March 31, 2020*
 - *in Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties*



2. Real vs. personal property

- *Personal Property*
- *Real Property*
- *Install vs. Repair*
- *Residential vs. Commercial*



Real Vs. Personal Property

- *Is the Contractor Providing:*
 - *Sales of Taxable Products and Services – Tangible Personal Property (TPP or P), or*
 - *A Real Property Construction Activity (RE)?*
- *WI Publication 207, Sales and Use Tax Information for Contractors*
 - *Appendix A: Chart to help distinguish tangible personal property from real property*



Real Vs. Personal Property

- Chart – [Publication 207](#), Sales and Use Tax Information for Contractors, Appendix A

Item	Residential		Commercial			
	Install (1)	Repair (2)	Real Estate Function Install (3)	Repair (4)	Process Function Install (5)	Repair (6)
Air Conditioners-Central	RE	P	RE	P	P	P
Air Conditioners-Window	P	P	P	P	P	P
Air Curtains	RE	RE	RE	RE	N/A	N/A
Air Ducts (general ventilation)	RE	RE	RE	RE	N/A	N/A
Antennas (portable)	P	P	N/A	N/A	P	P
Antennas (roof mounted – not satellite dish)	RE	P	N/A	N/A	P	P
Athletic and Gym Equipment	RE	P	N/A	N/A	P	P
Awnings	RE	P	RE	P	P	P
Bar Equipment	RE	P	N/A	N/A	P	P
Bathroom Fixtures (includes bathtub, sink, toilet, faucets, cabinets, mirror, exhaust fan, towel bars, toilet paper holder)	RE	P	RE	P	N/A	N/A
Boilers	RE	P	RE	P	P	P
Bridges	RE	RE	RE	RE	N/A	N/A
Broadcasting Towers (on leased land)	N/A	N/A	P	P	P	P
Broadcasting Towers (on own land)	N/A	N/A	RE	RE	RE	RE
Buildings	RE	RE	RE	RE	N/A	N/A
Buildings Sold for Removal	P	N/A	P	N/A	N/A	N/A
Burglar Alarm Fixtures (prevent unauthor- ized access to building or room)	RE	P	RE	P	N/A	N/A



Real Vs. Personal Property

Personal Property (P)

- *Contractor is the Retailer of materials and services*
 - *Contractor charges customer sales tax on entire amount billed to campground ("sales price" includes labor and materials)*
 - *Contractor purchases materials physically transferred to campground without tax, for resale*
- *Campground pays tax on materials purchased without installation (e.g., campground employee installs materials)*



Sale of Taxable Products and Services

- *Selling materials without installation*
- *Repairing personal property*
- *General voice and data wiring in non-residential buildings*
- *Installing business process function items*
- *Landscaping or lawn maintenance services*
 - *Specifically identified taxable service*



Real Vs. Personal Property

Real Property (RE)

- *Contractor is Consumer of materials used in providing real property construction activities*
 - *Contractor pays sales or use tax on the cost of materials used*
 - *Contractor does not charge campground sales tax*
- *Campground pays tax on purchase of materials without installation (campground employee installs)*



Real Property Construction Activities

- *Includes installation and repair of real property*
 - *Constructing walls, ceilings, and floors*
 - *General electrical wiring and lighting*
 - *Installing central heating and air conditioning*
 - *Installing plumbing and fixtures*
 - *Land improvements (e.g., roads, bridges, retaining walls, etc.)*



Real Vs. Personal Property

- *Residential Vs. Commercial Facilities*
 - *Residential Facility – Includes all structures or parts of structures that provide **permanent** living space for people*
 - *Includes common spaces open to residents*
 - *Commercial Facility – All property not classified as Residential*
 - *Building Function*
 - *Process Function*



Real Vs. Personal Property

- *Commercial Facility*
 - *Building Function*
 - *Item serves a real estate or building function*
 - *Real property*
 - *Bathrooms, breakrooms, custodial closets serve a building function*
 - *Process Function*
 - *Item serves a process function (e.g., manufacturing, farming, fabricating, retailing, etc.)*
 - *Personal property*



Real Vs. Personal Property

Install vs. Repair

- *Install*
 - *First-time installation*
 - *Complete replacement of existing item*
- *Repair*
 - *Means repairing an existing item, including the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of a listed item*



Real Vs. Personal Property

- *Personal Property Installed...*
 - *An item that is personal property when installed, is personal property when repaired*



Real Vs. Personal Property

Real Property Installed...

- *An item that is real property when installed is real property when repaired.*
- *EXCEPTION -Certain property may be real property when installed, but treated as personal property when repaired.*
 - *Use the chart from WI DOR Pub 207 to determine tax treatment*
 - *Furnaces/air conditioners*
 - *Water heater*
 - *Swimming pool*



3. Sales of recreational activities vs. equipment rentals



Admissions to Recreational Activities

- *Sales of admissions to amusement or recreational activities are taxable*
 - *Campground admission*
 - *Cover charge*
 - *Amusement devices (gaming machines)*
 - *Admission to mini-golf or laser tag*
- *Purchases of supplies used in providing activities are taxable (may NOT purchase without tax, for resale)*
 - *Tickets/wristbands*
 - *Gaming machines*
 - *Laser tag equipment*
 - *Golf clubs, balls, scorecards, etc.*



Equipment Rentals

- *Sales of equipment rentals are taxable*
 - *ATV rental*
 - *Boat rental*
- *Purchases of property used exclusively for rental or resale may be purchased without tax, for resale*
 - *ATV*
 - *Boat*

**Cannot be used in a taxable manner (e.g., by the business)*



4. Campground purchases



Campground Purchases

Use tax is the most common audit adjustment

- *Purchases of equipment & supplies*
 - *Resale or consumed by campground?*
- *Purchase of motor vehicles*
 - *Tax due where customarily kept*
- *Purchase of materials used for improvements*
 - *Materials without installation are taxable*
 - *Contractor providing real property or personal property?*



5. Exemption certificates

- *Acceptable Certificates*
- *90 Days...*
- *Fully Completed*
- *Good Faith*



Exemption Certificates

- *Acceptable Exemption Certificates include:*
 - *WI Sales & Use Tax Exemption Certificate, Form S-211 or [S-211E](#)*
 - *Streamlined Sales and Use Tax Agreement Certificate of Exemption – Wisconsin, Form S-211-SST*
 - *Certificate of Exempt Status issued by DOR*



Exemption Certificates

Electronic Wisconsin Sales and Use Tax Exemption Certificate

You may use the electronic certificate (S-211E) to claim an exemption from Wisconsin state, county, baseball stadium, local exposition, and premier resort sales or use taxes. Fully complete the information in tabs 1 through 4 before providing your vendor with an electronic copy of the certificate or a printed and signed copy. Do not send this form to the Department of Revenue (DOR). Exemption certificate instructions can be found here: [S-211 Instructions](#).

For questions or assistance, please contact DOR Customer Service Bureau at (608) 266-2776 or DORSalesandUse@wisconsin.gov.

1. Purchaser's Information

2. Seller's Information

3. Acknowledgement

4. Exemptions

Purchaser's Name

Type of Business

Select...



Address

City

State

Zip Code



Exemption Certificates

1. Purchaser's Information

2. Seller's Information

3. Acknowledgement

4. Exemptions

Select the reason for exemption from the list below.

Search Exemptions (Type at least 3 characters)

☐ Resale

☐ Aircraft

☐ Aircraft - Nonresident

☐ Biomass - Residential Use

☐ Blood Sugar Testing Supplies

☐ Clay Pigeons to Shooting Facility

☐ Commercial Vessels and Barges

☐ Common Carrier

☐ Construction - Building Materials for Contracts with Exempt Entities

☐ Construction - Construction Contract Exemption

☐ Construction - Electronic and Information Technology Manufacturing Zone



Exemption Certificates

Wisconsin Sales and Use Tax Exemption Certificate		Form S-211E	
<small>Do not send this certificate to the Department of Revenue</small>			
Purchaser: Complete this certificate and give it to the seller.			
Seller: If this certificate is not fully completed, you must charge sales tax. Keep this certificate as part of your records.			
Check One <input checked="" type="checkbox"/> Single Purchase <input type="checkbox"/> Continuous			
Purchaser Information			
Purchaser's Business Name		Purchaser's Type of Business Select...	
Business Address	City	State	Zip Code
Purchaser's Tax ID Number		State of Issue	
If no Tax ID Number, enter one of the following:	FEIN	Driver's License Number/State Issued ID Number and State of Issue	
Seller Information			
Seller's Name			
Seller's Address	City	State	Zip Code
Reason for Exemption			
<p>[X] Construction - Building Materials for Contracts with Exempt Entities - Property sold to a construction contractor who, in fulfillment of a real property construction activity, transfers the property to a qualifying exempt entity described in sec. 77.54(9a)(b), (c), (d), (em), (f), (fc), or (9g), Wis. Stats., if the property becomes part of a facility in Wisconsin that is owned by the qualifying exempt entity. Section 77.54(9m), Wis. Stats.</p> <p>[X] Construction - Construction Contract Exemption - Products sold to a prime contractor by a subcontractor as part of a construction contract, if the total amount of all real property construction activities in the prime contractor's construction contract is more than 90 percent of the total amount of the construction contract. The subcontractor must pay tax on its purchase of all products that the subcontractor uses in the construction contract and cannot buy the products without tax for resale. Section 77.54(60)(b), Wis. Stats.</p>			
<small>I declare that the information provided is complete and accurate to the best of my knowledge, and that the product(s) purchased will be used in the exempt manner indicated. If a product is not used in an exempt manner, I will remit use tax on the purchase price at the time of first taxable use. I understand that failure to remit the use tax may result in a future liability, including tax, interest, and penalty.</small>			
<small>CAUTION: Using this certificate to avoid paying sales tax may result in a fine of \$250 for each transaction for which the certificate is used.</small>			
Signature of Purchaser	Print or Type Name	Title	Date

S-211E (Rev. 10-18) 01/04/2018 Wisconsin Department of Revenue

WI Sales & Use Tax Electronic Exemption Certificate, *S-211E*



Exemption Certificates

90 Days...

- *All sales of taxable products are considered taxable, until the contrary is established.*
- *Seller is relieved of liability for the tax if the seller obtains and retains:*
 - *Fully completed exemption certificate prior to or within 90 days after the date of the sale*
 - *This must indicate that the purchaser will use the property or service in a manner that is exempt from WI sales and use tax*



Exemption Certificates

Purchaser's Responsibilities:

- Know if you qualify for an exemption*
- Complete an exemption certificate and give it to the seller at the time of purchase*
- Is liable for any use tax, interest and penalties that might be due if the items purchased are not eligible for an exemption*



Exemption Certificates

Fully Completed

- *A fully completed exemption certificate contains the following information:*
 - *Purchaser's name and address;*
 - *Type of business;*
 - *Reason(s) for exemption;*
 - *ID number required by the state where the sale takes place; and*
 - *If paper is used, signature of the purchaser*
 - *(Dated to substantiate the 90 day requirement)*



Exemption Certificates

Good Faith...

- When the seller does not receive an exemption certificate within 90 days of the sale, the seller must apply good faith in obtaining the exemption certificate from its customer.*



6. Assessing Audit Risk

- *Reporting*
- *Internal Controls*
- *Banking*
- *Record Keeping*



Assessing Audit Risk

Reporting...

- *Not registered for a seller's permit (when required)*
- *Reporting errors*
- *Not amending WI returns after IRS audit*
- *Assume accountant is properly preparing S/U Tax return*



Assessing Audit Risk

Internal Controls...

- *Established procedures*
- *Consistency*
- *Training staff*



Assessing Audit Risk

Banking...

- *Mingling sales tax collected with income*
- *Spending sales tax collected*
- *Business paying personal credit cards*



Assessing Audit Risk

Record Keeping...

- *Returns and workpapers*
- *Sales records*
- *Exemption certificates*
- *Purchase invoices*



7. Contractor resources



Contractor Resources

Wisconsin Department of Revenue

Publications:

- [*Publication 239: Campgrounds*](#)
- [*Publication 207: Contractors*](#)
- [*Publication 210: Landscaping Services*](#)

Electronic Mailing Lists:

- *Subscribe to [DOR E-News](#) "Sales & Use Tax" mailing list*



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