

Important Changes

- Sheboygan County tax begins January 1, 2017
- Kewaunee County tax begins April 1, 2017
- Brown County football stadium tax ended September 30, 2015

Sales and Use Tax Information for Contractors

Table of Contents

	Page		Page
I. INTRODUCTION.....	3	F. Construction Contracts on Native American Reservations.....	26
A. General.....	3	V. OTHER ITEMS RELATED TO BUSINESS OPERATIONS OF CONTRACTORS	27
B. Difference Between the Wisconsin Sales and Use Tax.....	3	A. Purchases of Materials – Personal Property	27
C. Which Sales Are Subject to Sales and Use Taxes?.....	4	B. Purchases of Materials – Real Property.....	27
D. Tax Rate.....	4	C. When a Contractor Is Both a Consumer and a Retailer.....	28
E. Registration.....	5	D. Purchases of Construction Information Transferred Electronically.....	28
F. Filing Tax Returns and Payment of Tax.....	5	E. Purchases or Rentals of Machinery and Equipment	29
II. CONTRACTORS MUST DISTINGUISH BETWEEN REAL PROPERTY AND PERSONAL PROPERTY ACTIVITIES	6	F. Service vs. Rental	29
A. Why?.....	6	G. Motor Vehicle Fuel or Alternate Fuel Excise Tax Refunds.....	30
B. Contractor As a Retailer	6	H. Sales of Used Equipment.....	30
C. Contractor As a Consumer.....	10	I. Credit for Tax Paid to Another State	30
D. Contractor May Act As Both Retailer and Consumer on Same Job	12	J. Contractor Erroneously Charged Tax on Real Property Construction Activity	31
III. EXCEPTIONS TO PART II.....	16	VI. RECORD KEEPING.....	31
A. Property Deemed Personal Property for Repair and Maintenance Purposes.....	16	A. General	31
B. Landscaping and Lawn Maintenance Services.....	17	B. Records to Keep – Exempt Sales.....	31
C. Waste Treatment Facilities	18	C. Contractor’s Invoices to Its Customers.....	32
D. Professional Sports and Entertainment Home Stadiums	19	VII. OTHER TAXES AND FEES TO BE AWARE OF.....	33
E. Manufactured and Modular Homes Used in Real Property Construction Activities Outside Wisconsin.....	20	VIII. ANY QUESTIONS?.....	34
F. Renewable Energy Products	20	APPENDIX I – CHART TO AID IN DISTINGUISHING REAL VS. PERSONAL PROPERTY ACTIVITIES	35
IV. SPECIAL SITUATIONS.....	21	APPENDIX II – WISCONSIN SALES AND USE TAX TREATMENT OF SECURITY AND RELATED SYSTEMS.....	41
A. Real Property Construction Contracts With Exempt Entities.....	21	APPENDIX III – COUNTIES THAT HAVE ADOPTED THE 0.5% COUNTY SALES AND USE TAX AND THE EFFECTIVE DATES	42
B. General Contractors and Subcontractors	22		
C. County Use Tax on Construction Materials.....	22		
D. Stadium Use Tax on Construction Materials.....	24		
E. Quarries/Gravel, Etc.	25		

IMPORTANT CHANGES

- **Exemption for Taxable Products Sold in a Lump-Sum Contract for Real Property Construction.** Effective for contracts entered into on and after October 1, 2013, an exemption applies to a contractor's sale of taxable products sold in a lump-sum contract for real property construction if the selling price of the taxable products is less than 10% of the total contract price. The contractor is deemed the consumer of the taxable products sold, unless sold to an exempt entity. See Part II.D.3., beginning on page 14.
- **Purchases of Construction Information Transferred Electronically.** Information has been added regarding the tax treatment of purchases by contractors of construction project information such as new construction projects available for the contractor to bid on and projects plans and specifications, where the contractor accesses or obtains this information electronically. See Part V.D., on page 28, for additional information.
- **Renewable Energy Products.** Information has been added relating to an exemption for a contractor's purchases of products whose power source is wind energy, direct radiant energy received from the sun, or gas generated from the anaerobic digestion of animal manure and other agricultural waste. See Part III.F. on page 20.
- **Security and Burglar and Fire Alarm Systems.** A chart has been added which summarizes the Wisconsin sales and use tax treatment for the sales, installation, and maintenance and repair of security and burglar and fire alarm systems. See Appendix II on page 41.

I. INTRODUCTION**A. General**

This publication provides general information about the Wisconsin state, county, and stadium sales and use taxes as they affect contractors. It explains how the sales tax applies to the contractor's receipts when the contractor acts as a retailer. It also explains how the sales or use tax applies to a contractor's purchas-

es when the contractor acts as a consumer. Examples are included in Part V. to clarify when a contractor's sales and purchases are subject to the tax. Parts IV.C. and D. and Appendix III contain information about the county and stadium taxes. Additional information about the county and stadium taxes can also be found in [Publication 201](#), which is available from any Department of Revenue office, or from the department's website.

If, after reading this publication you have questions about sales and use taxes, you may contact any Department of Revenue office for free assistance. (See Part VIII. for information on how to contact the department.)

CAUTION

- The information in this publication reflects the position of the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature and in effect as of January 1, 2014. Laws enacted and in effect after that date, new administrative rules, and court decisions may change the interpretations in this publication.
- The examples and lists of taxable and non-taxable sales and purchases are not all-inclusive. They merely set forth common examples.

B. Difference Between the Wisconsin Sales and Use Tax

Sales Tax: The Wisconsin sales tax is a 5% tax imposed on the sales price of persons who sell, license, lease, or rent tangible personal property; items, property and goods listed in Part I.C.2. to 4.; or taxable services at retail in Wisconsin. Generally, a sale of such property, items, goods, and services is at retail unless the buyer purchases the property, item, good, or service for the purpose of reselling it.

When sales tax is imposed on taxable services, both material and labor charges are subject to the tax. For example, the charges for both labor and parts for repairing a window air conditioner are taxable.

A contractor's charges for improvements to real estate are not subject to sales tax on either materials or labor. However, in most instances, the contractor

must pay sales or use tax on the cost of materials consumed in making the real property improvements.

The contractor must determine whether its charges are for real estate improvements (nontaxable); for tangible personal property or items, property, or goods described in Part I.C.2. to 4. (taxable); or for taxable services. This is explained in greater detail in Part II. of this publication.

Use Tax: The Wisconsin use tax is a 5% tax generally imposed on the purchase price of tangible personal property; items, property, and goods listed in Part I.C.2. to 4.; and taxable services that are stored, used, or otherwise consumed in Wisconsin, and upon which a Wisconsin sales or use tax has not previously been paid.

Example 1: The use tax is imposed upon a purchaser when property is purchased without tax for resale, but then is used by the purchaser instead of, or in addition to, being resold.

Example 2: The use tax is imposed upon a purchaser when property is purchased from an in-state or out-of-state seller, no Wisconsin tax is charged by the seller, and the property is consumed by the purchaser in a real property construction activity in Wisconsin.

Example 3: The use tax is imposed upon a purchaser when property is purchased from an in-state or out-of-state seller, no Wisconsin tax is charged by the seller, and the property is stored in Wisconsin, even though it is subsequently consumed by the purchaser in a real property construction activity outside Wisconsin. (**Exception:** Effective September 1, 2011, an exemption applies for the sales of and the storage, use, or other consumption of modular homes and manufactured homes that are used in real property construction activities outside Wisconsin.) (**Note:** If an activity performed outside Wisconsin is not considered a real property construction activity under Wisconsin law, the purchaser will not owe Wisconsin use tax on the materials used in this activity. However, the purchaser may owe sales or use tax to the state in which the activity is performed.)

C. Which Sales Are Subject to Sales and Use Taxes?

Sales, licenses, leases, and rentals of the following property, items, and goods are subject to the 5% Wisconsin state sales tax:

1. Tangible personal property;
2. Coins or stamps of the United States that are sold, licensed, leased, rented, or traded as collector's items above their face value;
3. Leased property that is affixed to real property, if the lessor has the right to remove the leased property upon breach or termination of the lease agreement, unless the lessor of the leased property is also the lessor of the real property to which the leased property is affixed;
4. Specified digital goods, additional digital goods, and digital codes. These digital goods are characterized by the fact that they are transferred electronically to the purchaser (i.e., accessed or obtained by the purchaser by means other than tangible storage media). "Specified digital goods" means "digital audio works," "digital audiovisual works," and "digital books." "Additional digital goods" means greeting cards, finished artwork, periodicals, video or electronic games, and newspapers or other news or information products.

See [Publication 240](#) for a description of the products that are included.

In addition, certain services are subject to Wisconsin sales and use taxes. For a list of taxable services, see Part X.B. of [Publication 201](#).

As used throughout this publication, the terms "items, property, and goods," "items, property, or goods," or "item, property, or good," refers to the property, items, and goods described in Part I.C.1. to 4.

As used throughout this publication, the term "digital goods" refers collectively to products listed in Part I.C.4.

D. Tax Rate

The tax rate of 5% applies for both the Wisconsin state sales tax and use tax. The sales tax is based upon the sales price from retail sales. The use tax is based upon the purchase price of the property, item, good, or service purchased. In counties which have adopted the county tax (see Appendix III for a list of these counties), the tax rate is 5.5% (5% state tax and 0.5% county tax). In counties where the baseball stadium tax applies, the tax rate is 5.1% (or 5.6% if both county tax and the baseball stadium tax apply).

If the sale is subject to the 0.5% football stadium tax, the tax rate is 5.5% (5% state tax and 0.5% football stadium tax).

E. Registration

1. Seller's Permit

Every individual, partnership, corporation, or other organization making taxable sales in Wisconsin, regardless of whether its sales are mercantile in nature, is required to have a seller's permit. The seller's permit shows that a retailer is properly registered with the Department of Revenue, as required by law. It is a misdemeanor to make taxable sales of property, items, goods, or services without a seller's permit. See Part III of [Publication 201](#) for additional information relating to seller's permit requirements for disregarded entities.

2. Use Tax Registration

- If a contractor is not required to hold a seller's permit, but regularly has a use tax obligation because purchases are made without tax, the contractor should apply for a consumer's use tax certificate.
- Contractors from other states whose only activity in Wisconsin is real property construction also must obtain a consumer's use tax certificate.
- Contractors from other states engaged in both real property construction activities and the sale, installation, repair, or other service of tangible personal property; items, property, and goods described in Part I.C.2. to 4.; and taxable services in Wisconsin must obtain a use tax certificate.

3. Application

A person may apply for a seller's permit or one of the use tax certificates described in 2. above using one of the following methods:

- Use the Department of Revenue's online [Business Tax Registration Process](#) to submit the application electronically.
- Register through the [Streamlined Sales Tax Governing Board's](#) website.

- Complete [Form BTR-101](#), *Application for Business Tax Registration*, and mail it to the Department of Revenue. Keep a copy of the completed application for your records.

You should apply for a seller's permit at least three weeks before your business operations begin.

4. Business Tax Registration Fees

Persons applying for a seller's permit or use tax certificate may be required to pay a Business Tax Registration (BTR) fee of \$20. The \$20 BTR fee is not required for a consumer's use tax certificate. The initial BTR fee covers a period of two years. At the end of that period, a \$10 BTR renewal fee applies. The Department of Revenue will send a renewal notice. Note: The renewal fee applies to all persons holding permits or certificates subject to BTR provisions, except certain retailers who voluntarily registered through the [Streamlined Sales Tax Governing Board's website](#).

F. Filing Tax Returns and Payment of Tax

Every holder of a Seller's Permit, Use Tax Certificate, or Consumer's Use Tax Certificate must file a return for each reporting period, even if no tax is due for that period. A reporting period may be monthly, quarterly, or annually, depending on the person's annual tax liability. The Department of Revenue will notify each person of their reporting period and the due date for filing returns.

The law requires that sales and use tax returns be filed electronically. Wisconsin sales and use tax returns should be filed using one of the following electronic filing methods:

1. My Tax Account

[My Tax Account](#) is a free, secure online application that allows you to file and pay your sales and use taxes electronically. It performs the necessary computations of tax based on information that you enter and allows you to make your tax payment via electronic funds transfer, credit card or paper check. [My Tax Account](#) also allows you to:

- View business tax filing and payment history and identify any tax periods that need attention.
- Change your address, obtain an extension to file a return or inactivate your account.
- File a buyer's claim for refund of sales tax paid to a seller in error.
- Appeal adjustment notices.

To use [My Tax Account](#), you must obtain a logon ID and password from the Department of Revenue. Go to the [My Tax Account Commonly Asked Questions](#) on the Department of Revenue's website for more information, including how to obtain your logon ID and password.

2. Sales TeleFile

You can file your Wisconsin sales and use tax return with any touch-tone telephone using [TeleFile](#). This program accepts four payment types: Direct withdrawal from your checking or savings account (only available during the call in which you file your return); credit card, check, or money order. To use [TeleFile](#), obtain a Sales TeleFile [Worksheet and Payment Voucher](#) from the Department of Revenue's website. When you have completed the worksheet, call (608) 261-5340 (Madison number) or (414) 227-3895 (Milwaukee number) to actually file your return.

3. eFile Transmission

This program is a service for taxpayers using approved private vendors' software or who have the technical expertise to create a file in XML format. eFile transmission places return data into a file format that can be directly processed into the Department of Revenue system. Using secure transmission over the Internet you can submit a payment at the same time that you file your return using ACH debit or ACH credit. You will receive an email acknowledgement to confirm receipt of a successful file transmission. Information about file transmission can be found on the Department of Revenue's website at revenue.wi.gov/eserv/eftgen.html.

If you have questions about electronic filing or payments, contact the department by writing to Wisconsin Department of Revenue, Electronic Funds

Transfer Assistance, Mail Stop 3-80, PO Box 8946, Madison, WI 53708-8946; calling (608) 266-2776; or emailing at DORSalesBusinessTaxandWithholding@revenue.wi.gov.

II. CONTRACTORS MUST DISTINGUISH BETWEEN REAL PROPERTY AND PERSONAL PROPERTY ACTIVITIES

A. Why?

In order to comply with Wisconsin's sales and use tax laws, a contractor must first determine whether it is:

1. Selling or servicing tangible personal property or items, property, and goods described in Part I.C.2. to 4., or
2. Engaging in real property construction activities.

The contractor's sales and purchases are taxed differently under each of these two situations.

B. Contractor As a Retailer

1. When Is a Contractor a Retailer?

A contractor is a *retailer* when:

- a. Selling or servicing tangible personal property.
- b. Installing tangible personal property which remains tangible personal property after installation.
- c. Performing services to items that are ordinarily considered real property, but are deemed to have retained their character as tangible personal property for repair and maintenance purposes ([sec. 77.52\(2\)\(a\)10, Wis. Stats.](#)).
- d. Performing other taxable services such as landscaping services.
- e. Installing property under Part I.C.2.
- f. Selling or servicing items, property, or goods described in Part I.C.2. to 4.

If a contractor is a retailer, it must obtain a seller's permit, file tax returns ([Form ST-12](#)), and pay the sales tax on its **sales price** from the retail sale of tangible personal property, property, items or goods, or taxable services unless an exemption applies.

Example: A contractor repairs a furnace in a customer's residence for \$100. The \$100 is made up of \$25 for parts, \$50 to install the parts and \$25 for travelling to the customer's location. The entire \$100 is subject to sales tax as the contractor's sales price from this transaction.

Note: The term "sales price" also includes other charges made by a contractor which the contractor separately states on their invoices to their customer, such as fuel surcharges, service call charges, truck charges, emergency service charges, mileage charges, etc.

2. Purchases by a Contractor Who Is a Retailer.

A contractor may **purchase** without sales or use tax the tangible personal property or items, property, and goods described in Part I.C.2. to 4. that are either sold or physically transferred to the customer in the installation, repair, or servicing of tangible personal property or items, property, and goods described in Part I.C.2. to 4. This is done by providing a fully completed Wisconsin Sales and Use Tax Exemption Certificate ([Form S-211](#)) or Streamlined Sales and Use Tax - Wisconsin Certificate of Exemption ([Form S-211-SST](#)), claiming resale to the supplier of such property, item, or good. When the contractor resells it or transfers it in such repair or service, the contractor must report the sale on its return and is liable for sales tax based on the sales price charged to the customer, unless an exemption applies.

Example: A contractor purchases furnace parts which will be used in repairing furnaces in residences. The parts will be physically transferred to the customer. These parts may be purchased from the supplier without tax by giving the supplier a fully completed exemption certificate claiming resale. **Note:** The contractor must pay tax on its purchases of any property, item, or good used in completing this service if that property, item, or good is not sold and physically transferred to the customer. This would include

items such as cleaning solutions and rags the contractor uses while performing the repair service.

3. Examples – Contractor As a Retailer

Listed below are examples of when a contractor is a retailer and should charge tax, unless an exemption applies.

- a. Selling lumber, roofing materials or other tangible personal property, without installation.
- b. Repairing, servicing, altering, fitting, cleaning, painting, coating, towing, inspecting, and maintaining tangible personal property.
- c. Repairing, servicing, altering, fitting, cleaning, painting, coating, towing, inspecting and maintaining property that is considered to retain its character as tangible personal property after installation, regardless of the extent to which any such item is fastened to, connected with, or built into real property, and regardless of whether such property is considered to be real property for other purposes (secs. [77.52\(2\)\(a\)10](#), and [\(ag\)](#), Wis. Stats.). See Part III.A. for a description of such property.
- d. Performing landscaping and lawn maintenance services, including landscape planning and counseling, and lawn and garden services such as planting, mowing, spraying, fertilizing, and shrub and tree services. See Part III.B. and [Publication 210](#) for additional information regarding landscaping and lawn maintenance services.
- e. Selling or installing property which remains personal property after installation. This includes:

Acoustical panels used as office partitions, which are not attached to the walls, floor, or ceiling of the building (i.e., they are free-standing).

Above ground fuel storage tanks fabricated in a factory and transported to a job site as an assembled tank.

Air handling equipment, including blowers, dust collectors, exhaust equipment, and air washers, used directly with a single machine or a specific process such as paint spraying or welding.

Amusement rides and recreational equipment, including giant amusement slides, ski lift equipment, water rides, and space towers. **Note:** The concrete foundations for these items are real property improvements and the contractor installing the foundation is the consumer of the materials used in installing and constructing the foundation. In addition, steel support beams that hold up fiberglass water slide flumes are also real property improvements, pursuant to the Wisconsin Tax Appeals Commission decision in *Chula Vista, Inc. v. Wisconsin Department of Revenue*, dated August 5, 2011 (CCH 401-463).

Catwalks and platforms providing access to a machine or equipment.

Communication equipment in offices, business facilities, schools, and hospitals (but not in residential facilities including personal residences, apartments, long-term care facilities, as defined under sec. 16.009(1)(em), Wis. Stats., state institutions, as defined under sec. 101.123(1)(i), Wis. Stats., Type 1 secured correctional facilities, as defined in sec. 938.02(19), Wis. Stats., or similar facilities), including:

- intercoms and sound paging systems
- pneumatic tube systems
- telephone and other communication equipment
- music and sound equipment
- public address systems
- nurse call systems
- cable television (CATV) dishes and accessories. **Note:** Compact satellite dishes are tangible personal property when installed in a residence, apartment, long-term care facility, etc.
- Roof mounted antennas

- Computer, communication and data cabling

Concrete provided to contractors at the job site which merely requires delivery, whether to separate receptacles or forms.

Equipment for the wind generation of electricity by a business, except for the concrete foundations.

Fabrication of precast steel piling by a fabricator, who delivers it to the job site, where it is placed by another contractor.

Farm irrigation systems, including pumps, power units to drive the pumps, transmission units, sprinkler devices, and sectional piping. (This does not apply to underground installations at a golf course or other non-farm locations.)

Furniture, radios, television sets, portable antennas, compact satellite dishes, washers, dryers, portable lamps, home freezers, portable appliances, and window air conditioning units.

Materials handling equipment, including storage rack systems installed for business use, except foundation and supports to the building.

Office, bank, and savings and loan furniture and equipment, including office machines, safe deposit boxes, drive-up and walk-up windows, night depository equipment, remote TV auto teller systems, camera security equipment monitoring business activity within a building, and vault doors.

Personal property used to carry on a trade or business, including fixtures and equipment installed in stores, factories, laboratories, schools, hospitals, taverns, night clubs, restaurants, ice arenas, bowling centers, hotels and motels, barber and beauty shops, figure salons, theaters, and gasoline service stations but not in residential facilities including personal residences, apartments, long-term care facilities, as defined under sec. 16.009(1)(em), Wis. Stats., prisons, mental health institutes as defined in

sec. 51.01(3), Wis. Stats., Type 1 juvenile correctional facilities, as defined in sec. 938.02(19), Wis. Stats., or similar facilities). This includes:

- cabinets not affixed to real estate and cabinets affixed to real estate in a doctor's office, motel room, office building, or other business operation which are used to carry on the trade or business. However, affixed cabinets in public restrooms, janitor closets and employee break rooms are not considered tangible personal property when installed because they are not used to carry on a trade or business.
- counters, refrigerated display cases, and condensing units, shelving, and registers in a retail store
- theater's stage lights, projection equipment, and seating
- hoists, gasoline dispensers, car wash equipment, air compressors, and above ground product tanks at a service station (underground product tanks are realty improvements, but the fill pipe, submersible pump, spill container and piping carrying the gas from the tank to the dispenser are personal property)
- radio, television, telecommunications and CATV broadcasting or receiving towers constructed of steel and anchored to a concrete base on leased land

School equipment, including:

- factory prefab chalk or tack boards
- folding bleachers in a gymnasium, even if affixed to the wall
- portable bleachers
- library tables, desks, shelving, and counters
- classroom tables, desks, and chairs
- fixed seats, or seats and tables for auditoriums and lecture rooms
- cabinets for art, home economic, and music rooms
- trophy and display cases

- movable wardrobes and lockers
- portable coat racks
- gym equipment, including basketball backboards
- food service equipment
- stage equipment
- drapery and drapery tracks

Seasonal boat docks (i.e. docks that are installed and removed each season)

Traffic and railroad signals

Trees, plants, and shrubs in containers in a commercial building.

Venetian blinds, draperies, and drapery rods, even though custom made and installed by the contractor.

Note: Persons installing property in jails and prisons should contact the department for more information on what remains tangible personal property when installed.

- f. Installing, altering, repairing, or servicing trade fixtures in commercial establishments (stores, factories, taverns, night clubs, restaurants, ice arenas, bowling centers, hotels, motels, barber and beauty shops, figure salons, theaters, motor vehicle service stations, etc.). This includes:

Examining a faulty portable conveyor in a retail establishment and replacing a motor.

Examining, tightening, and demounting all contacts on hoist controls in a service station.

Locating a short and replacing wiring between the starter and motor on a grain bin conveyor.

Replacing a defective ballast in a lamp in an office.

Caution: Installing, altering, repairing, or servicing fixtures and equipment in residences and other residential structures may

be considered to be realty improvements and not subject to tax.

Note: Appendix I beginning on page 35 provides more details on the tax treatment of repairing or installing items in commercial establishments as compared to doing similar work in residential buildings.

C. Contractor As a Consumer

1. When Is a Contractor a Consumer?

A contractor is a consumer of tangible personal property and items and goods described in Part 1.C.2. and 4. when engaged in real property construction activities, such as improving, altering, installing, repairing, or otherwise servicing real property. See Part III for exceptions.

A contractor is also the consumer of tangible personal property, and items and goods described in Part 1.C.2. and 4., such as tools, equipment and miscellaneous supplies, used in selling or servicing tangible personal property and not physically transferred to the customers or in performing real property construction activities.

“Real property construction activities” means activities that occur at a site where tangible personal property or items or goods described in Part 1.C. 2 and 4. are applied or adapted to the use or purpose to which real property is devoted are affixed to that real property, if the intent of the person who affixes the property, item, or good is to make a permanent accession to real property. “Real property construction activities” do not include affixing to real property tangible personal property that remains tangible personal property after it is affixed.

2. Paying Tax on Purchases.

In most instances, the contractor will pay a sales or use tax on its **purchases** of property and goods consumed in real property construction activities. When a contractor is a consumer, its **sales price** from labor and material related to real property construction activities are **not** subject to sales tax.

Note: A contractor who performs a real property construction activity is not permitted to collect the sales tax from its customers on its sales price from sales of real property construction activities. Instead, the tax is imposed on the sale of the materials to the contractor. The tax imposed on the contractor’s purchases of the materials used in the real property construction activity increases the cost of the contractor’s building materials and, presumably, in negotiating the contract, the tax on the contractor’s purchases will be taken into consideration as a cost of doing business.

Example: A contractor is installing a furnace in a customer’s residence. The contractor is the consumer of the furnace and must pay sales or use tax on its purchase of the furnace. The contractor’s charge to the customer for the labor and materials used in installing the furnace is not subject to tax.

If the contractor does not pay sales tax on its purchases of tangible personal property or items or goods described in Part 1.C. 2. and 4. which the contractor uses or consumes in a real property construction activity, the contractor must pay use tax directly to Wisconsin on these purchases. For example, a contractor’s charges for both labor and materials for installing a furnace in a house is not subject to sales tax. However, the contractor should either: (1) pay sales tax to its supplier when purchasing the sheet metal, furnace, and other materials used in installing the new furnace in the house, or (2) pay use tax directly to the Wisconsin Department of Revenue on these materials.

If, at the time the contractor purchases materials, the contractor knows which materials are to be used in real property construction activities, the contractor cannot furnish the supplier with an exemption certificate claiming such purchases or materials are for resale.

If the contractor is both a retailer of building materials because it has taxable receipts from the sale of building materials and a consumer of the same type of building materials because they are used in improving realty, and the contractor does not know at the time of purchase if the materials will be sold as tangible personal property or used by the contractor in a real property construction

activity, special rules apply. See Part V.C. for those rules.

3. Examples – Contractor As a Consumer.

The following examples illustrate when a contractor is acting as a consumer in a real property construction activity. The contractor's receipts from this activity are not subject to the sales tax. However, the contractor must pay a sales or use tax on its purchase of materials consumed in such activity.

a. Constructing buildings and structural components and other improvements to buildings. This includes the roof, walls, floors, ceiling, and partitions which are attached to the realty, as well as the permanent covers for walls, such as paint, paneling, wallpaper or tile. Other building components are:

- central air conditioning and space heating systems, including furnaces, boilers, motors, compressors, pipes, ducts, and solar collectors

Note: The replacement of a compressor or motor may constitute a taxable repair to an air conditioner, furnace, or other item deemed to be tangible personal property for repair and maintenance purposes. See Part III.A.

- general electrical wiring
- general overhead lighting
- plumbing and plumbing fixtures, such as septic tanks, restroom sinks and cabinets, lavatories, toilets and bathtubs (for additional information about septic system installers, see the article on the department's website titled "[Septic System Installers - Taxable Items 10% or Less of Total Contract Price](#)").
- shutters, windows, doors, door controls, and air curtains
- inlaid carpeting
- stairs, stair lifts, escalators, elevators, and related equipment essential to their operation

- residential heating, cooling and ventilation additions such as a flue damper, humidifier, air exchanger or stack pack
- loading platforms
- awnings, canopies, and patio covers primarily providing shelter, even though they may also contain the name of a business on them
- built-in household items such as kitchen cabinets, dishwashers, fans, garbage disposals, and incinerators
- catwalks that provide access to various sections and levels of the building, serving the function of stairways and hallways
- energy management systems used to control the lighting, heating, or cooling of the building
- flooring, including computer room floors
- insulation or weather stripping in a building
- paint spray booth or walk-in cold storage units if one or more walls of the booth or unit are also walls of the building
- sculptured works of art which become a component part of a building, such as a mosaic tile mural affixed to a wall
- an intercommunication system in a residence
- blowers, exhaust equipment, air exchangers, and air-washers used to remove smoke, dust, and fumes from the air in a building or room of a building

Note: The replacement of a blower, compressor, or motor may constitute a taxable repair to an air conditioner, furnace, or other item deemed to be tangible personal property for repair and maintenance purposes. See Part III.A.

- concrete foundations and building supports, including foundations for manufacturing or processing machinery and equipment

- silos, grain elevators, and buildings used to store grain

Example: A one story structure specifically designed for the storage of grain, which is constructed of corrugated steel panel sides, has a pitched metal roof, and is built on a concrete foundation.

- underground gasoline storage tanks used by a retail service station
- radio, television, telecommunications and CATV broadcasting or receiving towers constructed of steel and anchored to a concrete base on the owner's land
- steel support beams that hold up fiberglass water slide flumes, pursuant to the Wisconsin Tax Appeals Commission decision in *Chula Vista, Inc. v. Wisconsin Department of Revenue*, dated August 5, 2011 (CCH 401-463) (**Note:** the decision in this case applies to water slide steel support structures only).

Caution: An exception may apply if the item is not being installed as part of the original installation. See pages 16-17 for a listing of items deemed personal property for repair purposes.

Example: The replacement of a motor on a furnace is deemed to be a taxable repair to tangible personal property.

- Constructing land improvements such as walls, roads, walks, bridges, fences, retaining walls, railway tracks, ponds, dams, ditches, wells, nonfarm underground irrigation systems, drainage, storm, and sanitary sewers, and water supply lines for drinking water, sanitary purposes, and fire protection. Other land improvements or items considered real property construction activities are as follows:

- large fuel storage tanks assembled or constructed on the site
- fixed (year-round) wharves and docks

- swimming pools either partially or wholly underground
- cemetery monuments
- street and parking lot lighting
- truck platform scale foundations
- paved parking areas and yard bumpers (affixed)
- logging truck roads
- building demolition work

D. Contractor May Act As Both Retailer and Consumer on Same Job

A contractor may be both a retailer and consumer when engaged in personal property and real property activities on the same job. Examples are:

- A contractor wires a new warehouse and also installs conveyors within the warehouse. The contractor's charge for installing the conveyor is a retail sale subject to sales tax because this is a personal property activity. The charge for wiring from the power source to the conveyor is not taxable because this is a real property activity.
- A contractor installs a new frozen food counter in a supermarket and also installs wiring from the power source to an outlet. The new line from the power source to the outlet is a real property improvement; thus, the contractor's charges for labor and material in installing the wiring are not taxable. The charge for installing the counter and the outlet which is attached to the counter is a retail sale subject to sales tax.
- A contractor is hired to perform a combination of nontaxable excavating services taxable landscaping services. The contractor's charges for the excavating services are not taxable, but the contractor's charges for the landscaping services are subject to tax.

When a contractor is hired to provide both taxable and nontaxable items, the correct tax treatment varies depending on whether: (1) the taxable selling price is 10% or more of the total selling price, (2) the taxable selling price is less than 10% of the total selling price and the contract was entered into prior to October 1, 2013, and (3) the taxable selling price is less than 10% of the total selling price and the contract was entered into on or after October 1, 2013.

1. Taxable Selling Price is 10% or More of the Total Selling Price

When a contractor is hired to provide both taxable items and real property improvements in a single contract, the contractor may either (1) separately state the charges for the taxable items or (2) charge one lump sum for all of the items provided under the contract.

If the contractor separately states the charges for the taxable items provided under the contract, and the selling prices of the taxable items are 10% or more of the total selling prices, (1) the contractor is required to charge the applicable sales taxes on the taxable items unless an exemption applies (e.g., the purchaser is an exempt entity), and (2) the contractor may purchase the items without tax for resale.

When the contractor charges one lump sum for the entire contract and the amount the contractor would normally charge for the taxable items sold under the contract is 10% or more of the total contract price, a reasonable allocation needs to be made between the taxable and nontaxable portions of the contract. In this case, the contractor (1) must charge and collect sales tax on the portion of its charge allocated to the taxable sales, unless an exemption applies, and (2) the contractor may purchase the taxable items without tax for resale.

Example 1 – Taxable Items Separately Stated – Taxable Selling Price is 10% or More of Total Contract - Contractor enters into a contract to construct a house for Individual for \$250,000. Contractor separately lists the charges for the tangible personal property (\$17,500) and taxable services (\$12,500) included in the \$250,000 contract price. Contractor purchases the tangible personal property for \$12,000 and the taxable services, performed by subcontractors hired by Contractor, for 10,000. Since the retail value of the tangible personal property and taxable services is 10% or more of the total contract amount (it is 12%), (1) Contractor must charge and collect Wisconsin sales tax on the \$30,000 of taxable sales to Individual, and (2) Contractor may purchase the tangible personal property and taxable services it sells to Individual without tax for resale.

Example 2 – Taxable Items 10% or More of Lump-Sum Contract – Contractor enters into a lump-sum contract to construct a building for Retailer for \$500,000. Included in the \$500,000 lump-sum contract price are taxable items. Contractor does not separately state any charges for the taxable items included in the contract or in any documents that are provided to Retailer. If Contractor would have separately stated the charges for the taxable items included in the contract, Contractor would have charged Retailer \$75,000 for those items. Since the normal selling price of the taxable items included in the lump-sum contract (\$75,000) is 10% or more of the total lump-sum contract amount (it is 15%), (1) Contractors must charge and collect Wisconsin sales tax on the \$75,000 of taxable sales to Retailer, and (2) Contractor may purchase any tangible personal property, items, property, and goods described in Part I.C.2. to 4., and taxable services it sells to Retailer as part of the retail sale without tax for resale.

Note: Refer to Part V.C. for tax treatment of purchases of materials.

2. Taxable Selling Price is Less Than 10% of the Total Selling Price - Contract Entered Into Prior to October 1, 2013

The following information applies only to those situations in which a contractor has a single contract entered into prior to October 1, 2013 to provide both real property improvements and taxable services, tangible personal property, and/or items, property, or goods described in Part I.C.2. to 4., where the taxable goods and services and are less than 10% of the total selling price under the contract.

If a contract for a real property improvement also includes the sale of tangible personal property; items, property, or goods described in Part I.C. 2 to 4.; and/or taxable services, a contractor may use its cost of the property, items, goods, and/or taxable services as the amount subject to sales tax if both of the following apply:

- The sales price of tangible personal property; items, property, or goods described in Part I.C. 2. to 4.; and taxable services; is less than 10% of the total contract amount), **and**

- No separate charge is made in any documents provided to the customer (e.g., contract, contract addendum, appendix, payment request, etc.) for the tangible personal property; items, property, or goods described in Part I.C. 2. to 4.; or taxable services.

If a separate charge is made for any of the tangible personal property; items, property, or goods described in Part I.C. 2 to 4.; or taxable services, the separate charge is subject to the tax, unless an exemption applies.

Note: The contractor's cost is determined by looking at the amounts the contractor paid to third parties, such as suppliers and subcontractors for these items, but not including amounts the contractor pays to its own employees.

Example 1 – Taxable Items Separately Stated – Taxable Sales Price is Less Than 10% of Total Contract Price. Contractor enters into a contract prior to October 1, 2013 to construct a house for Individual for \$250,000. Contractor separately states the charges for the tangible personal property (\$7,500) and taxable services (\$10,000) included in the \$250,000 contract price. Since Contractor separately stated the charges for the tangible personal property and/or taxable services, Contractor is required to charge sales tax on the \$17,500 (\$7,500 plus \$10,000).

Example 2 – Taxable Items Not Separately Stated – Taxable Sales Price is Less Than 10% of Total Contract Price. Contractor enters into a contract prior to October 1, 2013, to construct a building for Retailer for \$500,000. Included in the \$500,000 contract price are a few items of tangible personal property and/or taxable services. Contractor does not separately state any charges for the tangible personal property and/or taxable services included in the contract in any documents that are provided to Retailer. If Contractor would have separately stated the charges for the tangible personal property and/or taxable services included in the contract, Contractor would have charged Retailer \$40,000 for those items. Contractor's cost of those same items is \$30,000. Since (1) the normal selling price of the tangible personal property and/or taxable services included in the contract (\$40,000) is less than 10% of the total contract amount (i.e., it is

8%), (2) Contractor has not separately stated the charge for the tangible personal property and/or taxable services, and (3) the contract was entered into prior to October 1, 2013, Contractor can use its cost (\$30,000) of these items as the measure subject to sales tax.

Note: Refer to Part V.C. for tax treatment of purchases of materials.

3. Taxable Selling Price is Less Than 10% of Total Selling Price – Contract Entered Into On or After October 1, 2013

For "lump-sum contracts" entered into on or after October 1, 2013, sec. 77.54(60)(b), Wis. Stats., provides an exemption for the sale of, and the storage, use, or consumption of the otherwise taxable "products" sold by the contractor under the contract if the total sales price of all such taxable products is less than 10 percent of the total amount of the lump sum contract. The contractor is deemed the consumer of the taxable "products" sold, and must pay Wisconsin sales or use taxes on its purchases of such "products" unless the "products" are sold to an exempt entity. Section 77.54(60)(c), Wis. Stats., provides that taxable "products" sold to an exempt entity under a "lump-sum contract" may be purchased by the contractor without tax for resale.

"Lump-sum contract" means a means a contract to perform real property construction activities and to provide tangible personal property, items or property under sec. 77.52(1) (b) or (c), Wis. Stats., or taxable services and for which the contractor quotes the charge for labor, services of subcontractors, tangible personal property, items and property under sec. 77.52 (1)(b) and (c), Wis. Stats., and taxable services as one price, including a contract for which the contractor itemizes the charges for labor, services of subcontractors, tangible personal property, items and property under s. 77.52(1) (b) and (c), and taxable services as part of a schedule of values or similar document.

"Product" includes tangible personal property, items, property, and goods under sec. 77.52(1)(b), (c), and (d), Wis. Stats., and services.

Examples: Sales Price of Taxable Products Provided in a Lump-Sum Contract are Less Than 10% of the Total Sales Price of the Contract

Contract Not With an Exempt Entity

The following information applies only to those situations in which a contractor has a "lump-sum contract," the contract is not with an exempt entity, the selling price of the taxable products is less than 10% of the total sales price under the contract, and the contract is entered into on or after October 1, 2013.

Example 1 – Taxable Items Separately Stated and Are Less Than 10% of Lump-Sum Contract. Contractor enters into a contract on or after October 1, 2013, to construct a house for Individual for \$250,000. Contractor separately lists the charges for the tangible personal property (\$7,500) and taxable services (\$10,000) included in the \$250,000 contract price. Contractor purchases the tangible personal property for \$6,000 and the taxable services are performed by employees of Contractor. Since the normal retail selling price of the tangible personal property and taxable services is less than 10% of the total contract amount (it is only 7%), and Individual is not an exempt entity, (1) Contractor's sales of the tangible personal property and taxable services to Individual are exempt from Wisconsin sales and use taxes, and (2) Contractor is deemed the consumer of the tangible personal property and taxable services sold to Individual. Contractor owes Wisconsin sales or use taxes on its cost (\$6,000) of the tangible personal property. Contractor does not owe any Wisconsin sales or use tax on the taxable services. Services provided to Contractor by its employees are not taxable to Contractor.

Example 2 – Taxable Items Not Separately Stated – Taxable Sales Price Less than 10% of Lump-Sum Contract. Contractor enters into a lump-sum contract to construct a building for Business for \$500,000. Business is not an exempt entity. Included in the \$500,000 lump-sum contract price are taxable products. Contractor does not separately state any charges for the taxable products in any documents that are provided to Business. If Contractor would have separately stated the charges for the taxable products in-

cluded in the contract, Contractor would have charged Business \$40,000 for those items. Contractor's cost of those same items, excluding the cost of services provided by Contractor's employees, is \$30,000. Since the normal retail selling price of the taxable products included in the lump-sum contract (\$40,000) is less than 10% of the total lump-sum contract amount (it is 8%), and Business is not an exempt entity, (1) Contractor's sale of the taxable products to Business is exempt from Wisconsin sales and use taxes and (2) Contractor is deemed the consumer of the taxable products sold to Business. Contractor owes Wisconsin sales or use taxes on \$30,000, Contractor's cost of the taxable products it purchased and sold to Business under the lump-sum contract.

Contract With an Exempt Entity

The following information applies only to those situations in which a contractor has a "lump-sum contract" with an exempt entity, the selling price of the taxable products is less than 10% of the total sales price under the contract, and the contract is entered into on or after October 1, 2013.

Example 3 – Taxable Items Separately Stated, Less than 10% of Lump-Sum Contract. Contractor enters into a contract to construct a building for Exempt Entity for \$250,000. Contractor separately lists the charges for the tangible personal property (\$7,500) and taxable services (\$10,000) included in the \$250,000 contract price. Contractor purchases the tangible personal property for \$6,000 and the taxable services are performed by employees of Contractor. Since the normal retail selling price of the tangible personal property and taxable services is less than 10% of the total contract amount (it is only 7%), and the sale is to an exempt entity, (1) Contractor's sales of the tangible personal property and taxable services to Exempt Entity are exempt from Wisconsin sales and use taxes, and (2) Contractor may purchase the tangible personal property sold to Exempt Entity without tax for resale. Contractor's payments to its employees for services rendered are not taxable.

Example 4 – Taxable Items Not Separately Stated – Taxable Sales Price Less than 10% of Lump-Sum Contract. Contractor enters into a

lump-sum contract to construct a building for Exempt Entity for \$500,000. Included in the \$500,000 lump-sum contract price are taxable products. Contractor does not separately state any charges for the taxable products included in the contract in any documents that are provided to Exempt Entity. If Contractor would have separately stated the charges for the taxable products included in the contract, Contractor would have charged Exempt Entity \$40,000 for those items. Contractor's cost of those same items, excluding the cost of services provided by Contractor's employees, is \$30,000. Since the normal retail selling price of the taxable products included in the lump-sum contract (\$40,000) is less than 10% of the total lump-sum contract amount (it is 8%), and the sale is to an exempt entity, (1) Contractor's sale of the taxable products to Exempt Entity is exempt from Wisconsin sales and use taxes, and (2) Contractor may purchase the tangible personal property sold to Exempt Entity without tax for resale. Contractor's payments to its employees for services rendered are not taxable.

Note: Refer to Part V.C. for tax treatment of purchases of materials.

III. EXCEPTIONS TO PART II

There are several exceptions to the general sales and use tax treatment of items described in Part II. These exceptions are:

- A. Property deemed personal property for repair and maintenance purposes. These items are treated as personal property for purposes of imposing sales tax on repair and maintenance services even though they may be real property when originally installed or replaced.
- B. Landscaping and lawn maintenance services. These services are subject to sales tax even though they may involve real property improvements.
- C. Waste treatment facilities. Tangible personal property and property described in Part I.C. 2. and 3, may be purchased without tax by a contractor even though it is used in a real property construction activity to construct a waste treatment facility.
- D. Professional sports and entertainment home stadiums. Property may be purchased without tax by a contractor even though it is used in a real property construction activity to build, renovate, or develop certain professional sports and entertainment home stadiums.
- E. Modular and manufactured homes used in real property construction activities outside Wisconsin. Effective September 1, 2011, the sales price from the sale of and the storage, use, or other consumption of modular and manufactured homes that are used in real property construction activities outside Wisconsin are exempt from Wisconsin sales and use tax.
- F. Products whose power source is wind energy, direct radiant energy received from the sun, or gas generated from the anaerobic digestion of animal manure and other agricultural waste. Effective July 1, 2011, these products are exempt from Wisconsin sales and use taxes provided the product produces at least 200 watts of alternating current or at least 600 British thermal units per day.

Explanations of these exceptions follow.

A. Property Deemed Personal Property for Repair and Maintenance Purposes

A contractor's sales price, which includes, both the labor and materials, for repairing, servicing, altering, fitting, cleaning, painting, coating, towing, inspecting, and maintaining the items listed below are taxable, regardless of whether the service may be considered an addition to or a capital improvement of real property and even though the original installation may have been a real property improvement. Such items are:

- air conditioners
- awnings
- bar equipment
- bathroom fixtures
- blinds
- boilers
- burglar alarm and fire alarm fixtures
- carpeting and rugs
- clothes dryers
- clothes washers
- coolers
- dehumidifiers
- dishwashers
- electric clocks
- electronic dust collectors
- electric signs
- equipment in offices, business facilities, schools, and hospitals, but not in residential facilities in-

cluding personal residences, apartments, long-term care facilities as defined under [sec. 16.009\(1\)\(em\), Wis. Stats.](#), prisons, mental health institutes, as defined in [sec. 51.01\(12\), Wis. Stats.](#), centers for the developmentally disabled, as defined in [sec. 51.01\(3\), Wis. Stats.](#), Type 1 juvenile correctional facilities as defined in [sec. 938.02\(19\), Wis. Stats.](#), or similar facilities including, by way of illustration but not of limitation, all of the following:

- beverage making equipment
- canvas awnings
- chandeliers
- compressors
- condensing units
- evaporative condensers
- fans
- ice and milk dispensers
- lamps
- office and business machines
- pneumatic conveying systems
- soda fountains
- steam warmers and tables
- vending machines
- venetian blinds
- freezers
- furnaces
- furniture and furnishings
- garbage disposal units
- gas and electric logs
- grills and rotisseries
- heat lamps
- heaters
- humidifiers
- incinerators
- intercoms
- jukeboxes
- laundry, dry cleaning, and pressing machines
- ovens (including associated hoods and exhaust systems)
- power tools
- radios and radio antennas
- record players
- recreational, sporting, gymnasium, and athletic goods and equipment including by way of illustration but not of limitation:
 - bowling alleys
 - golf practice equipment
 - pool tables
 - punching bags
 - ski tows
 - swimming pools
- refrigerators

- sinks
- stoves
- tape players
- television receivers and antennas
- vacuum cleaners
- water conditioners and softeners
- water heaters
- water pumps

Note: Some items above are also tangible personal property when installed.

B. Landscaping and Lawn Maintenance Services

The following services are taxable regardless of whether performed on lawn or garden areas, including residential, business, commercial, and industrial areas, cemeteries, golf courses, athletic fields, and stadiums, as well as when performed in parking lot areas, near or adjacent to a building, and along highways, streets, and walkways:

- Landscaping services, including landscape planning and landscape counseling.
- Lawn maintenance services and other lawn services, including planting, sodding, mowing, raking, weeding, thatching, spraying, watering, rolling, aerating, and fertilizing lawns.
- Garden services, including plowing, rototilling, planting, spraying, watering, fertilizing, and weeding.
- Shrub and tree services, including planting, bracing, fertilizing, spraying, pruning, trimming, surgery, and removal of shrubs, stumps, and trees.

These services are taxable, regardless of whether performed by landscapers, architects, construction contractors, or other persons. Although some of the above services also involve realty improvements, the services are still taxable. For example, the sale and laying of sod for \$1,000 may ordinarily be considered a realty improvement. However, the total charge of \$1,000 constitutes the sales price from the sale of a taxable service and tangible personal property, and is subject to the sales tax.

For additional information regarding the sales and use tax treatment of landscaping and lawn maintenance services, see [Publication 210](#), “Sales and Use Tax Treatment of Landscaping Services”.

C. Waste Treatment Facilities

1. Exemption

[Section 77.54\(26\), Wis. Stats.](#), provides an exemption from Wisconsin sales and use taxes for the sales price from the sales of and the storage, use, or other consumption of tangible personal property and items and property described in Part I.C.2. and 3., which becomes a component part of an industrial, utility, or governmental waste treatment facility, and includes tangible personal property and items and property described in Part I.C.2. and 3., purchased by contractors who transfer the property and items to their customers in fulfillment of a real property construction activity.

2. Industrial Facilities

An industrial waste treatment facility is a facility that is purchased or constructed as a waste treatment facility and that is used exclusively and directly to remove, store, or cause a physical or chemical change in industrial waste or air contaminants for the purpose of abating or eliminating pollution of surface waters, the air or waters of the state, if that property is not used to grow agricultural products for sale.

It is not necessary for an industrial facility or contractors engaged in constructing a waste treatment facility for an industrial customer to obtain Department of Revenue approval that the facility qualifies for the property tax exemption prior to claiming the sales or use tax exemption. However, contractors or subcontractors may be liable for sales and use tax on purchases of tangible personal property and items and property described in Part I.C.2. and 3. that become a component part of a facility that is determined to not qualify for a waste treatment facility property tax exemption under [sec. 70.11\(21\), Wis. Stats.](#) for periods on and after October 1, 2007. Additional information regarding the definition of an “industrial waste treatment facility” can be found on page 33 of [Wisconsin Tax Bulletin 154](#).

Refer to [sec. Tax 12.40, Wis. Adm. Code](#), for information related to the property tax exemption for industrial waste treatment facilities. For more information regarding the property tax exemp-

tion for industrial waste treatment facilities of manufacturers, write or call the district office of the Wisconsin Department of Revenue, Manufacturing and Utility Bureau. To locate the district office, write or call Wisconsin Department of Revenue, Manufacturing and Utility Bureau, Mail Stop 6-97, P.O. Box 8971, Madison, WI 53708-8971; telephone (608) 266-3845. The website is:

revenue.wi.gov/contact/slfbmta.html. To ascertain whether a nonmanufacturing property would be exempt under [sec. 70.11\(21\), Wis. Stats.](#), owners may refer to the Wisconsin Property Assessment Manual or contact the local property tax assessor. Contact information is available at: revenue.wi.gov/training/assess/assrlist.pdf.

3. Utility Facilities

If a utility waste treatment facility qualifies for the property tax exemption under [sec. 76.025\(1\), Wis. Stats.](#), as approved by the Department of Revenue, the facility also qualifies for the sales and use tax exemption.

Contractors shall determine whether a utility waste treatment facility they are constructing has been approved by the Department of Revenue for a property tax exemption.

To determine if a utility waste treatment facility, including railroads, airlines, and pipelines has been approved for a property tax exemption by the Department of Revenue, write or call the Department of Revenue, Manufacturing and Utility Bureau, Mail Stop 6-97, P.O. Box 8971, Madison, WI 53708-8971; telephone (608) 266-3845.

Caution: The contractor or subcontractor may be liable for the sales or use tax on its purchases if there has been no approval.

4. Municipal (Government) Facilities

Construction materials which become a component part of a Wisconsin governmental waste treatment facility may be purchased without tax by contractors pursuant to the standards set forth in [sec. Tax 11.11, Wis. Adm. Code](#) (November 2010 Register). Governmental waste treatment facilities include:

- a. Wastewater treatment facilities. In general terms, this is everything within the fence, except storm sewers, water supply systems, private domestic wastewater treatment facilities, and collection and discharge systems.
- b. Sanitary landfills. This includes collection and burner systems, laboratory equipment, maintenance buildings, garages, office buildings, fences, and gates.
- c. Ground water facilities. These are municipal facilities constructed to treat hazardous or contaminated ground water and include oil and water separators, air strippers, aerators, blowers, filters, carbon units, controls, thermal oxidizers, and pumps. Not included within the exemption are the collection and discharge systems.

It is not necessary for a governmental unit or contractors engaged in constructing a waste treatment facility for a Wisconsin governmental unit to obtain Department of Revenue approval of the governmental unit's waste treatment facility to qualify for the waste treatment facility exemption.

5. Purchases by Contractors and Subcontractors

The sales tax exemption for waste treatment facilities includes the purchases of tangible personal property and items and property described in Part 1.C.2. and 3., by a contractor who incorporates these purchases into a waste treatment facility, even though this may be a real property construction activity.

The contractor should certify on an exemption certificate, [Form S-211](#), or Streamlined Sales and Use Tax - Wisconsin Certificate of Exemption ([Form S-211-SST](#)) the intended exempt use of the item and give the [Form S-211](#) or [Form S-211-SST](#) to its supplier. Suppliers of construction or repair materials for waste treatment facilities should not charge sales tax on such sales if they receive a fully completed exemption certificate ([Form S-211](#)) or ([Form S-211-SST](#)), from the purchaser no later than 90 days after the date of sale.

Purchases of items which do not become a part of the waste treatment facility are subject to the tax. This includes items such as industrial gases, form lumber, tunnel shields, and supplies used by the contractor during construction. Payments by a contractor for equipment purchased (or leased) to perform a construction job are also taxable.

6. Repair Services, Chemicals, and Supplies

The repair, service, alteration, fitting cleaning, painting, coating, inspection, and maintenance of exempt waste treatment facilities, including the repair and replacement parts, are exempt. The exemption also applies to chemicals and supplies, including fuel and electricity, used in operating the exempt facilities.

D. Professional Sports and Entertainment Home Stadiums

Building materials, supplies, and equipment used solely for or solely in the construction, renovation, or development of property that would be exempt under [sec. 70.11\(36\), Wis. Stats.](#), are exempt from Wisconsin sales and use tax if sold to or stored, used, or consumed by a contractor, subcontractor, owner, or builder.

Property exempt under sec. 70.11(36), Wis. Stats., is:

- Property consisting of or contained in a sports and entertainment home stadium, except a football stadium, including but not limited to parking lots, garages, restaurants, parks, concession facilities, entertainment facilities, transportation facilities, and other functionally related or auxiliary facilities and structures; including those facilities and structures while they are being built; constructed by, leased to or primarily used by a professional athletic team that is a member of a league that includes teams that have home stadiums in other states, and the land on which that stadium and those structures and facilities are located.
- Property consisting of or contained in a football stadium, as defined in [sec. 229.821\(6\), Wis. Stats.](#), and related facilities and structures, including those facilities and structures while they are being built or constructed, primarily used by a professional football team described in [sec. 229.823, Wis. Stats.](#), and the land, including

parking lots, on which that stadium and those facilities and structures are located. Related facilities and structures are limited to improvements that share common structural supports with the stadium or are physically attached to the stadium.

E. Manufactured and Modular Homes Used in Real Property Construction Activities Outside Wisconsin

Effective September 1, 2011 and thereafter, a manufacturer or modular home dealer who purchases a manufactured or modular home in Wisconsin and who subsequently uses that manufactured or modular home in a real property construction activity outside Wisconsin may purchase that manufactured or modular home without Wisconsin sales or use tax.

Example 1 – Dealer A purchases a modular home from Manufacturer B on September 2, 2011. Dealer A takes possession of the modular home in Wisconsin. Dealer A sells the modular home to Customer C, who is located in Minnesota. Dealer A installs the modular home in Minnesota in a real property construction activity. Dealer A does not owe Wisconsin sales or use tax on its purchase of the modular home from Manufacturer B since Dealer A (1) purchased the modular home on or after September 1, 2011, and (2) used the modular home in a real property construction activity outside Wisconsin.

For additional information see the article on the Department's website titled "[Sales and Use Tax Exemption Created for Manufactured and Modular Homes Used in Real Property Construction Activity Outside Wisconsin Effective September 1, 2011.](#)"

F. Renewable Energy Products

A product whose power source is wind energy, direct radiant energy received from the sun, or gas generated from the anaerobic digestion of animal manure and other agricultural waste, if the product produces at least 200 watts of alternating current or at least 600 British thermal units per day, is exempt from Wisconsin sales and use taxes. Contractors purchasing a product to be used by the contractor in making a real property improvement may claim this exemption. This exemption is effective as of July 1, 2011.

"Product" means tangible personal property that converts wind energy, direct radiant energy received from the sun, or gas generated from the anaerobic digestion of animal manure into alternating current or heat, and includes:

- Wind turbine generators, including blade assembly and tower
- Gas powered electric generators, furnaces, space heaters, and water heaters
- Photovoltaic cells, modules, and arrays, including tracking equipment that maintains optimal orientation to the sun
- Solar thermal collectors
- Inverters used to transform direct current produced from a wind, gas, or solar powered generator into alternating current and property to connect the inverter to the generator
- Hardware required for installation of a wind, gas, or solar powered product.

"Product" does not include:

- Tangible personal property that consumes electricity or heat produced by a wind, gas, or solar powered product
- Foundations
- Property necessary to convey, transfer, or alter the alternating current or heat produced by a product
- Tangible personal property used to store electricity or heat produced by a product

Example (1): A solar tracking device is installed on a concrete foundation. The concrete foundation is not a product whose power source is direct radiant energy received from the sun.

Example (2): A tank that stores hot water heated by a solar collector is not itself a product whose power source is direct radiant energy received from the sun.

Example (3): Batteries used to store electricity produced by photovoltaic cells are not themselves a product whose power source is direct radiant energy received from the sun.

Refer to [sec. Tax 11.10, Wis. Adm. Code](#), for additional information.

IV. SPECIAL SITUATIONS

A. Real Property Construction Contracts With Exempt Entities

Constructing Buildings for Governmental Units, Schools, Federally Recognized American Indian Tribes or Bands, Churches, Hospitals, or Other Exempt Entities: Even though a contractor is constructing a building for governmental units, schools, federally recognized American Indian tribes or bands in Wisconsin, churches, hospitals, or other exempt entities described in [sec. 77.54\(9a\), Wis. Stats.](#), sales of building materials to the contractor used in real property construction activities are generally taxable.

The reason for this treatment is the contractor is the consumer of the building materials used in the real property construction activity. Therefore, the sale of the building materials to the contractor is a retail sale and subject to tax (see [sec. Tax 11.04, Wis. Adm. Code, "Constructing buildings for exempt entities."](#) for additional information). **Exceptions where a contractor may buy building materials exempt from tax:**

- The building materials are used in real property construction activities for an American Indian tribe or band on the tribe's or band's reservation as described in Part IV. F. of this publication.
- The building materials are purchased and used to make real property improvements as described in Part III.C., D., E., or F., of this publication.

Exempt Entities Buying Materials and Taxable Services Tax Free: Under Wisconsin sales and use tax law, purchases of tangible personal property; items, property, and goods described in Part I.C.2. through 4.; and taxable services made by Wisconsin exempt entities described under [sec. 77.54\(9a\), Wis. Stats.](#), may be made without payment of Wisconsin sales or use tax. This includes materials and equipment purchased by the exempt entity that will be used by construction contractors in performing real property construction activities for the exempt entity. The exempt entity must be invoiced for the materials and equipment, pay the supplier for the materials and equipment, and provide the supplier with one of the following:

- a. A Wisconsin Sales and Use Tax Exemption Certificate ([Form S-211](#)) or Streamlined Sales and

Use Tax Agreement – Wisconsin Certificate of Exemption ([Form S-211-SST](#)).

- b. The federal or Wisconsin governmental unit's, tribe's, band's or other exempt entity's Certificate of Exempt Status (CES) number which the supplier should record on the invoice it keeps.
- c. If a Wisconsin or federal governmental unit or federally recognized American Indian tribe or band, a purchase order or similar written document identifying the governmental unit, tribe, or band as the purchaser.

An exempt entity's transfer to its construction contractor of materials the exempt entity purchases directly from suppliers is not considered a taxable transaction, regardless of whether:

1. The contract specifies that the contractor is to provide all materials and the exempt entity subsequently obtains a reduction in the contract price for the direct purchased materials (e.g., change order), or
2. The contract excludes those materials the exempt entity will purchase directly from suppliers, resulting in no need for a reduction in the contract price (e.g., change order).

Caution: A contractor is subject to Wisconsin sales or use tax on materials it purchases and uses in real property construction for an exempt entity even if it bills the exempt entity or another party separately for the materials. See the Wisconsin Court of Appeals October 10, 1983 decision in the case of *Rice Insulation, Inc. v. Wisconsin Department of Revenue* (CCH 202-285), the Wisconsin Tax Appeals Commission January 7, 1998 decision in the case of *Precision Metals, Inc. v. Wisconsin Department of Revenue* (CCH 400-337), and the Wisconsin Circuit Court, Dane County, February 22, 2013 decision in the case of *Sullivan Brothers, Inc. v. Wisconsin Department of Revenue*, (CCH 401-693) for additional information.

If any person has questions regarding this subject, refer to the tax release titled "Purchases of Building Materials by Exempt Entities for Use by Contractors in Real Property Construction," published in [Wisconsin Tax Bulletin 115](#) (October 1999) for more information. Other questions relating to purchases of building materials by exempt entities may be ad-

addressed to Wisconsin Department of Revenue, Mail Stop 6-40, P.O. Box 8933, Madison, WI 53708-8933.

B. General Contractors and Subcontractors

The sales and use tax treatment differs for real property and personal property activities with regard to contractors and subcontractors as follows:

1. Real Property

A subcontractor is the consumer of all materials used in completing a real property construction activity for a general contractor, and must pay sales or use tax on all the materials they consume or use. The subcontractor's invoice to the general contractor should not include a specific charge for sales or use tax.

Example: A subcontractor installs the heating and cooling systems in a building being constructed by the general contractor. The subcontractor must pay sales or use tax on the heating and cooling materials installed. The subcontractor does not charge sales tax to the contractor for the sale and installation.

2. Tangible Personal Property; Items, Property, and Goods Described in Part I.C.2 through 4; and Taxable Services (including items in Part III which are treated as personal property and landscaping)

The subcontractor is selling the items of tangible personal property; items, property, and goods described in Part I.C. 2. through 4.; and taxable services to the general contractor who will ultimately resell them to the customer. In this situation, the subcontractor may purchase the tangible personal property; items, property and goods described in Part I.C. 2. through 4.; and taxable services that it will resell to the general contractor without tax for resale. The subcontractor should give its supplier of these items a Wisconsin Sales and Use Tax Exemption Certificate ([Form S-211](#)) or Streamlined Sales and Use Tax Agreement – Wisconsin Certificate of Exemption ([Form S-211-SST](#)) claiming resale. The subcontractor's charge to the general contractor is subject to tax, unless the general contractor gives a Wisconsin Sales and Use Tax Exemption Certificate ([Form S-211](#)) or Streamlined Sales

and Use Tax Agreement – Wisconsin Certificate of Exemption ([Form S-211-SST](#)) claiming resale to the subcontractor, indicating that it will resell the property, items, goods, or services to its customer. If the general contractor does not give an exemption certificate to the subcontractor, the subcontractor could be liable for the sales tax.

Example: A subcontractor installs cabinets in examining rooms of a medical clinic being constructed by a general contractor. When the subcontractor purchases the cabinets from its supplier, the subcontractor should provide the supplier with a properly completed exemption certificate ([Form S-211](#)), claiming resale. The subcontractor should then charge the general contractor sales tax on its receipts from the sale and installation of the cabinets unless the general contractor gives the subcontractor an exemption certificate ([Form S-211](#)) claiming resale. The charge by the general contractor to the customer for the cabinets is subject to Wisconsin sales or use tax.

C. County Use Tax on Construction Materials

If a contractor is engaged in real property construction activities in a county which has adopted the county tax (see Appendix II for a list of these counties), the 0.5% county use tax is imposed upon the purchase price of tangible personal property and items, property, and goods described in Part I.C.2. through 4., used in constructing, altering, repairing, or improving real property and that become a component part of real property in that county. (**Note:** If the contractor was required to pay a county sales or use tax in a county in Wisconsin and the contractor then moves the materials to a different county that has also adopted the county sales and use tax, no additional county sales or use tax is due.)

Example 1: A contractor located in County A (a county that has adopted the county sales and use tax), purchases lumber from a Wisconsin retailer who has charged the 5% sales tax but did not charge the county tax (delivery was in a county that has **not** adopted the county sales and use tax). The lumber was used in building a house in County A. The contractor must pay County A's 0.5% county use tax on the cost of the lumber.

Example 2: A contractor located in County B (a county that has not adopted the county sales and

use tax) purchases lumber from a Wisconsin retailer who charged the 5% sales tax but did not charge any county tax. The lumber is later used in building a house in County C (a county that has adopted the county sales and use tax). The contractor must pay County C's 0.5% county use tax on the cost of the lumber.

Example 3: A contractor located in County X (a county that has adopted the county sales and use tax) purchases wiring from a Wisconsin retailer who charged the 5% sales tax along with County X's 0.5% county tax. The wiring is later used in the general wiring of a new house in County Y (another county that has adopted the county sales and use tax). Since the contractor already paid County X's 0.5% county sales tax on the cost of the wiring, no additional county sales or use tax is due in County Y.

A contractor is also subject to the 0.5% county use tax on tangible personal property, and items property, and goods described in Part I.C.2 through 4., that are purchased in a county that has adopted the 0.5% county sales and use tax when: (1) the contractor does not pay any county sales or use tax to the vendor and (2) the property, item, or good is used to construct, alter, repair, or improve real property in or outside that county.

Example 1: A contractor located in County D (a county that has adopted the county sales and use tax) purchases lumber from two sources: 1) a Wisconsin retailer located in County E (a county that has not adopted the county sales and use tax); and 2) an out-of-state retailer. The contractor took possession of the lumber in County D (the lumber was delivered by common carrier to the contractor's location in County D). The retailers charged the 5% sales tax but did not charge County D's county tax. The contractor stores the lumber in County D until it is used to build a house in County F (a county that has not adopted the county sales and use tax). The contractor must pay County D's 0.5% county use tax on the cost of the lumber since that is where the lumber was first stored, used or consumed.

Example 2: Contractor X is located in County G (a county that has adopted the county sales and use tax). Contractor X purchases building materials from various sources located in and outside Wisconsin. All of the building materials are de-

livered to Contractor X's location in County G. At the time Contractor X purchases the materials, Contractor X does not know if the materials will be resold as tangible personal property or consumed by Contractor X in a real property construction activity. Therefore, Contractor X does not pay any sales or use tax on these materials at the time they are purchased. Contractor X then enters into various contracts to perform real property construction activities. These real property construction activities take place at locations in and outside Wisconsin. Within Wisconsin, some of the real property construction activities take place in County G, some take place in County H (a county that has also adopted the county sales and use tax), and some take place in County J (a county that has not adopted the county sales and use tax). In all of the situations described above, regardless of the location of the construction activities, Contractor X owes County G's county sales and use tax on the building materials since that is where Contractor X first stored, used, or consumed the materials. Contractor X owes the tax at the time the materials are first identified for use in a real property construction activity. **Note:** For those construction activities that take place in County H (another county that has adopted the county sales and use tax), Contractor X does not owe any additional county use tax since Contractor X was already required to pay the county use tax on those materials when they were first stored, used, or consumed in County G.

If a contractor properly pays a county or stadium tax on the purchase of materials that are used in a real property construction activity, the tax paid may be used as a credit against any additional Wisconsin county or stadium use tax owed on the purchase (e.g., county tax may be credited against football stadium tax).

Example: Contractor A is located in Waukesha County and purchases materials that will be used in a real property construction activity. The materials are delivered to Contractor A's location in Waukesha County where they are stored until needed. Contractor A pays the Wisconsin state and baseball stadium sales or use tax at the time the materials are purchased, but does not pay any county sales or use tax since Waukesha County has not adopted the county sales and use tax. Contractor A then transports the materials to a jobsite in Walworth County (a county

that has adopted the county sales and use tax) where Contractor A will use the materials in a real property construction activity. Since the materials are used in a real property construction activity in a county that has adopted the county sales and use tax and no county sales or use tax has already been paid on the materials, Contractor A owes Walworth County's county use tax on these materials but is allowed a credit for the 0.1% baseball stadium tax previously paid. An additional 0.4% Walworth County use tax is due on the materials. The baseball stadium tax that Contractor A was required to pay because the materials were first stored in a county that has adopted the baseball stadium tax is allowed as a credit to reduce the amount of Walworth County tax that is due.

Exception: Sales of building materials to contractors engaged in the business of constructing, altering, repairing, or improving real estate for others are not subject to the county tax if (a) the materials are affixed and made a structural part of real estate, and (b) the amount payable to the contractor is fixed without regard to the costs included in performing a written contract that was **irrevocably entered into prior to the effective date of the county tax**, or that resulted from the acceptance of a formal written bid accompanied by a bond or other performance guaranty that was irrevocably submitted before the effective date of the county tax. [Wisconsin Form S-207CT-1](#) may be used by contractors to purchase materials without county tax under this exception.

See Appendix II for a list of the 62 counties that have adopted the 0.5% county tax as of January 1, 2014, and the effective date for each county's tax.

As of January 1, 2014, there is **no** county sales and use tax in the following 10 Wisconsin counties.

Counties Without County Tax

Brown	Menominee	Waukesha
Calumet	Outagamie	Winnebago
Kewaunee	Racine	
Manitowoc	Sheboygan	

D. Stadium Use Tax on Construction Materials

If a contractor is engaged in real property construction activities in any of the following counties, the stadium use tax, as noted below, is imposed on the purchase of tangible personal property; and items and goods described in Part I.C.2. and 3. used in constructing, altering, repairing, or improving real

property and that become a component part of real property in that county, if a stadium sales tax has not been charged:

Baseball Stadium Tax (0.1%)

Milwaukee County	Waukesha County
Ozaukee County	Washington County
Racine County	

Football Stadium Tax (0.5%)

Brown County

A contractor is also subject to the stadium use tax on the purchase of tangible personal property; and items, property, and goods described in Part I.C.2. through 4. stored in any of the above counties that will be used to construct, alter, repair, or improve real property, if a stadium sales tax has not been charged.

If a contractor properly paid a county or stadium tax on the purchase of materials that are used in a real property construction activity, the tax that was paid may be used as a credit against any additional Wisconsin county or stadium use tax owed on the purchase (e.g., county tax may be credited against football stadium tax).

Example: Contractor A is located in Dane County and purchases materials that will be used in a real property construction activity. The materials are delivered to Contractor A's location in Dane County where they are stored until needed. Contractor A pays the Wisconsin state and Dane County sales or use tax at the time the materials are purchased, but does not pay any baseball stadium district sales or use tax since Dane County has not adopted the baseball stadium district sales and use tax. Contractor A then transports the materials to a jobsite in Waukesha County (a county that has adopted the baseball stadium district sales and use tax) where Contractor A will use the materials in a real property construction activity. Since the materials are used in a real property construction activity in a county that has adopted the baseball stadium district sales and use tax and no baseball stadium district sales or use tax has been paid on the materials, Contractor A owes the baseball stadium district use tax on these materials but is allowed a credit for the 0.5% Dane County previously paid. Therefore, since the 0.5% Dane County tax previously paid exceeds the 0.1% baseball stadium

district use tax, no additional baseball stadium district use tax is due.

Exception: Sales of building materials to contractors engaged in the business of constructing, altering, repairing, or improving real estate for others are not subject to the stadium tax if (a) the materials are affixed and made a structural part of real estate, and (b) the amount payable to the contractor is fixed without regard to the costs included in performing a written contract that was **irrevocably entered into prior to the effective date** of the stadium tax or that resulted from the acceptance of a formal written bid accompanied by a bond or other performance guaranty that was irrevocably submitted before the effective date of the stadium tax. [Wisconsin Form S-207CT-1](#) may be used by contractors to purchase materials without stadium tax under this exception.

E. Quarries/Gravel, Etc.

1. Real Property

The purchase of gravel or other materials consumed in a real property construction contract is subject to sales or use tax. The real property construction contract price is not subject to sales tax. For example, the dumping and spreading of gravel in its final resting place is considered real property construction and not taxable.

Example: Contractor A purchases gravel from Supplier B. Contractor A spreads the gravel on Individual C's driveway and grades and compacts the gravel so that it is in its final resting place. Contractor A is the consumer of the gravel it spreads, grades, and compacts into its final resting place and must pay sales or use tax on its purchase of the gravel from Supplier B. Contractor A's charges to Individual C are not subject to Wisconsin sales or use tax since Contractor A is performing a real property construction activity by placing the gravel in its final resting place.

2. Personal Property

If the contractor dumps the gravel or other materials and someone other than the contractor moves, spreads, grades, rakes, or otherwise places the materials in their final resting place, the contractor is selling tangible personal property as opposed to making a real property improve-

ment. The sale of the gravel or other materials is subject to sales tax. The contractor may purchase these materials without tax by giving the supplier a Wisconsin Sales and Use Tax Exemption Certificate ([Form S-211](#)) or Streamlined Sales and Use Tax Agreement – Wisconsin Certificate of Exemption ([Form S-211-SST](#)) claiming resale.

Example 1: A contractor sells a truckload of stone to a homeowner who uses it in landscaping at his or her residence. The sale of the stone is subject to sales tax.

Example 2: Contractor X purchases gravel from Supplier Y. Contractor X will dump spread or gate spread the gravel on Customer Z's driveway. Customer Z, or someone other than Contractor X, will then grade, rake, and compact the materials into their final resting place. Since Contractor X is not placing the gravel in its final resting place, Contractor X may purchase the gravel from Supplier Y without tax by providing Supplier Y a Wisconsin Sales and Use Tax Exemption Certificate ([Form S-211](#)) or Streamlined Sales and Use Tax Agreement – Wisconsin Certificate of Exemption ([Form S-211-SST](#)) claiming resale. Contractor X's sale of the gravel to Individual B is subject to sales tax since dump spreading or gate spreading gravel that will be graded, raked, or compacted into its final resting place by someone else is a sale of tangible personal property.

3. Leased Land

The contractor may lease land or a gravel pit from a landowner and pay a royalty or lease based on the materials removed. If the arrangement with the landowner is the lease of real property or the sale of intangible mineral rights (even if measured by weight or volume of material removed) and the contractor severs the materials from the real property, the landowner's receipts are not subject to sales tax.

If these materials are then consumed by the contractor in a real property construction activity, the contractor does not owe sales or use tax on such materials.

F. Construction Contracts on Native American Reservations

1. Definitions

“Native American” means all persons of Native American descent who are enrolled members of any federally recognized Tribe. “Native American” also includes Native American Tribes, Native American corporations (corporations controlled and operated by Native Americans who are enrolled members of the Tribe of the reservation on which the corporation operates), and Native American partnerships (partnerships that are controlled and operated by Native Americans who are enrolled members of the Tribe of the reservation on which the partnership operates).

“Reservation” means all land within the boundaries of the Bad River, Forest County Potawatomi, Lac Courte Oreilles, Lac du Flambeau, Menominee, Mole Lake, Oneida, Red Cliff, St. Croix, and Stockbridge-Munsee reservations, as well as any Ho-Chunk Nation communities.

“Sales” means sales of tangible personal property or taxable services.

“Tribe” means a federally recognized Tribe or Band of Native Americans and includes tribal entities and tribal authorities.

“Tribal reservation” means the reservation of the Tribe of which a Native American is an enrolled member (for example, the tribal reservation for an enrolled member of the Oneida Tribe is the Oneida reservation). Unless otherwise noted, “reservation” includes trust land, which is land the title to which is held in trust by the United States for an individual Native American or a Tribe.

2. General Tax Treatment

Construction materials are taxable if sold to a non-Native American contractor who incorporates the materials into realty on a reservation, regardless of whether the materials were delivered to the contractor off the reservation in Wisconsin or another state, or on the reservation

(unless exempt from tax under the conditions in 3.b. (federal preemption)).

Example 1: A non-Native American contractor acquires building materials from an out-of-state seller without payment of Wisconsin sales tax. The contractor uses the material to repair an individual tribal member’s home roof on a Native American reservation. The contractor is the consumer of materials used in real property construction activities and is, therefore, required to pay use tax on such materials consumed. **Note:** Federal preemption does not apply to the contractor’s purchases of the building materials because the real property construction activity is being performed for an individual tribal member instead of for the Tribe itself.

Example 2: A non-Native American contractor acquires building materials without the payment of Wisconsin sales or use tax. The contractor uses the materials to build a casino for a Native American Tribe on the Tribe’s reservation. Since the building of a casino for a Native American Tribe on the Tribe’s reservation will help improve the self-sufficiency of the Tribe, federal preemption applies and the contractor may purchase the materials it uses in building the casino for the Tribe on the Tribe’s reservation without paying any Wisconsin sales or use tax.

A Native American, who takes delivery of construction materials off the reservation, is subject to the Wisconsin sales or use tax.

Example: Native American A purchases construction materials from Retailer B at Retailer B’s location. Retailer B’s location is not on the tribal reservation. Native American A will take the construction materials back to his tribal reservation and use them to fix his house. Native American A is subject to Wisconsin sales or use tax on his purchase of the construction materials from Retailer B.

Sales of tangible personal property; items, property, and goods described in Part I.C.2. through 4., and taxable services to a Native American tribe located in Wisconsin are exempt from Wisconsin sales and use tax regardless of whether the sales take place on or off the tribal reservation.

Example: Retailer A sells a computer to a Native American tribe located in Wisconsin. The sale takes place at Retailer A's location which is not on the tribal reservation. The sale of the computer to the Native American tribe is exempt from Wisconsin sales and use tax.

3. The following sales on a tribal reservation are exempt:
 - a. The sale of construction materials to a Native American contractor if (1) delivery of the materials to the Native American contractor occurs on the Native American contractor's tribal reservation and (2) the construction materials will be used on the Native American contractor's tribal reservation. However, if the materials are later used off the Native American contractor's tribal reservation, the contractor will be subject to Wisconsin use tax on its purchase of the materials.
 - b. The sale and delivery of construction materials to a non-Native American contractor on or off the reservation which the contractor uses in a construction project on the reservation for the Tribe if federal preemption applies.

"Federal preemption" means that Indian Treaties and federal statutes have been held in court decisions to prohibit in certain circumstances state taxation of Tribes and Native Americans. Generally, federal preemption will apply if (1) the construction activity is performed for the Tribe, (2) the construction occurs on the tribal reservation, and (3) the construction project will benefit the tribe.

Examples of construction projects that benefit a tribe include schools, administration buildings, casinos, hotels, wastewater treatment plants, convenience stores, and other construction projects that increase tribal revenue or allow the tribe to perform functions it would otherwise hire others to perform.

4. Some Native American tribes impose a tribal use tax on construction materials used by persons doing business on the reservation. This tribal use tax is in addition to, rather than in place of, the

Wisconsin sales and use tax. However, if the purchase, rental, license, or lease of tangible personal property, items, property, or goods described in Part I.C.2. through 4. or taxable service was sourced to (i.e., took place on) tribal lands and was subject to the sales or use tax imposed by a federally recognized American Indian tribe or band in Wisconsin prior to the property, items, goods and/or services being subject to the Wisconsin state, county, and/or stadium tax, the amount of sales tax paid to the tribe or band may be applied as a credit against the Wisconsin state, county, and/or stadium use tax imposed on that same property, item, good and/or service, as determined by an agreement between the department and the tribal council.

V. OTHER ITEMS RELATED TO BUSINESS OPERATIONS OF CONTRACTORS

A. Purchases of Materials – Personal Property

A contractor may purchase without sales or use tax the materials sold or transferred to a customer in the installation, repair, or servicing of tangible personal property and property, items, and goods described in Part I.C.2. through 4. This is done by issuing a Wisconsin Sales and Use Tax Exemption Certificate ([Form S-211](#)) or Streamlined Sales and Use Tax Agreement – Wisconsin Certificate of Exemption ([Form S-211-SST](#)) claiming resale to its supplier of such materials. This is discussed in Parts II.B. and VI.

B. Purchases of Materials – Real Property

If the contractor knows which materials are to be used in a real property activity, the contractor must pay the sales tax on such purchases to its supplier. In addition, a contractor must also pay Wisconsin sales or use tax on its purchases of materials that are stored, used, or consumed in Wisconsin, even if the materials are subsequently used in real property construction activities outside Wisconsin.

When a contractor is a consumer, its sales price from the sale of labor and material related to a real property construction activity is not subject to the sales tax. This is discussed in Part II.C. The contractor will, in most instances, pay a sales or use tax on its purchases of materials consumed in improving realty.

C. When a Contractor Is Both a Consumer and a Retailer

A contractor who acts as both a consumer and retailer may not know when it purchases materials whether they will be consumed in real property construction activities, resold to others, or used in the repair or servicing of personal property. In such instances, a contractor may do one of the following at the time of making purchases:

1. *Give an exemption certificate claiming resale to suppliers and purchase the materials without tax.* If the contractor later resells the materials or uses them in the repair or servicing of personal property, the contractor must report the sale on its sales and use tax return and is liable for the sales tax based on the sales price to the customer, unless an exemption applies. However, if the materials are used in a real property activity, the contractor must report a use tax based on the purchase price of the materials on its sales tax return.

Example: A contractor purchases 1,000 feet of wire without tax for \$100 (10¢ per foot) by giving the supplier an exemption certificate claiming resale. The contractor sells 600 feet of the wire over-the-counter for \$120 and uses the remaining 400 feet of wire to wire a home. The contractor must report \$6 of sales tax on its sale of the wire (\$120 X 5%) and \$2 of use tax for use of 400 feet of wire in a real property improvement (\$40 X 5%) on its sales and use tax return.

2. *Pay sales tax to supplier on all materials purchased.* If the materials are later consumed in a real property activity, the tax obligation is satisfied because it was paid to suppliers when purchasing the materials.

If the materials are resold at retail in a sale subject to sales or use tax, the contractor must report sales tax for the sales on its sales and use tax return. It may also take a deduction on line 5 of its sales and use tax return (titled "Other") for the amount paid to suppliers when the materials were purchased. The deduction is taken on the sales and use tax return for the period in which the retail sale of the materials is made by the contractor.

Example: A contractor purchased 1,000 feet of wire for \$100 and paid \$5 tax. The 1,000 feet of wire was later resold over-the-counter for \$150. Sales tax of \$7.50 (\$150 x 5%) was charged on the retail sale and reported by the contractor on its sales and use tax return. A \$100 deduction for the amount paid to the supplier for the wire purchased by the contractor may be taken on line 5 of the sales and use tax return for the period in which the \$150 sale of wire is reported by the contractor.

D. Purchases of Construction Information Transferred Electronically

Beginning July 1, 2012, charges to access or obtain construction plans and construction project information electronically, as described in the following paragraphs, are subject to Wisconsin sales and use taxes. "Transferred electronically" means accessed or obtained by the purchaser by means other than tangible storage media.

Vendor A sells reports featuring up-to-date construction project information. The reports are transferred electronically and are available for purchase by ordering single reports as needed, or on a subscription basis entitling the purchaser to obtain an unlimited number of reports within the subscription period. In addition, the purchaser is furnished the opportunity to receive, as part of the subscription, email alerts to track a project or projects within a particular area. The charges for the reports and email updates are subject to Wisconsin sales and use taxes as receipts from the sale of an additional digital good that is a news or other information product.

In addition, Vendor A sells copies of construction plans and specifications. The plans and specifications are transferred electronically. The plans and specifications are sold on a project-by-project basis. The charges for the construction plans and specifications are subject to Wisconsin sales and use taxes as receipts from the sale of an additional digital good that is a news or other information product.

Additional information on the tax treatment of various products that are transferred electronically to the purchaser is available in [Publication 240: Digital Goods – How Do Wisconsin Sales and Use Taxes Apply to Sales and Purchases of Digital Goods?](#)

E. Purchases or Rentals of Machinery and Equipment

A contractor's purchase or rental of the following machinery and equipment used by the contractor are taxable:

1. Machinery and equipment, such as road building equipment, tunnel shields, construction machines, forklifts, air compressors, and excavating equipment.
2. Tools, such as power saws and hand tools.
3. Supplies, such as machine lubricating and fuel oils, form lumber, and industrial gases.
4. Trucks and other motor vehicles used to carry the materials, equipment, and employees to the jobsite.
5. Safety equipment worn by the employees such as ear plugs, safety glasses, hard hats, and boots.

The contractor is the consumer of such personal property and must pay tax on its purchase or rental of such property.

F. Service vs. Rental

When equipment is provided with an operator, the tax treatment of the transaction depends on whether the operator does more than maintain, inspect, or set up the equipment and if the operator is necessary for the equipment to perform in the manner for which is designed.

Service

If equipment is provided along with an operator who is necessary for the equipment to perform in the manner for which it was designed, and the operator does more than maintain, inspect, or set up the equipment, the person providing the equipment is considered to be providing a service, rather than leasing or renting the equipment. The service provided may or may not be a taxable service. A service provider is liable for sales or use tax on its purchases of equipment that it uses to provide services. A service provider is also liable for sales or use tax on its purchases of repair parts and repair services for such equipment.

Example: Contractor A is hired by Customer B to dig a basement that meets certain specifications. Contractor A operates the excavating equipment while they are in use (i.e., Contractor A does more than maintain, inspect, or set up the equipment and is necessary for the equipment to perform in the manner for which it was designed). On the invoice to Customer B, Contractor A charges Customer B \$100/hour for the "rental" of the excavating equipment and \$50/hour for the operator. Although Contractor A's invoice indicates the \$100/hour is a "rental" of the excavating equipment, since Contractor A does more than maintain, inspect, or set up the equipment, Contractor A is considered to be providing a service, rather than renting the equipment to Customer B. The charge by Contractor A to Customer B is not subject to Wisconsin sales or use tax since the digging of a basement is a real property construction activity. (**Note:** Contractor A is required to pay Wisconsin sales or use tax on his purchase of the excavating equipment used to complete this job.)

Rental

Leases or rentals of equipment with an operator that only maintains, inspects, and/or sets up the equipment are subject to sales or use tax. A lessor may purchase equipment without tax for resale if the lessor uses the equipment solely for leasing or renting. A lessor may also purchase lubricants, repair parts, and repair services for equipment used solely for leasing or renting, without tax for resale.

Example: Contractor C is hired by Customer D to provide an end loader in order for dirt to be moved from one location to another. Contractor C only sets up and inspects the end loader. Contractor C does not provide an operator with the end loader. Contractor C charges Customer D \$75/hour for the use of the end loader. The charge for the use of the end loader is subject to sales or use tax as a charge for the lease or rental of the end loader.

Exception: Charges for the use of motor trucks are taxable rental charges, except if drivers are provided by the truck's owner to operate the truck, the transaction is a service and not a lease or rental.

G. Motor Vehicle Fuel or Alternate Fuel Excise Tax Refunds

Motor vehicle fuel or alternate fuel may be purchased exempt from sales tax because it is subject to the motor vehicle fuel or alternate fuel tax under Chapter 78, Wis. Stats. However, if the motor vehicle fuel or alternate fuel taxes are later refunded under [sec. 78.75, Wis. Stats.](#), because the buyer does not use the fuel in operating a motor vehicle upon public highways, the purchase price of the fuel less the excise taxes refunded, will be subject to sales or use tax, unless another exemption applies, such as use in farming.

Also, a contractor may hold an alternate fuel license which allows it to purchase fuels for off-highway usage and not be subject to excise tax. The contractor is subject to Wisconsin sales or use tax on fuel used in construction equipment and nonhighway vehicles.

H. Sales of Used Equipment

If a contractor holds or is required to hold a seller's permit, its sales of used machinery, equipment, vehicles and similar equipment to other contractors or purchasers are subject to sales or use tax.

Any person that is registered to collect and remit or required to be registered to collect and remit Wisconsin sales and use taxes must also collect and remit the applicable state, county, and/or stadium sales and use taxes on its sales of motor vehicles, boats, snowmobiles, recreational vehicles as defined in [sec. 340.01\(48r\), Wis. Stats.](#), trailers, semitrailers, all-terrain vehicles, and aircraft, even if they are not "dealers" or "registered dealers" of the item sold.

Purchases of used equipment, machinery, vehicles, and similar equipment from persons who don't hold and are not required to hold a seller's permit may qualify as exempt occasional sales. See the tax release published in [Wisconsin Tax Bulletin 122](#) (October 2000) for additional information regarding the occasional sale exemption.

I. Credit for Tax Paid to Another State

A contractor is subject to Wisconsin use tax on tangible personal property; items, property, and goods described in Part I.C.2. through 4.; and taxable services purchased outside Wisconsin that are stored, used, or consumed in Wisconsin. However, if another

state's tax was properly paid on the purchase of the property, item, good, or service (e.g., the contractor took possession of the property, item, good, or service in that state), the amount of Wisconsin state, county, and/or stadium use tax due may be offset by the tax paid to the other state. Any tax paid to another state in excess of the amount of Wisconsin state, county, and/or stadium use tax due may not be claimed as an additional credit and used to offset other Wisconsin state, county, and/or stadium use tax due.

Example 1: Real Property Construction Job:

Contractor A purchased building materials in Minnesota, for \$10,000. The supplier charged the 6.5% Minnesota sales tax of \$650 on the sale of the building materials. Contractor A uses the building materials in a real property construction activity in Hudson, Wisconsin (St. Croix County). Because the materials are stored, used, or consumed in Hudson, Wisconsin, the purchase of the materials is subject to Wisconsin and St. Croix County use tax. However, no tax must be reported on the Wisconsin sales and use tax return because the Wisconsin state and county use tax due of \$550 (5.5% X \$10,000) is completely offset by the Minnesota sales tax paid of \$650.

Example 2: Tangible Personal Property Construction Job:

Contractor A purchases materials in Minnesota for \$10,000. Contractor A properly paid 6.5% Minnesota sales tax of \$650 on the **purchase** of materials. Contractor A uses the materials for the sale and installation of tangible personal property (not a real property construction job) in a job for \$25,000 for Customer C. Contractor A must charge **sales** tax on the entire \$25,000. Contractor A may claim a deduction of \$13,000 (\$650 tax paid to Minnesota divided by 5% Wisconsin tax rate = \$13,000) on its Wisconsin sales and use tax return for the tax Contractor A paid to Minnesota on its purchase of the materials.

For more information about the credit for taxes paid to another state, see [Wisconsin Tax Bulletin 157](#), pages 28 – 49 and the article on the department's website titled, ["Credit for Taxes Paid: Construction Contractor's - Real Property in Another State But Tangible Personal Property in Wisconsin"](#). For information on how to claim the credit on your sales and use tax return, refer to the instructions for Form ST-12, which can be obtained at: revenue.wi.gov/forms/sales/s-114.pdf.

J. Contractor Erroneously Charged Tax on Real Property Construction Activity

If a contractor erroneously charges a customer sales tax on a real property construction activity, the contractor must refund that tax (and related interest, if applicable) to the customer. However, the contractor is allowed to reduce the amount of sales tax they refund to their customer by the amount of sales or use tax (and related interest, if applicable), the contractor should have paid on their purchase of the materials used in completing that real property construction activity.

Example: Contractor A installs carpeting for Customer B for \$5,000 for materials and labor. Contractor A's purchase price of the carpet from its supplier is \$3,000. Contractor A did not pay any sales or use tax at the time it purchased the carpeting from its supplier. Contractor A erroneously charges Customer B sales tax of \$250 on this real property construction activity. Contractor A is required to refund the \$250 to Customer B. However, Contractor A can reduce the \$250 refund by the \$150 (\$3,000 x 5%) of Wisconsin sales or use tax Contractor A owes on its purchase of the carpet from its supplier. Therefore, Contractor A must only refund the \$100 difference to Customer B. If Contractor A does not refund the \$100 to Customer B, it must be remitted to the Department of Revenue.

See [Publication 216: Filing Claims for Refund of Sales or Use Tax](#), Part VII.D., for additional information.

VI. RECORD KEEPING

A. General

Every contractor required to have a seller's permit, consumer's use tax certificate, or use tax certificate must keep adequate records so that the contractor, as well as the Department of Revenue, can determine the correct amount of tax for which the contractor is liable.

The contractor must keep a complete and accurate record of beginning and ending inventories, purchases, sales, canceled checks, receipts, invoices, bills of lading, and all other pertinent documents and books of accounting pertaining to the business. See [sec. Tax 11.92](#), Wis. Adm. Code, "Records and record keeping," for more information.

B. Records to Keep – Exempt Sales

If a contractor claims that part or all of its retail sales of tangible personal property; items, property, or goods described in Part I.C.2. through 4.; or taxable services are exempt from sales and use tax, the contractor generally must obtain a fully completed Wisconsin Sales and Use Tax Exemption Certificate ([Form S-211](#)) or Streamlined Sales and Use Tax Agreement – Wisconsin Certificate of Exemption ([Form S-211-SST](#)) from the purchaser and keep a record of the name and address of the person to whom the exempt sale was made, the date of sale, the article sold, the amount of exemption, and the reason the sale was exempt from tax.

The reason for keeping such records is that the sales and use tax law provides that all receipts are taxable until the contrary is established. The seller (contractor) has the burden of proving that a sale of tangible personal property; items, property, or goods described in Part I.C.2. through 4.; or taxable services is exempt, unless the seller takes an exemption certificate (or other information as described in 2. and 3. below) no later than 90 days after the date of the sale in an approved form from the purchaser which indicates that the property, item, good, or service being purchased is for resale or is otherwise exempt.

Three common reasons that sales of tangible personal property; items, property, or goods described in Part I.C.2. through 4.; or taxable services may be exempt are:

1. The use to be made of the property, item, good, or service purchased is exempt or the property, item, good, or service is to be resold. For example, the item is going to be used exclusively and directly in manufacturing or in farming and is, therefore, exempt.

The seller should obtain a fully completed Wisconsin Sales and Use Tax Exemption Certificate ([Form S-211](#)) or Streamlined Sales and Use Tax Agreement – Wisconsin Certificate of Exemption ([Form S-211-SST](#)) from the purchaser.

2. The purchasing organization is exempt (e.g., Wisconsin public schools and municipalities, federal government, federally recognized American Indian Tribes or bands).

Sales to the federal government and Wisconsin governments, municipalities, public schools, and federally recognized American Indian Tribes or bands should be supported by one of the following:

- a. A purchase order or similar written document identifying the governmental unit, Tribe, or band as the purchaser.
- b. A fully completed Wisconsin Sales and Use Tax Exemption Certificate ([Form S-211](#)) or Streamlined Sales and Use Tax Agreement – Wisconsin Certificate of Exemption ([Form S-211-SST](#)).
- c. Recording the federal government or Wisconsin governmental unit's, Tribe's or band's Certificate of Exempt Status (CES) number on the invoice.

Exempt sales to nonprofit organizations holding a CES (e.g., church) can be supported by a Wisconsin Sales and Use Tax Exemption Certificate ([Form S-211](#)) or Streamlined Sales and Use Tax Agreement – Wisconsin Certificate of Exemption ([Form S-211-SST](#)) or by recording the exempt entity's CES number on the invoice.

Nonprofit organizations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, may apply on [Form S-103](#) (Application for Wisconsin Sales and Use Tax Certificate of Exempt Status) to the Department of Revenue for a Certificate of Exempt Status (CES). If the application is approved, the nonprofit organization will be issued a CES number by the department.

3. The purchaser furnishes the seller (a) a copy of its Wisconsin direct pay permit or (b) a statement that the purchaser holds a Wisconsin direct pay permit, the permit number, and the date the permit was issued. The purchaser is subject to Wisconsin use tax on the purchase price if the property, item, good, or service purchased is used in a taxable manner.

Note: If exemptions are claimed for any of the above three reasons, the seller must keep the completed certificates, purchase orders, and invoices to prove that the sales were exempt.

C. Contractor's Invoices to Its Customers

To determine its sales and use tax liability, a contractor should segregate its invoice charges (sales price) according to whether the contractor is acting as (1) a retailer (selling tangible personal property; items, property, and good described in Part I.C. 2 through 4.; or providing taxable labor or services) or (2) a consumer (improving, altering, or repairing real property).

The invoice for each transaction, job, or contract should be set forth so that charges for labor performed and materials used that are subject to sales tax are segregated from nontaxable charges for real property activities. The materials used in a real property activity must be identified to enable the contractor to determine the amount of its material purchases that are subject to sales or use tax.

See Part II.D., for information on the sales and use tax treatments when a contractor is acting as both a retailer and a consumer on the same job.

Contractors also have certain overhead costs and expenses that they incur in completing a construction project that they may choose to separately state from the materials and labor in the contract documents. The contractor is the consumer of such items and is subject to Wisconsin sales or use tax on those that are tangible personal property; items, property, or goods described in Part I.C. 2. to 4.; or taxable services, even if these costs are passed on to the customer.

The charge to the customer for the overhead costs and expenses are part of the sales price from the sale of real property improvements, tangible personal property; items, property, or goods described in Part I.C. 2. to 4.; and taxable services. Therefore, these charges should be allocated to the material and labor charges to which they relate and tax imposed on those charges relating to taxable sales. Charges relating to nontaxable sales would not be taxed.

Example: A contractor constructs a building for a customer that includes both real property construction, the sale and installation of tangible personal property, and taxable services, such as landscaping. The customer is charged as follows:

Real property improvements (labor and materials)	\$2,500,000
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Tangible personal property (labor and materials)	500,000
Landscaping (labor and materials)	<u>100,000</u>
Subtotal	\$3,100,000
General Conditions* and Project Management	<u>300,000</u>
Total Contract Price	<u>\$3,400,000</u>

*Includes items such as portable toilet rentals, temporary fencing, meeting expenses, plan documents, etc., that are not physically transferred to the customer and apply to all aspects of the construction project.

The \$300,000 separately stated charge for items that apply to both the real property and tangible personal property can be allocated based on the selling price of each item compared to the total selling price of those items. Therefore, of the \$300,000 charge, \$57,000 can be allocated to the tangible personal property and taxable services ($\$600,000 \div \$3,100,000 = 19\%$ and $19\% \times \$300,000 = \$57,000$) and \$243,000 allocated to the real property ($\$2,500,000 \div \$3,100,000 = 81\%$ and $81\% \times \$300,000 = \$243,000$).

The contract amount subject to sales tax is \$657,000 (\$500,000 tangible personal property + \$100,000 landscaping service + \$57,000 overhead expenses).

VII. OTHER TAXES AND FEES TO BE AWARE OF

If you have business activities or earn income in Wisconsin, you may also be subject to Wisconsin taxes other than sales and use taxes. Although the information below is not all-inclusive, it may help you in obtaining information about other Wisconsin taxes you should be aware of.

Individual Income Tax: Every person who is a resident of Wisconsin and who has gross income more than a certain amount is subject to Wisconsin income taxes, regardless of where the income is earned.

A person who is a nonresident of Wisconsin is subject to Wisconsin income taxes if he or she has gross income of \$2,000 or more from personal services performed in Wisconsin or from business or property in Wisconsin. For more information, write to: Wisconsin Department of Revenue, Mail Stop 3-107, P.O. Box 8949, Madison, WI 53708-8949.

Corporation Franchise or Income Tax: Every corporation organized under the laws of Wisconsin or licensed to do business in Wisconsin (except certain organizations exempt under [sec. 71.26\(1\), Wis. Stats.](#)) is required to file a Wisconsin corporate franchise or income tax return, regardless of whether or not business was transacted. Unlicensed corporations are also required to file returns for each year they have certain business activities in Wisconsin. For more information, write to: Wisconsin Department of Revenue, Mail Stop 3-107, P.O. Box 8906, Madison, WI 53708-8906.

Bond Requirement: Out-of-state construction contractors and subcontractors are required to file a surety bond with the Wisconsin Department of Revenue at Mail Stop 5-77, P.O. Box 8902, Madison, WI 53708-8902, to guarantee the payment of franchise or income taxes, unemployment compensation contributions, income taxes withheld from employees' wages, and sales and use taxes. When total construction contracts, which begin in the same calendar year, equal or exceed \$50,000, a surety bond is required. The surety bond is 3% of the aggregate amount of contracts. It must be posted within sixty (60) days after construction has begun.

Example: A construction contractor entered into three contracts during the calendar year.

- Contract A for \$10,000 begins April 15; no surety bond is required because an aggregate of \$50,000 has not been reached.
- Contract B for \$50,000 begins May 15; a 3% surety bond is required on the aggregate \$60,000 of contracts and is due by July 15.
- Contract C for \$40,000 begins August 1; surety bonds are required on the aggregate \$100,000 of contracts but a 3% surety bond must now be posted on only the \$40,000 of additional contracts and is due by October 1.

Withholding: If an employer has employees in Wisconsin, the employer may be required to withhold Wisconsin income taxes from the employees' wages. An employer required to withhold must apply for a withholding registration certificate from the department. For more information, write to: Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8902, Madison, WI 53708-8902.

Unemployment And Worker's Compensation: For more information on these taxes write to: Wisconsin Department of Workforce Development, P.O. Box 7901, Madison, WI 53707-7901.

Motor Vehicle Alternate Fuel Tax: An alternate fuel tax is imposed on all compressed natural gas (CNG) or liquid propane (LPG) placed into the supply tank of a motor vehicle. If you purchase CNG or LPG for heating and use this fuel in your truck or automobile, you must obtain an Alternate Fuel Users License and pay the tax directly to the Department of Revenue.

If you sell or purchase alternate fuel and have questions about the alternate fuel tax, write to:

Excise Tax Section 6-107
Wisconsin Department of Revenue
PO Box 8900
Madison, WI 53708-8900

VIII. ANY QUESTIONS?

Department of Revenue Assistance

If you have a question about sales and use taxes, you may contact the Department of Revenue as follows:

Visit our website . . . revenue.wi.gov

Email . . . DORSalesandUse@revenue.wi.gov

Write . . . Wisconsin Department of Revenue
Mail Stop 5-77
P.O. Box 8949
Madison, WI 53708-8949

Telephone... (608) 266-2776

Fax . . . (608) 267-1030

You may also contact any of the Department of Revenue offices. For a listing of offices and their current hours, please see the department's website at revenue.wi.gov/faqs/ise/address.html.

APPENDIX I

Chart to Aid in Distinguishing Real vs. Personal Property Activities

I. EXPLANATIONS

Items — For purposes of this chart it is assumed that the items listed are all sold attached, affixed, installed, or fastened to real property by the contractor. If listed items are not sold attached to real property, etc., by the contractor, the answer given on the chart may not apply. It is also assumed that the repair of such items either occurs while the item is still attached to the real estate or the contractor removes the item, repairs it, and reinstalls it. Under other circumstances the answer given in the chart may not apply. You should also note that the information in the chart does not apply to leased property that is affixed to real property and subject to tax under sec. 77.52(1)(c), Wis. Stats.

Residential (columns 1 and 2)—Includes all structures or parts of structures that provide permanent living space for people (e.g., homes, apartment buildings, convalescent homes).

Commercial (columns 3 through 6)—All structures/property not classified as residential.

Real Estate Function (columns 3 and 4)—If the item serves a real estate or building function, look in columns 3 and 4 (e.g., a furnace boiler used to heat a building).

Process Function (columns 5 and 6)—If the item serves a process (e.g., manufacturing, farming, fabricating, retailing, etc.) function, look in columns 5 and 6 for a determination (e.g., a furnace boiler used to heat glass at a bottle manufacturing plant).

Install (columns 1, 3 and 5)—Includes first-time installation or replacing an existing item.

Repair (columns 2, 4 and 6)—Means repairing an existing item, including the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of a listed item.

P—Means that the item is considered personal property when used in the manner indicated in the column heading.

RE—Means that the item is considered real property when used in the manner indicated in the column heading.

N/A—Means that the item is typically not used in the manner indicated in the column heading. Look to another column.

II. TAX EFFECT

Real Property—The contractor is considered to be the consumer of materials used in performing real property construction contracts. The contractor pays sales or use tax on the cost of the materials used.

Personal Property—The contractor is the retailer of materials and services provided with respect to items classified as personal property. The contractor charges sales tax on the entire amount billed to the customer, including labor and materials.

Caution: The information in the following chart is a generalization for instructional purposes only. The facts and circumstances in any particular situation will determine the actual tax treatment for that situation and may differ from the treatment presented here.

Caution: The information in the following chart does not apply to leased property that is affixed to real property that is subject to sales tax under sec. 77.52(1)(c), Wis. Stats. The items also do not include affixing to real property tangible personal property that remains tangible personal property after it is affixed.

Item	Residential		Commercial			
	Install (1)	Repair (2)	Real Estate Function Install (3)	Repair (4)	Process Function Install (5)	Repair (6)
Advertising Signs (except concrete foundation)	N/A	N/A	N/A	N/A	P	P

Item	Residential		Commercial			
	Install (1)	Repair (2)	Real Estate Function		Process Function	
			Install (3)	Repair (4)	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 unauthorized access to building or room)	RE	P	RE	P	N/A	N/A
Burglar Alarm Fixture (prevent theft of inventory or provide other business function)	N/A	N/A	N/A	N/A	P	P
Cabinets (except in bathrooms) - see p. 7	RE	RE	RE	RE	P	P
Cabinets (in bathrooms) - see p. 7	RE	P	RE	P	N/A	N/A
Cable TV Station Equipment	N/A	N/A	N/A	N/A	P	P
Camera Security Equipment (see Security Cameras)						
Canopies (not awnings)	RE	RE	RE	RE	N/A	N/A
Card Access Readers (see Door Controls)						
Carpeting	RE	P	RE	P	N/A	N/A
Carpeting (not attached to building)	P	P	N/A	N/A	P	P
Casework (see Cabinets)						
Cemetery Monuments	RE	RE	RE	RE	N/A	N/A
Central Vacuum Cleaners	RE	P	RE	P	P	P
Ceramic Tile	RE	RE	RE	RE	N/A	N/A
Communication/Data Cabling (underground)	RE	RE	RE	RE	RE	RE
Communication/Data Cabling (up to outlet point (i.e., plate on wall containing jack))	RE	RE	N/A	N/A	P	P
Communication/Data Cabling (outlet point to equipment such as computer)	P	P	N/A	N/A	P	P
Computer Room Floors	RE	RE	RE	RE	N/A	N/A
Concrete Foundations	RE	RE	RE	RE	N/A	N/A
Coolers (internal, walk-in, is one or more walls of building)	RE	P	RE	P	RE	P
Coolers (internal, walk-in, no walls are walls of building)	RE	P	N/A	N/A	P	P
Coolers (free-standing)	P	P	N/A	N/A	P	P
Counters (except in bathrooms) – see p. 7	RE	RE	RE	RE	P	P
Counters (in bathrooms) – see p. 7	RE	P	RE	P	N/A	N/A
Curtains	P	P	P	P	P	P
Dams	RE	RE	RE	RE	N/A	N/A
Dehumidifiers	RE	P	RE	P	P	P

Item	Residential		Commercial			
	Install (1)	Repair (2)	Real Estate Function Install (3)	Repair (4)	Process Function Install (5)	Repair (6)
Dishwashers	RE	P	R/E	P	P	P
Ditches	RE	RE	RE	RE	N/A	N/A
Doors	RE	RE	RE	RE	N/A	N/A
Door Controls	RE	RE	RE	RE	N/A	N/A
Drapes	P	P	P	P	P	P
Driveup/Walkup Windows	N/A	N/A	N/A	N/A	P	P
Dryers (clothes)	P	P	N/A	N/A	P	P
Electric Clocks	P	P	P	P	P	P
Electric Dust Collectors	RE	P	RE	P	P	P
Electric Signs	RE	P	RE	P	P	P
Elevators, Building	RE	RE	RE	RE	N/A	N/A
Fans (e.g. ceiling)	RE	RE	RE	P	P	P
Faucets (not in bathroom)	RE	RE	RE	RE	P	P
Faucets (in bathroom)	RE	P	RE	P	N/A	N/A
Fencing	RE	RE	RE	RE	N/A	N/A
Fire Alarm Fixtures	RE	P	RE	P	P	P
Fire Suppression System (to protect building or structure)	RE	RE	RE	RE	N/A	N/A
Fire Suppression System (to protect specific piece of equipment or machine (i.e., grill in a restaurant)	N/A	N/A	N/A	N/A	P	P
Fixed (year-around) Wharves and Docks	RE	RE	RE	RE	RE	RE
Flag Poles (except concrete foundation)	RE	RE	N/A	N/A	P	P
Floors	RE	RE	RE	RE	N/A	N/A
Foundations and Building Supports (including for machinery)	RE	RE	RE	RE	RE	RE
Freezers (see Coolers))						
Furnaces	RE	P	RE	P	P	P
Furniture	P	P	N/A	N/A	P	P
Garage Door Openers	RE	RE	RE	RE	N/A	N/A
Garbage Disposals	RE	P	RE	P	P	P
Gas and Electric Logs	P	P	P	P	P	P
Gasoline Pumps	RE	RE	N/A	N/A	P	P
General Lighting	RE	RE	RE	P*	N/A	N/A
*in offices, business facilities, schools, and hospitals						
General Electrical Wiring	RE	RE	RE	RE	P	P
Generators (See Stand-by Generators)						
Grain Bins	N/A	N/A	RE	RE	N/A	N/A
Grain Elevators (building portion)	N/A	N/A	RE	RE	N/A	N/A
Grain Handling Equipment Within the Building and Grain Elevator Legs	N/A	N/A	N/A	N/A	P	P
Grills and Rotisseries	RE	P	N/A	N/A	P	P
Heating, Cooling, and Vent. System Units	RE	P	RE	P	P	P
Hoists	RE	RE	N/A	N/A	P	P
Home Theater Systems						
Cabinets (in-wall)	RE	P	N/A	N/A	P	P
Receivers, DVD players, VHS players	P	P	N/A	N/A	P	P
Screens (non-motorized, wall-mounted)	P	P	N/A	N/A	P	P
Screens (motorized, in ceiling)	RE	R/E	N/A	N/A	P	P
Speakers (in-wall)	RE	RE	N/A	N/A	P	P
Speakers (free-standing)	P	P	N/A	N/A	P	P

Item	Residential		Commercial			
	Install (1)	Repair (2)	Real Estate Function		Process Function	
			Install (3)	Repair (4)	Install (5)	Repair (6)
Television sets	P	P	N/A	N/A	P	P
Wiring (speakers, in-wall)	RE	RE	N/A	N/A	P	P
Wiring (speakers, not in wall)	P	P	N/A	N/A	P	P
Humidifiers (addition to furnace)	RE	P	RE	P	P	P
Improvements to Land (except landscaping)	RE	RE	RE	RE	N/A	N/A
Incinerators	RE	P	RE	P	P	P
Intercoms	RE	P	N/A	N/A	P	P
Jukeboxes	P	P	N/A	N/A	P	P
Kitchen Cabinets (see Cabinets)						
Laundry, Dry Cleaning Machines	P	P	N/A	N/A	P	P
Light Fixtures (see General Lighting)						
Linoleum Covering Floor	RE	RE	RE	RE	N/A	N/A
Loading Platforms	RE	RE	RE	RE	N/A	N/A
Lockers	RE	RE	N/A	N/A	P	P
Manufactured Homes on Leased Land (regardless of whether or not "on a foundation")	P	P	P	P	P	P
Manufactured Homes on Owned Land ("on a foundation")	RE	RE	RE	RE	RE	RE
Manufactured Homes on Owned Land (not "on a foundation")	P	P	P	P	P	P
Music and Sound Equipment	RE	P	N/A	N/A	P	P
Night Depository Equipment	N/A	N/A	N/A	N/A	P	P
Office, Bank, and Savings & Loan Office Machines	N/A	N/A	N/A	N/A	P	P
Ovens (including hoods and exhaust system)	RE	P	N/A	N/A	P	P
Parking Lot Lights	RE	RE	RE	P	N/A	N/A
Partitions and Movable Walls (affixed to walls, floor or ceiling of building)	RE	RE	RE	RE	N/A	N/A
Partitions and Moveable Walls (not affixed)	P	P	N/A	N/A	P	P
Piers (seasonal)	P	P	P	P	P	P
Pneumatic Tube System	N/A	N/A	N/A	N/A	P	P
Ponds	RE	RE	RE	RE	RE	RE
Portable Appliances	P	P	P	P	P	P
Portable Lamps	P	P	P	P	P	P
Pumps	RE	P	RE	P	P	P
Radio and TV Sets	P	P	N/A	N/A	P	P
Radio Station Equipment	N/A	N/A	N/A	N/A	P	P
Railroad Signs and Signals	P	P	P	P	P	P
Railway Switch Tracks	RE	RE	RE	RE	RE	RE
Recreational and Sporting Equipment	RE	P	N/A	N/A	P	P
Remote TV Auto Teller System	N/A	N/A	N/A	N/A	P	P
Restaurant and Tavern Equipment	N/A	N/A	N/A	N/A	P	P
Roads	RE	RE	RE	RE	N/A	N/A
Roofs	RE	RE	RE	RE	N/A	N/A
Safe Deposit Boxes	N/A	N/A	N/A	N/A	P	P
Sanitation and Plumbing System	RE	RE	RE	RE	N/A	N/A
Satellite Dish (compact roof mounted)	P	P	N/A	N/A	P	P
Satellite Dish (large with concrete foundation)	RE	P	N/A	N/A	P	P
Seating in Auditoriums and Theaters	N/A	N/A	N/A	N/A	P	P
Seating in Restaurants and Taverns	N/A	N/A	N/A	N/A	P	P

Item	Residential		Commercial			
	Install (1)	Repair (2)	Real Estate Function		Process Function	
			Install (3)	Repair (4)	Install (5)	Repair (6)
Security Cameras (prevent unauthorized access to building or room in building)	RE	RE	RE	RE	N/A	N/A
Security Cameras (protect inventory or provide other business function)	N/A	N/A	N/A	N/A	P	P
Sewers, Drain, Storm, Sanitation	RE	RE	RE	RE	N/A	N/A
Shades	P	P	P	P	P	P
Sidewalks	RE	RE	RE	RE	N/A	N/A
Signs (see specific type)						
Silos	N/A	N/A	RE	RE	N/A	N/A
Sinks (other than bathroom fixtures)	RE	P	RE	P	P	P
Sprinkler Systems (fire safety)	RE	RE	RE	RE	P	P
Stair Lifts	RE	RE	RE	RE	P	P
Stairways	RE	RE	RE	RE	P	P
Stand-by Generators	RE	RE	RE	RE	P	P
Standing Timber Sold for Removal	P	N/A	P	N/A	N/A	N/A
Stop and Go Lights	P	P	P	P	P	P
Storage Tanks Assembled or Constructed on Site	RE	RE	RE	RE	RE	RE
Storm Doors and Windows	RE	RE	RE	RE	N/A	N/A
Street Lights	RE	RE	RE	RE	N/A	N/A
Street Identification Signs	P	P	P	P	P	P
Structural and Other Improvements to Buildings	RE	RE	RE	RE	RE	RE
Sump Pumps	RE	P	RE	P	P	P
Swimming Pools (wholly or part in ground)	RE	P	RE	P	RE	P
Tables	RE	P	N/A	N/A	P	P
Telephone Wiring (underground)	RE	RE	RE	RE	N/A	N/A
Telephone Wiring and Jacks (up to outlet point (i.e., plate on wall containing jack))	RE	RE	N/A	N/A	P	P
Temporary Electrical Service	P	P	P	P	P	P
Theater Stage Lights and Projection Equipment	N/A	N/A	N/A	N/A	P	P
Thermostats (wall mounted)	RE	RE	RE	RE	P	P
Traffic Signs and Signals (e.g., stop, yield)	P	P	P	P	P	P
Transformers (on easement/leased property)	P	P	P	P	P	P
Transformers (on owner's property)	RE	RE	RE	RE	P	P
Truck Platform Scale Foundations	N/A	N/A	RE	RE	RE	RE
Truck Platform Scales	N/A	N/A	N/A	N/A	P	P
TV Station Equipment	N/A	N/A	N/A	N/A	P	P
Underground Concrete Foundations	RE	RE	RE	RE	N/A	N/A
Underground Irrigation System (farm)	N/A	N/A	P	P	P	P
Underground Irrigation System (nonfarm)	RE	RE	RE	RE	RE	RE
Underground Tanks	RE	RE	RE	RE	RE	RE
Underground Utility Lines	RE	RE	RE	RE	N/A	N/A
Utility Transmission/Distribution Lines Above Ground on Right-of-Way	P	P	P	P	P	P
Vault Doors	RE	RE	N/A	N/A	P	P
Venetian Blinds	P	P	P	P	N/A	N/A
Washers (clothes)	P	P	N/A	N/A	P	P
Water Heaters	RE	P	RE	P	P	P

Item	Residential		Commercial			
	Install (1)	Repair (2)	Real Estate Function Install (3)	Repair (4)	Process Function Install (5)	Repair (6)
Water Lines - Drinking, Sanitation, Fire	RE	RE	RE	RE	RE	RE
Water Softeners	RE	P	RE	P	P	P
Wells	RE	RE	RE	RE	N/A	N/A
Windows (except driveup/walkup)	RE	RE	RE	RE	N/A	N/A

APPENDIX II

Wisconsin Sales and Use Tax Treatment of Security and Related Systems

ASSUMPTION: All items are affixed to realty.

Where Installed?	Door Access		Burglar Alarm System		Fire Alarm System		Fire Suppression System		Security Camera		Communications Equipment and Communications Cabling		Ink Tag Security System		Baby Band System		CCTV Cameras		
	Residential and Non-Residential Facilities	Non-Residential Facility	Residential Facility	Non-Residential Facility	Residential Facility	Non-Residential Facility	Residential Facility	Non-Residential Facility	Residential Facility	Non-Residential Facility	Residential Facility	Non-Residential Facility	Residential Facility	Non-Residential Facility	Non-Residential Facility	Residential Facility	Residential Facility	Non-Residential Facility	Non-Residential Facility
Serves What Purpose (Why Installed)?	To allow access to or from building or room	Used to prevent unauthorized access to building or room	Any	Used to prevent unauthorized access to building or room	Any	To protect building or structure	To protect building or structure	To protect specific equipment	To protect unauthorized access to building or room	Used to protect inventory, other property or business function	Any	Any	Any	Any	Any	Used to prevent unauthorized access to building or room	Used to prevent theft of inventory, other property or business function		
Character of Property for:																			
Some Common Examples (not all-inclusive)	New Installation or Complete Replacement	RP ¹	RP ¹	TPP ²	RP ¹	RP ¹	RP ¹	TPP ^{3,4}	RP ¹	TPP ²	RP ¹	TPP ²	TPP ²	TPP ²	TPP ²	RP ¹	RP ¹	TPP ²	TPP ²
	Repair or Other Service to	RP ¹	TPP ³	TPP ³	TPP ³	RP ¹	RP ¹	TPP ^{3,4}	RP ¹	TPP ²	TPP ³	TPP ^{2,3}	TPP ²	TPP ²	TPP ²	RP ¹	RP ¹	TPP ²	TPP ²
Some Common Examples (not all-inclusive)	Card access reader (NOTE: cards are TPP)																		

RP= real property; TPP = tangible personal property

¹Contractor's sale of or service to RP not taxable. Contractor pays sales or use tax on purchases.

²Contractor's sale of or service to TPP taxable, unless an exemption applies. Contractor may purchase without tax for resale parts and materials that it physically transfers to customer.

³The law deems that certain items retain their character as TPP for purposes of repair or other service to (but not new installation or complete replacement). Contractor may purchase without tax for resale parts and materials that it physically transfers to customer with repair or other service.

⁴Exemption applies if fire suppression system is a safety attachment to machinery and equipment used exclusively and directly in the manufacture of TPP.

EXCEPTION FOR LEASED OR RENTED PROPERTY: When a contractor is the lessor of affixed property, the contractor is deemed to be leasing TPP, regardless of the function of the property (i.e., whether or not the property serves a building function) and the extent to which the property is affixed to real estate. Unless the contractor is also the lessor of the real estate (i.e., building) to which the property is affixed.

CAUTIONS:

1. When installing real property for exempt entities (e.g., churches, schools, federal governmental units), the exempt entity's tax exempt status *does not* flow through to the contractor. The contractor is the consumer of the materials that it uses in making a real property improvement and owes sales or use tax on its purchases of such materials.
2. A contractor *may not* issue an exemption certificate (for resale) when the contractor knows at the time of purchase the contractor will be installing the property in a real property improvement.
3. Contractors installing property in jails and long-term detention facilities should contact the Department of Revenue for more information about what remains tangible personal property when installed.

NOTES: a) If item has more than one use, the determination of whether the item is real property or tangible personal property is based on primary (more than 50%) use.
b) Exemption may apply for certain professional sports stadiums, waste treatment facilities, or Native American construction projects.

APPENDIX III

Counties That Have Adopted The 0.5% County Sales and Use Tax and The Effective Dates

Listed below are the 62 counties that have adopted the 0.5% county tax as of January 1, 2014, and the effective date for each county's tax.

County Name	Effective Date		County Name	Effective Date
Adams (01)	1/1/94		Lincoln (35)	4/1/87
Ashland (02)	4/1/88		Marathon (37)	4/1/87
Barron (03)	4/1/86		Marinette (38)	10/1/01
Bayfield (04)	4/1/91		Marquette (39)	4/1/89
Buffalo (06)	4/1/87		Milwaukee (40)	4/1/91
Burnett (07)	4/1/89		Monroe (41)	4/1/90
Chippewa (09)	4/1/91		Oconto (42)	7/1/94
Clark (10)	1/1/09		Oneida (43)	4/1/87
Columbia (11)	4/1/89		Ozaukee (45)	4/1/91
Crawford (12)	4/1/91		Pepin (46)	4/1/91
Dane (13)	4/1/91		Pierce (47)	4/1/88
Dodge (14)	4/1/94		Polk (48)	4/1/88
Door (15)	4/1/88		Portage (49)	4/1/89
Douglas (16)	4/1/91		Price (50)	1/1/93
Dunn (17)	4/1/86		Richland (52)	4/1/89
Eau Claire (18)	1/1/99		Rock (53)	4/1/07
Florence (19)	7/1/06		Rusk (54)	4/1/87
Fond du Lac (20)	4/1/10		St. Croix (55)	4/1/87
Forest (21)	4/1/95		Sauk (56)	4/1/92
Grant (22)	4/1/02		Sawyer (57)	4/1/87
Green (23)	1/1/03		Shawano (58)	4/1/90
Green Lake (24)	7/1/99		Taylor (60)	7/1/99
Iowa (25)	4/1/87		Trempealeau (61)	10/1/95
Iron (26)	4/1/91		Vernon (62)	1/1/97
Jackson (27)	4/1/87		Vilas (63)	4/1/88
Jefferson (28)	4/1/91		Walworth (64)	4/1/87
Juneau (29)	4/1/92		Washburn (65)	4/1/91
Kenosha (30)	4/1/91		Washington (66)	1/1/99
La Crosse (32)	4/1/90		Waupaca (68)	4/1/89
Lafayette (33)	4/1/01		Waushara (69)	4/1/90
Langlade (34)	4/1/88		Wood (71)	1/1/04

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